



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2779

Introduced 2/21/2013, by Rep. Donald L. Moffitt

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-21.9
105 ILCS 5/34-18.5

from Ch. 122, par. 10-21.9
from Ch. 122, par. 34-18.5

Amends the School Code. Provides that certain provisions requiring applicants, as a condition of employment with a school district, to authorize a fingerprint-based criminal history records check do not apply to a certified or licensed teacher who has retired from employment with a school district and is again applying for employment with a school district as a teacher if that person (i) submitted to a fingerprint-based criminal history records check as a condition of employment with a school district within the last 10 years, as of the date of application, and (ii) signs an affidavit stating that he or she has not been convicted of any crime since that check was performed, which affidavit shall be in a form as determined by the State Board of Education and filed with the school district. Makes technical corrections.

LRB098 08274 NHT 38376 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by changing Sections
5 10-21.9 and 34-18.5 as follows:

6 (105 ILCS 5/10-21.9) (from Ch. 122, par. 10-21.9)

7 Sec. 10-21.9. Criminal history records checks and checks of
8 the Statewide Sex Offender Database and Statewide Murderer and
9 Violent Offender Against Youth Database.

10 (a) Certified and noncertified or licensed and unlicensed
11 applicants for employment with a school district, except for
12 school bus driver applicants and except as otherwise provided
13 in this subsection (a), are required as a condition of
14 employment to authorize a fingerprint-based criminal history
15 records check to determine if such applicants have been
16 convicted of any of the enumerated criminal or drug offenses in
17 subsection (c) of this Section or have been convicted, within 7
18 years of the application for employment with the school
19 district, of any other felony under the laws of this State or
20 of any offense committed or attempted in any other state or
21 against the laws of the United States that, if committed or
22 attempted in this State, would have been punishable as a felony
23 under the laws of this State. Authorization for the check shall

1 be furnished by the applicant to the school district, except
2 that if the applicant is a substitute teacher seeking
3 employment in more than one school district, a teacher seeking
4 concurrent part-time employment positions with more than one
5 school district (as a reading specialist, special education
6 teacher or otherwise), or an educational support personnel
7 employee seeking employment positions with more than one
8 district, any such district may require the applicant to
9 furnish authorization for the check to the regional
10 superintendent of the educational service region in which are
11 located the school districts in which the applicant is seeking
12 employment as a substitute or concurrent part-time teacher or
13 concurrent educational support personnel employee. Upon
14 receipt of this authorization, the school district or the
15 appropriate regional superintendent, as the case may be, shall
16 submit the applicant's name, sex, race, date of birth, social
17 security number, fingerprint images, and other identifiers, as
18 prescribed by the Department of State Police, to the
19 Department. The regional superintendent submitting the
20 requisite information to the Department of State Police shall
21 promptly notify the school districts in which the applicant is
22 seeking employment as a substitute or concurrent part-time
23 teacher or concurrent educational support personnel employee
24 that the check of the applicant has been requested. The
25 Department of State Police and the Federal Bureau of
26 Investigation shall furnish, pursuant to a fingerprint-based

1 criminal history records check, records of convictions, until
2 expunged, to the president of the school board for the school
3 district that requested the check, or to the regional
4 superintendent who requested the check. The Department shall
5 charge the school district or the appropriate regional
6 superintendent a fee for conducting such check, which fee shall
7 be deposited in the State Police Services Fund and shall not
8 exceed the cost of the inquiry; and the applicant shall not be
9 charged a fee for such check by the school district or by the
10 regional superintendent, except that those applicants seeking
11 employment as a substitute teacher with a school district may
12 be charged a fee not to exceed the cost of the inquiry. Subject
13 to appropriations for these purposes, the State Superintendent
14 of Education shall reimburse school districts and regional
15 superintendents for fees paid to obtain criminal history
16 records checks under this Section.

17 The requirements of this subsection (a) do not apply to a
18 certified or licensed teacher who has retired from employment
19 with a school district and is again applying for employment
20 with a school district as a teacher if that person (i)
21 submitted to a fingerprint-based criminal history records
22 check as a condition of employment with a school district
23 within the last 10 years, as of the date of application, and
24 (ii) signs an affidavit stating that he or she has not been
25 convicted of any crime since that check was performed, which
26 affidavit shall be in a form as determined by the State Board

1 of Education and filed with the school district.

2 (a-5) The school district or regional superintendent shall
3 further perform a check of the Statewide Sex Offender Database,
4 as authorized by the Sex Offender Community Notification Law,
5 for each applicant.

