



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5920

Introduced 2/10/2010, by Rep. Lisa M. Dugan

SYNOPSIS AS INTRODUCED:

705 ILCS 405/1-7

from Ch. 37, par. 801-7

Amends the Juvenile Court Act of 1987. Provides that law enforcement agencies may release law enforcement records, when a minor's parent or legal guardian has signed a release and waiver of confidentiality, for the sole purpose of releasing those records to a teen court, peer court, or other juvenile division program as authorized by the Act. Provides that the program that receives such confidential records shall use those records only for the operation of the program and shall otherwise keep all such records confidential.

LRB096 20256 RLC 35846 b

1 AN ACT concerning courts.

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

4 Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Section 1-7 as follows:

6 (705 ILCS 405/1-7) (from Ch. 37, par. 801-7)

7 Sec. 1-7. Confidentiality of law enforcement records.

8 (A) Inspection and copying of law enforcement records
9 maintained by law enforcement agencies that relate to a minor
10 who has been arrested or taken into custody before his or her
11 17th birthday shall be restricted to the following:

12 (1) Any local, State or federal law enforcement
13 officers of any jurisdiction or agency when necessary for
14 the discharge of their official duties during the
15 investigation or prosecution of a crime or relating to a
16 minor who has been adjudicated delinquent and there has
17 been a previous finding that the act which constitutes the
18 previous offense was committed in furtherance of criminal
19 activities by a criminal street gang, or, when necessary
20 for the discharge of its official duties in connection with
21 a particular investigation of the conduct of a law
22 enforcement officer, an independent agency or its staff
23 created by ordinance and charged by a unit of local

1 government with the duty of investigating the conduct of
2 law enforcement officers. For purposes of this Section,
3 "criminal street gang" has the meaning ascribed to it in
4 Section 10 of the Illinois Streetgang Terrorism Omnibus
5 Prevention Act.

6 (2) Prosecutors, probation officers, social workers,
7 or other individuals assigned by the court to conduct a
8 pre-adjudication or pre-disposition investigation, and
9 individuals responsible for supervising or providing
10 temporary or permanent care and custody for minors pursuant
11 to the order of the juvenile court, when essential to
12 performing their responsibilities.

13 (3) Prosecutors and probation officers:

14 (a) in the course of a trial when institution of
15 criminal proceedings has been permitted or required
16 under Section 5-805; or

17 (b) when institution of criminal proceedings has
18 been permitted or required under Section 5-805 and such
19 minor is the subject of a proceeding to determine the
20 amount of bail; or

21 (c) when criminal proceedings have been permitted
22 or required under Section 5-805 and such minor is the
23 subject of a pre-trial investigation, pre-sentence
24 investigation, fitness hearing, or proceedings on an
25 application for probation.

26 (4) Adult and Juvenile Prisoner Review Board.

1 (5) Authorized military personnel.

2 (6) Persons engaged in bona fide research, with the
3 permission of the Presiding Judge of the Juvenile Court and
4 the chief executive of the respective law enforcement
5 agency; provided that publication of such research results
6 in no disclosure of a minor's identity and protects the
7 confidentiality of the minor's record.

8 (7) Department of Children and Family Services child
9 protection investigators acting in their official
10 capacity.

11 (8) The appropriate school official. Inspection and
12 copying shall be limited to law enforcement records
13 transmitted to the appropriate school official by a local
14 law enforcement agency under a reciprocal reporting system
15 established and maintained between the school district and
16 the local law enforcement agency under Section 10-20.14 of
17 the School Code concerning a minor enrolled in a school
18 within the school district who has been arrested or taken
19 into custody for any of the following offenses:

20 (i) unlawful use of weapons under Section 24-1 of
21 the Criminal Code of 1961;

22 (ii) a violation of the Illinois Controlled
23 Substances Act;

24 (iii) a violation of the Cannabis Control Act;

25 (iv) a forcible felony as defined in Section 2-8 of
26 the Criminal Code of 1961; or

1 (v) a violation of the Methamphetamine Control and
2 Community Protection Act.

3 (9) Mental health professionals on behalf of the
4 Illinois Department of Corrections or the Department of
5 Human Services or prosecutors who are evaluating,
6 prosecuting, or investigating a potential or actual
7 petition brought under the Sexually Violent Persons
8 Commitment Act relating to a person who is the subject of
9 juvenile law enforcement records or the respondent to a
10 petition brought under the Sexually Violent Persons
11 Commitment Act who is the subject of the juvenile law
12 enforcement records sought. Any records and any
13 information obtained from those records under this
14 paragraph (9) may be used only in sexually violent persons
15 commitment proceedings.

16 (B) (1) Except as provided in paragraph (2), no law
17 enforcement officer or other person or agency may knowingly
18 transmit to the Department of Corrections, Adult Division
19 or the Department of State Police or to the Federal Bureau
20 of Investigation any fingerprint or photograph relating to
21 a minor who has been arrested or taken into custody before
22 his or her 17th birthday, unless the court in proceedings
23 under this Act authorizes the transmission or enters an
24 order under Section 5-805 permitting or requiring the
25 institution of criminal proceedings.

