

# SB1274



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB1274

Introduced 2/10/2009, by Sen. Matt Murphy

#### SYNOPSIS AS INTRODUCED:

705 ILCS 405/1-8

from Ch. 37, par. 801-8

Amends the Juvenile Court Act of 1987. Provides that findings and exclusions of paternity entered in proceedings occurring under the Abused, Neglected, or Dependent Minors Article of the Act shall be disclosed, in a manner and form approved by the Presiding Judge of the Juvenile Court, to the Department of Healthcare and Family Services when necessary to discharge the duties of the Department of Healthcare and Family Services under the Determination and Enforcement of Support Responsibility of Relatives Article of the Illinois Public Aid Code. Effective immediately.

LRB096 04556 RLC 14611 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 1-8 as follows:

6 (705 ILCS 405/1-8) (from Ch. 37, par. 801-8)

7 Sec. 1-8. Confidentiality and accessibility of juvenile  
8 court records.

9 (A) Inspection and copying of juvenile court records  
10 relating to a minor who is the subject of a proceeding under  
11 this Act shall be restricted to the following:

12 (1) The minor who is the subject of record, his  
13 parents, guardian and counsel.

14 (2) Law enforcement officers and law enforcement  
15 agencies when such information is essential to executing an  
16 arrest or search warrant or other compulsory process, or to  
17 conducting an ongoing investigation or relating to a minor  
18 who has been adjudicated delinquent and there has been a  
19 previous finding that the act which constitutes the  
20 previous offense was committed in furtherance of criminal  
21 activities by a criminal street gang.

22 Before July 1, 1994, for the purposes of this Section,  
23 "criminal street gang" means any ongoing organization,

1 association, or group of 3 or more persons, whether formal  
2 or informal, having as one of its primary activities the  
3 commission of one or more criminal acts and that has a  
4 common name or common identifying sign, symbol or specific  
5 color apparel displayed, and whose members individually or  
6 collectively engage in or have engaged in a pattern of  
7 criminal activity.

8 Beginning July 1, 1994, for purposes of this Section,  
9 "criminal street gang" has the meaning ascribed to it in  
10 Section 10 of the Illinois Streetgang Terrorism Omnibus  
11 Prevention Act.

12 (3) Judges, hearing officers, prosecutors, probation  
13 officers, social workers or other individuals assigned by  
14 the court to conduct a pre-adjudication or predisposition  
15 investigation, and individuals responsible for supervising  
16 or providing temporary or permanent care and custody for  
17 minors pursuant to the order of the juvenile court when  
18 essential to performing their responsibilities.

19 (4) Judges, prosecutors and probation officers:

20 (a) in the course of a trial when institution of  
21 criminal proceedings has been permitted or required  
22 under Section 5-805; or

23 (b) when criminal proceedings have been permitted  
24 or required under Section 5-805 and a minor is the  
25 subject of a proceeding to determine the amount of  
26 bail; or

1 (c) when criminal proceedings have been permitted  
2 or required under Section 5-805 and a minor is the  
3 subject of a pre-trial investigation, pre-sentence  
4 investigation or fitness hearing, or proceedings on an  
5 application for probation; or

6 (d) when a minor becomes 17 years of age or older,  
7 and is the subject of criminal proceedings, including a  
8 hearing to determine the amount of bail, a pre-trial  
9 investigation, a pre-sentence investigation, a fitness  
10 hearing, or proceedings on an application for  
11 probation.

12 (5) Adult and Juvenile Prisoner Review Boards.

13 (6) Authorized military personnel.

14 (7) Victims, their subrogees and legal  
15 representatives; however, such persons shall have access  
16 only to the name and address of the minor and information  
17 pertaining to the disposition or alternative adjustment  
18 plan of the juvenile court.