6 (a-6) The school district or regional superintendent shall
7 further perform a check of the Statewide Murderer and Violent
8 Offender Against Youth Database, as authorized by the Murderer
9 and Violent Offender Against Youth Community Notification Law,
10 for each applicant.

11 (b) Any information concerning the record of convictions
12 obtained by the president of the school board or the regional
13 superintendent shall be confidential and may only be
14 transmitted to the superintendent of the school district or his
15 designee, the appropriate regional superintendent if the check
16 was requested by the school district, the presidents of the
17 appropriate school boards if the check was requested from the
18 Department of State Police by the regional superintendent, the
19 State Superintendent of Education, the State Educator
20 Preparation and Licensure ~~Teacher Certification~~ Board, any
21 other person necessary to the decision of hiring the applicant
22 for employment, or for clarification purposes the Department of
23 State Police or Statewide Sex Offender Database, or both. A
24 copy of the record of convictions obtained from the Department
25 of State Police shall be provided to the applicant for
26 employment. Upon the check of the Statewide Sex Offender

1 Database, the school district or regional superintendent shall
2 notify an applicant as to whether or not the applicant has been
3 identified in the Database as a sex offender. If a check of an
4 applicant for employment as a substitute or concurrent
5 part-time teacher or concurrent educational support personnel
6 employee in more than one school district was requested by the
7 regional superintendent, and the Department of State Police
8 upon a check ascertains that the applicant has not been
9 convicted of any of the enumerated criminal or drug offenses in
10 subsection (c) or has not been convicted, within 7 years of the
11 application for employment with the school district, of any
12 other felony under the laws of this State or of any offense
13 committed or attempted in any other state or against the laws
14 of the United States that, if committed or attempted in this
15 State, would have been punishable as a felony under the laws of
16 this State and so notifies the regional superintendent and if
17 the regional superintendent upon a check ascertains that the
18 applicant has not been identified in the Sex Offender Database
19 as a sex offender, then the regional superintendent shall issue
20 to the applicant a certificate evidencing that as of the date
21 specified by the Department of State Police the applicant has
22 not been convicted of any of the enumerated criminal or drug
23 offenses in subsection (c) or has not been convicted, within 7
24 years of the application for employment with the school
25 district, of any other felony under the laws of this State or
26 of any offense committed or attempted in any other state or

1 against the laws of the United States that, if committed or
2 attempted in this State, would have been punishable as a felony
3 under the laws of this State and evidencing that as of the date
4 that the regional superintendent conducted a check of the
5 Statewide Sex Offender Database, the applicant has not been
6 identified in the Database as a sex offender. The school board
7 of any school district may rely on the certificate issued by
8 any regional superintendent to that substitute teacher,
9 concurrent part-time teacher, or concurrent educational
10 support personnel employee or may initiate its own criminal
11 history records check of the applicant through the Department
12 of State Police and its own check of the Statewide Sex Offender
13 Database as provided in subsection (a). Any person who releases
14 any confidential information concerning any criminal
15 convictions of an applicant for employment shall be guilty of a
16 Class A misdemeanor, unless the release of such information is
17 authorized by this Section.

18 (c) No school board shall knowingly employ a person who has
19 been convicted of any offense that would subject him or her to
20 license suspension or revocation pursuant to Section 21B-80 of
21 this Code. Further, no school board shall knowingly employ a
22 person who has been found to be the perpetrator of sexual or
23 physical abuse of any minor under 18 years of age pursuant to
24 proceedings under Article II of the Juvenile Court Act of 1987.

25 (d) No school board shall knowingly employ a person for
26 whom a criminal history records check and a Statewide Sex

1 Offender Database check has not been initiated.

2 (e) Upon receipt of the record of a conviction of or a
3 finding of child abuse by a holder of any certificate issued
4 pursuant to Article 21 or Section 34-8.1 or 34-83 of this the
5 ~~School~~ Code or any license issued pursuant to Article 21B of
6 this Code, the State Superintendent of Education may initiate
7 certificate or license suspension and revocation proceedings
8 as authorized by law.