26 (2) Law enforcement officers or other persons or

1 agencies shall transmit to the Department of State Police
2 copies of fingerprints and descriptions of all minors who
3 have been arrested or taken into custody before their 17th
4 birthday for the offense of unlawful use of weapons under
5 Article 24 of the Criminal Code of 1961, a Class X or Class
6 1 felony, a forcible felony as defined in Section 2-8 of
7 the Criminal Code of 1961, or a Class 2 or greater felony
8 under the Cannabis Control Act, the Illinois Controlled
9 Substances Act, the Methamphetamine Control and Community
10 Protection Act, or Chapter 4 of the Illinois Vehicle Code,
11 pursuant to Section 5 of the Criminal Identification Act.
12 Information reported to the Department pursuant to this
13 Section may be maintained with records that the Department
14 files pursuant to Section 2.1 of the Criminal
15 Identification Act. Nothing in this Act prohibits a law
16 enforcement agency from fingerprinting a minor taken into
17 custody or arrested before his or her 17th birthday for an
18 offense other than those listed in this paragraph (2).

19 (C) The records of law enforcement officers, or of an
20 independent agency created by ordinance and charged by a unit
21 of local government with the duty of investigating the conduct
22 of law enforcement officers, concerning all minors under 17
23 years of age must be maintained separate from the records of
24 arrests and may not be open to public inspection or their
25 contents disclosed to the public except by order of the court
26 presiding over matters pursuant to this Act or when the

1 institution of criminal proceedings has been permitted or
2 required under Section 5-805 or such a person has been
3 convicted of a crime and is the subject of pre-sentence
4 investigation or proceedings on an application for probation or
5 when provided by law. For purposes of obtaining documents
6 pursuant to this Section, a civil subpoena is not an order of
7 the court.

8 (1) In cases where the law enforcement, or independent
9 agency, records concern a pending juvenile court case, the
10 party seeking to inspect the records shall provide actual
11 notice to the attorney or guardian ad litem of the minor
12 whose records are sought.

13 (2) In cases where the records concern a juvenile court
14 case that is no longer pending, the party seeking to
15 inspect the records shall provide actual notice to the
16 minor or the minor's parent or legal guardian, and the
17 matter shall be referred to the chief judge presiding over
18 matters pursuant to this Act.

19 (3) In determining whether the records should be
20 available for inspection, the court shall consider the
21 minor's interest in confidentiality and rehabilitation
22 over the moving party's interest in obtaining the
23 information. Any records obtained in violation of this
24 subsection (C) shall not be admissible in any criminal or
25 civil proceeding, or operate to disqualify a minor from
26 subsequently holding public office or securing employment,

1 or operate as a forfeiture of any public benefit, right,
2 privilege, or right to receive any license granted by
3 public authority.

4 (D) Nothing contained in subsection (C) of this Section
5 shall prohibit the inspection or disclosure to victims and
6 witnesses of photographs contained in the records of law
7 enforcement agencies when the inspection and disclosure is
8 conducted in the presence of a law enforcement officer for the
9 purpose of the identification or apprehension of any person
10 subject to the provisions of this Act or for the investigation
11 or prosecution of any crime.

12 (E) Law enforcement officers, and personnel of an
13 independent agency created by ordinance and charged by a unit
14 of local government with the duty of investigating the conduct
15 of law enforcement officers, may not disclose the identity of
16 any minor in releasing information to the general public as to
17 the arrest, investigation or disposition of any case involving
18 a minor.

19 (F) Nothing contained in this Section shall prohibit law
20 enforcement agencies from communicating with each other by
21 letter, memorandum, teletype or intelligence alert bulletin or
22 other means the identity or other relevant information
23 pertaining to a person under 17 years of age if there are
24 reasonable grounds to believe that the person poses a real and
25 present danger to the safety of the public or law enforcement
26 officers. The information provided under this subsection (F)

1 shall remain confidential and shall not be publicly disclosed,
2 except as otherwise allowed by law.

3 (G) Nothing in this Section shall prohibit the right of a
4 Civil Service Commission or appointing authority of any state,
5 county or municipality examining the character and fitness of
6 an applicant for employment with a law enforcement agency,
7 correctional institution, or fire department from obtaining
8 and examining the records of any law enforcement agency
9 relating to any record of the applicant having been arrested or
10 taken into custody before the applicant's 17th birthday.

11 (H) Nothing in this Section shall prohibit law enforcement
12 agencies from releasing law enforcement records, when a minor's
13 parent or legal guardian has signed a release and waiver of
14 confidentiality, for the sole purpose of releasing those
15 records to a teen court, peer court, or other juvenile division
16 program as authorized by Section 5-315 of this Act. The program
17 that receives such confidential records shall use those records
18 only for the operation of the program and shall otherwise keep
19 all such records confidential pursuant to this Section.

20 (Source: P.A. 95-123, eff. 8-13-07; 96-419, eff. 8-13-09.)