19 (8) Persons engaged in bona fide research, with the  
20 permission of the presiding judge of the juvenile court and  
21 the chief executive of the agency that prepared the  
22 particular records; provided that publication of such  
23 research results in no disclosure of a minor's identity and  
24 protects the confidentiality of the record.

25 (9) The Secretary of State to whom the Clerk of the  
26 Court shall report the disposition of all cases, as

1 required in Section 6-204 of the Illinois Vehicle Code.  
2 However, information reported relative to these offenses  
3 shall be privileged and available only to the Secretary of  
4 State, courts, and police officers.

5 (10) The administrator of a bonafide substance abuse  
6 student assistance program with the permission of the  
7 presiding judge of the juvenile court.

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

20 (A-1) Findings and exclusions of paternity entered in  
21 proceedings occurring under Article II of this Act shall be  
22 disclosed, in a manner and form approved by the Presiding Judge  
23 of the Juvenile Court, to the Department of Healthcare and  
24 Family Services when necessary to discharge the duties of the  
25 Department of Healthcare and Family Services under Article X of  
26 the Illinois Public Aid Code.

1           (B) A minor who is the victim in a juvenile proceeding  
2 shall be provided the same confidentiality regarding  
3 disclosure of identity as the minor who is the subject of  
4 record.

5           (C) Except as otherwise provided in this subsection (C),  
6 juvenile court records shall not be made available to the  
7 general public but may be inspected by representatives of  
8 agencies, associations and news media or other properly  
9 interested persons by general or special order of the court  
10 presiding over matters pursuant to this Act.

11           (0.1) In cases where the records concern a pending  
12 juvenile court case, the party seeking to inspect the  
13 juvenile court records shall provide actual notice to the  
14 attorney or guardian ad litem of the minor whose records  
15 are sought.

16           (0.2) In cases where the records concern a juvenile  
17 court case that is no longer pending, the party seeking to  
18 inspect the juvenile court records shall provide actual  
19 notice to the minor or the minor's parent or legal  
20 guardian, and the matter shall be referred to the chief  
21 judge presiding over matters pursuant to this Act.

22           (0.3) In determining whether the records should be  
23 available for inspection, the court shall consider the  
24 minor's interest in confidentiality and rehabilitation  
25 over the moving party's interest in obtaining the  
26 information. The State's Attorney, the minor, and the

1 minor's parents, guardian, and counsel shall at all times  
2 have the right to examine court files and records. For  
3 purposes of obtaining documents pursuant to this Section, a  
4 civil subpoena is not an order of the court.

5 (0.4) Any records obtained in violation of this  
6 subsection (C) shall not be admissible in any criminal or  
7 civil proceeding, or operate to disqualify a minor from  
8 subsequently holding public office, or operate as a  
9 forfeiture of any public benefit, right, privilege, or  
10 right to receive any license granted by public authority.

11 (1) The court shall allow the general public to have  
12 access to the name, address, and offense of a minor who is  
13 adjudicated a delinquent minor under this Act under either  
14 of the following circumstances:

15 (A) The adjudication of delinquency was based upon  
16 the minor's commission of first degree murder, attempt  
17 to commit first degree murder, aggravated criminal  
18 sexual assault, or criminal sexual assault; or

19 (B) The court has made a finding that the minor was  
20 at least 13 years of age at the time the act was  
21 committed and the adjudication of delinquency was  
22 based upon the minor's commission of: (i) an act in  
23 furtherance of the commission of a felony as a member  
24 of or on behalf of a criminal street gang, (ii) an act  
25 involving the use of a firearm in the commission of a  
26 felony, (iii) an act that would be a Class X felony

1 offense under or the minor's second or subsequent Class  
2 2 or greater felony offense under the Cannabis Control  
3 Act if committed by an adult, (iv) an act that would be  
4 a second or subsequent offense under Section 402 of the  
5 Illinois Controlled Substances Act if committed by an  
6 adult, (v) an act that would be an offense under  
7 Section 401 of the Illinois Controlled Substances Act  
8 if committed by an adult, (vi) an act that would be a  
9 second or subsequent offense under Section 60 of the  
10 Methamphetamine Control and Community Protection Act,  
11 or (vii) an act that would be an offense under another  
12 Section of the Methamphetamine Control and Community  
13 Protection Act.