9 (e-5) The superintendent of the employing school board
10 shall, in writing, notify the State Superintendent of Education
11 and the applicable regional superintendent of schools of any
12 certificate or license holder whom he or she has reasonable
13 cause to believe has committed an intentional act of abuse or
14 neglect with the result of making a child an abused child or a
15 neglected child, as defined in Section 3 of the Abused and
16 Neglected Child Reporting Act, and that act resulted in the
17 certificate or license holder's dismissal or resignation from
18 the school district. This notification must be submitted within
19 30 days after the dismissal or resignation. The certificate or
20 license holder must also be contemporaneously sent a copy of
21 the notice by the superintendent. All correspondence,
22 documentation, and other information so received by the
23 regional superintendent of schools, the State Superintendent
24 of Education, the State Board of Education, or the State
25 Educator Preparation and Licensure ~~Teacher Certification~~ Board
26 under this subsection (e-5) is confidential and must not be

1 disclosed to third parties, except (i) as necessary for the
2 State Superintendent of Education or his or her designee to
3 investigate and prosecute pursuant to Article 21 or 21B of this
4 Code, (ii) pursuant to a court order, (iii) for disclosure to
5 the certificate or license holder or his or her representative,
6 or (iv) as otherwise provided in this Article and provided that
7 any such information admitted into evidence in a hearing is
8 exempt from this confidentiality and non-disclosure
9 requirement. Except for an act of willful or wanton misconduct,
10 any superintendent who provides notification as required in
11 this subsection (e-5) shall have immunity from any liability,
12 whether civil or criminal or that otherwise might result by
13 reason of such action.

14 (f) After January 1, 1990 the provisions of this Section
15 shall apply to all employees of persons or firms holding
16 contracts with any school district including, but not limited
17 to, food service workers, school bus drivers and other
18 transportation employees, who have direct, daily contact with
19 the pupils of any school in such district. For purposes of
20 criminal history records checks and checks of the Statewide Sex
21 Offender Database on employees of persons or firms holding
22 contracts with more than one school district and assigned to
23 more than one school district, the regional superintendent of
24 the educational service region in which the contracting school
25 districts are located may, at the request of any such school
26 district, be responsible for receiving the authorization for a

1 criminal history records check prepared by each such employee
2 and submitting the same to the Department of State Police and
3 for conducting a check of the Statewide Sex Offender Database
4 for each employee. Any information concerning the record of
5 conviction and identification as a sex offender of any such
6 employee obtained by the regional superintendent shall be
7 promptly reported to the president of the appropriate school
8 board or school boards.

9 (g) In order to student teach in the public schools, a
10 person is required to authorize a fingerprint-based criminal
11 history records check and checks of the Statewide Sex Offender
12 Database and Statewide Murderer and Violent Offender Against
13 Youth Database prior to participating in any field experiences
14 in the public schools. Authorization for and payment of the
15 costs of the checks must be furnished by the student teacher.
16 Results of the checks must be furnished to the higher education
17 institution where the student teacher is enrolled and the
18 superintendent of the school district where the student is
19 assigned.

20 (h) Upon request of a school, school district, community
21 college district, or private school, any information obtained
22 by a school district pursuant to subsection (f) of this Section
23 within the last year must be made available to that school,
24 school district, community college district, or private
25 school.

26 (Source: P.A. 96-431, eff. 8-13-09; 96-1452, eff. 8-20-10;

1 96-1489, eff. 1-1-11; 97-154, eff. 1-1-12; 97-248, eff. 1-1-12;
2 97-607, eff. 8-26-11; 97-813, eff. 7-13-12.)

3 (105 ILCS 5/34-18.5) (from Ch. 122, par. 34-18.5)

4 Sec. 34-18.5. Criminal history records checks and checks of
5 the Statewide Sex Offender Database and Statewide Murderer and
6 Violent Offender Against Youth Database.

7 (a) Except as otherwise provided in this subsection (a),
8 certified ~~Certified~~ and noncertified or licensed and
9 unlicensed applicants for employment with the school district
10 are required as a condition of employment to authorize a
11 fingerprint-based criminal history records check to determine
12 if such applicants have been convicted of any of the enumerated
13 criminal or drug offenses in subsection (c) of this Section or
14 have been convicted, within 7 years of the application for
15 employment with the school district, of any other felony under
16 the laws of this State or of any offense committed or attempted
17 in any other state or against the laws of the United States
18 that, if committed or attempted in this State, would have been
19 punishable as a felony under the laws of this State.
20 Authorization for the check shall be furnished by the applicant
21 to the school district, except that if the applicant is a
22 substitute teacher seeking employment in more than one school
23 district, or a teacher seeking concurrent part-time employment
24 positions with more than one school district (as a reading
25 specialist, special education teacher or otherwise), or an

1 educational support personnel employee seeking employment
2 positions with more than one district, any such district may
3 require the applicant to furnish authorization for the check to
4 the regional superintendent of the educational service region
5 in which are located the school districts in which the
6 applicant is seeking employment as a substitute or concurrent
7 part-time teacher or concurrent educational support personnel
8 employee. Upon receipt of this authorization, the school
9 district or the appropriate regional superintendent, as the
10 case may be, shall submit the applicant's name, sex, race, date
11 of birth, social security number, fingerprint images, and other
12 identifiers, as prescribed by the Department of State Police,
13 to the Department. The regional superintendent submitting the
14 requisite information to the Department of State Police shall
15 promptly notify the school districts in which the applicant is
16 seeking employment as a substitute or concurrent part-time
17 teacher or concurrent educational support personnel employee
18 that the check of the applicant has been requested. The
19 Department of State Police and the Federal Bureau of
20 Investigation shall furnish, pursuant to a fingerprint-based
21 criminal history records check, records of convictions, until
22 expunged, to the president of the school board for the school
23 district that requested the check, or to the regional
24 superintendent who requested the check. The Department shall
25 charge the school district or the appropriate regional
26 superintendent a fee for conducting such check, which fee shall

1 be deposited in the State Police Services Fund and shall not
2 exceed the cost of the inquiry; and the applicant shall not be
3 charged a fee for such check by the school district or by the
4 regional superintendent. Subject to appropriations for these
5 purposes, the State Superintendent of Education shall
6 reimburse the school district and regional superintendent for
7 fees paid to obtain criminal history records checks under this
8 Section.

9 The requirements of this subsection (a) do not apply to a
10 certified or licensed teacher who has retired from employment
11 with a school district and is again applying for employment
12 with a school district as a teacher if that person (i)
13 submitted to a fingerprint-based criminal history records
14 check as a condition of employment with a school district
15 within the last 10 years, as of the date of application, and
16 (ii) signs an affidavit stating that he or she has not been
17 convicted of any crime since that check was performed, which
18 affidavit shall be in a form as determined by the State Board
19 of Education and filed with the school district.

20 (a-5) The school district or regional superintendent shall
21 further perform a check of the Statewide Sex Offender Database,
22 as authorized by the Sex Offender Community Notification Law,
23 for each applicant.

24 (a-6) The school district or regional superintendent shall
25 further perform a check of the Statewide Murderer and Violent
26 Offender Against Youth Database, as authorized by the Murderer

1 and Violent Offender Against Youth Community Notification Law,
2 for each applicant.

3 (b) Any information concerning the record of convictions
4 obtained by the president of the board of education or the
5 regional superintendent shall be confidential and may only be
6 transmitted to the general superintendent of the school
7 district or his designee, the appropriate regional
8 superintendent if the check was requested by the board of
9 education for the school district, the presidents of the
10 appropriate board of education or school boards if the check
11 was requested from the Department of State Police by the
12 regional superintendent, the State Superintendent of
13 Education, the State Educator Preparation and Licensure
14 ~~Teacher Certification~~ Board or any other person necessary to
15 the decision of hiring the applicant for employment. A copy of
16 the record of convictions obtained from the Department of State
17 Police shall be provided to the applicant for employment. Upon
18 the check of the Statewide Sex Offender Database, the school
19 district or regional superintendent shall notify an applicant
20 as to whether or not the applicant has been identified in the
21 Database as a sex offender. If a check of an applicant for
22 employment as a substitute or concurrent part-time teacher or
23 concurrent educational support personnel employee in more than
24 one school district was requested by the regional
25 superintendent, and the Department of State Police upon a check
26 ascertains that the applicant has not been convicted of any of

1 the enumerated criminal or drug offenses in subsection (c) or
2 has not been convicted, within 7 years of the application for
3 employment with the school district, of any other felony under
4 the laws of this State or of any offense committed or attempted
5 in any other state or against the laws of the United States
6 that, if committed or attempted in this State, would have been
7 punishable as a felony under the laws of this State and so
8 notifies the regional superintendent and if the regional
9 superintendent upon a check ascertains that the applicant has
10 not been identified in the Sex Offender Database as a sex
11 offender, then the regional superintendent shall issue to the
12 applicant a certificate evidencing that as of the date
13 specified by the Department of State Police the applicant has
14 not been convicted of any of the enumerated criminal or drug
15 offenses in subsection (c) or has not been convicted, within 7
16 years of the application for employment with the school
17 district, of any other felony under the laws of this State or
18 of any offense committed or attempted in any other state or
19 against the laws of the United States that, if committed or
20 attempted in this State, would have been punishable as a felony
21 under the laws of this State and evidencing that as of the date
22 that the regional superintendent conducted a check of the
23 Statewide Sex Offender Database, the applicant has not been
24 identified in the Database as a sex offender. The school board
25 of any school district may rely on the certificate issued by
26 any regional superintendent to that substitute teacher,

1 concurrent part-time teacher, or concurrent educational
2 support personnel employee or may initiate its own criminal
3 history records check of the applicant through the Department
4 of State Police and its own check of the Statewide Sex Offender
5 Database as provided in subsection (a). Any person who releases
6 any confidential information concerning any criminal
7 convictions of an applicant for employment shall be guilty of a
8 Class A misdemeanor, unless the release of such information is
9 authorized by this Section.

10 (c) The board of education shall not knowingly employ a
11 person who has been convicted of any offense that would subject
12 him or her to license suspension or revocation pursuant to
13 Section 21B-80 of this Code. Further, the board of education
14 shall not knowingly employ a person who has been found to be
15 the perpetrator of sexual or physical abuse of any minor under
16 18 years of age pursuant to proceedings under Article II of the
17 Juvenile Court Act of 1987.

18 (d) The board of education shall not knowingly employ a
19 person for whom a criminal history records check and a
20 Statewide Sex Offender Database check has not been initiated.

21 (e) Upon receipt of the record of a conviction of or a
22 finding of child abuse by a holder of any certificate issued
23 pursuant to Article 21 or Section 34-8.1 or 34-83 of this the
24 ~~School~~ Code or any license issued pursuant to Article 21B of
25 this Code, the State Superintendent of Education may initiate
26 certificate or license suspension and revocation proceedings

1 as authorized by law.

2 (e-5) The general superintendent of schools shall, in
3 writing, notify the State Superintendent of Education of any
4 certificate or license holder whom he or she has reasonable
5 cause to believe has committed an intentional act of abuse or
6 neglect with the result of making a child an abused child or a
7 neglected child, as defined in Section 3 of the Abused and
8 Neglected Child Reporting Act, and that act resulted in the
9 certificate or license holder's dismissal or resignation from
10 the school district. This notification must be submitted within
11 30 days after the dismissal or resignation. The certificate or
12 license holder must also be contemporaneously sent a copy of
13 the notice by the superintendent. All correspondence,
14 documentation, and other information so received by the State
15 Superintendent of Education, the State Board of Education, or
16 the State Educator Preparation and Licensure ~~Teacher~~
17 ~~Certification~~ Board under this subsection (e-5) is
18 confidential and must not be disclosed to third parties, except
19 (i) as necessary for the State Superintendent of Education or
20 his or her designee to investigate and prosecute pursuant to
21 Article 21 or 21B of this Code, (ii) pursuant to a court order,
22 (iii) for disclosure to the certificate or license holder or
23 his or her representative, or (iv) as otherwise provided in
24 this Article and provided that any such information admitted
25 into evidence in a hearing is exempt from this confidentiality
26 and non-disclosure requirement. Except for an act of willful or

1 wanton misconduct, any superintendent who provides
2 notification as required in this subsection (e-5) shall have
3 immunity from any liability, whether civil or criminal or that
4 otherwise might result by reason of such action.

5 (f) After March 19, 1990, the provisions of this Section
6 shall apply to all employees of persons or firms holding
7 contracts with any school district including, but not limited
8 to, food service workers, school bus drivers and other
9 transportation employees, who have direct, daily contact with
10 the pupils of any school in such district. For purposes of
11 criminal history records checks and checks of the Statewide Sex
12 Offender Database on employees of persons or firms holding
13 contracts with more than one school district and assigned to
14 more than one school district, the regional superintendent of
15 the educational service region in which the contracting school
16 districts are located may, at the request of any such school
17 district, be responsible for receiving the authorization for a
18 criminal history records check prepared by each such employee
19 and submitting the same to the Department of State Police and
20 for conducting a check of the Statewide Sex Offender Database
21 for each employee. Any information concerning the record of
22 conviction and identification as a sex offender of any such
23 employee obtained by the regional superintendent shall be
24 promptly reported to the president of the appropriate school
25 board or school boards.

26 (g) In order to student teach in the public schools, a

1 person is required to authorize a fingerprint-based criminal
2 history records check and checks of the Statewide Sex Offender
3 Database and Statewide Murderer and Violent Offender Against
4 Youth Database prior to participating in any field experiences
5 in the public schools. Authorization for and payment of the
6 costs of the checks must be furnished by the student teacher.
7 Results of the checks must be furnished to the higher education
8 institution where the student teacher is enrolled and the
9 general superintendent of schools.

10 (h) Upon request of a school, school district, community
11 college district, or private school, any information obtained
12 by the school district pursuant to subsection (f) of this
13 Section within the last year must be made available to that
14 school, school district, community college district, or
15 private school.

16 (Source: P.A. 96-431, eff. 8-13-09; 96-1452, eff. 8-20-10;
17 97-154, eff. 1-1-12; 97-248, eff. 1-1-12; 97-607, eff. 8-26-11;
18 97-813, eff. 7-13-12.)