14 (2) The court shall allow the general public to have  
15 access to the name, address, and offense of a minor who is  
16 at least 13 years of age at the time the offense is  
17 committed and who is convicted, in criminal proceedings  
18 permitted or required under Section 5-4, under either of  
19 the following circumstances:

20 (A) The minor has been convicted of first degree  
21 murder, attempt to commit first degree murder,  
22 aggravated criminal sexual assault, or criminal sexual  
23 assault,

24 (B) The court has made a finding that the minor was  
25 at least 13 years of age at the time the offense was  
26 committed and the conviction was based upon the minor's



1 commission of: (i) an offense in furtherance of the  
2 commission of a felony as a member of or on behalf of a  
3 criminal street gang, (ii) an offense involving the use  
4 of a firearm in the commission of a felony, (iii) a  
5 Class X felony offense under or a second or subsequent  
6 Class 2 or greater felony offense under the Cannabis  
7 Control Act, (iv) a second or subsequent offense under  
8 Section 402 of the Illinois Controlled Substances Act,  
9 (v) an offense under Section 401 of the Illinois  
10 Controlled Substances Act, (vi) an act that would be a  
11 second or subsequent offense under Section 60 of the  
12 Methamphetamine Control and Community Protection Act,  
13 or (vii) an act that would be an offense under another  
14 Section of the Methamphetamine Control and Community  
15 Protection Act.

16 (D) Pending or following any adjudication of delinquency  
17 for any offense defined in Sections 12-13 through 12-16 of the  
18 Criminal Code of 1961, the victim of any such offense shall  
19 receive the rights set out in Sections 4 and 6 of the Bill of  
20 Rights for Victims and Witnesses of Violent Crime Act; and the  
21 juvenile who is the subject of the adjudication,  
22 notwithstanding any other provision of this Act, shall be  
23 treated as an adult for the purpose of affording such rights to  
24 the victim.

25 (E) Nothing in this Section shall affect the right of a  
26 Civil Service Commission or appointing authority of any state,

1 county or municipality examining the character and fitness of  
2 an applicant for employment with a law enforcement agency,  
3 correctional institution, or fire department to ascertain  
4 whether that applicant was ever adjudicated to be a delinquent  
5 minor and, if so, to examine the records of disposition or  
6 evidence which were made in proceedings under this Act.

7 (F) Following any adjudication of delinquency for a crime  
8 which would be a felony if committed by an adult, or following  
9 any adjudication of delinquency for a violation of Section  
10 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961, the  
11 State's Attorney shall ascertain whether the minor respondent  
12 is enrolled in school and, if so, shall provide a copy of the  
13 dispositional order to the principal or chief administrative  
14 officer of the school. Access to such juvenile records shall be  
15 limited to the principal or chief administrative officer of the  
16 school and any guidance counselor designated by him.

17 (G) Nothing contained in this Act prevents the sharing or  
18 disclosure of information or records relating or pertaining to  
19 juveniles subject to the provisions of the Serious Habitual  
20 Offender Comprehensive Action Program when that information is  
21 used to assist in the early identification and treatment of  
22 habitual juvenile offenders.

23 (H) When a Court hearing a proceeding under Article II of  
24 this Act becomes aware that an earlier proceeding under Article  
25 II had been heard in a different county, that Court shall  
26 request, and the Court in which the earlier proceedings were

1 initiated shall transmit, an authenticated copy of the Court  
2 record, including all documents, petitions, and orders filed  
3 therein and the minute orders, transcript of proceedings, and  
4 docket entries of the Court.

5 (I) The Clerk of the Circuit Court shall report to the  
6 Department of State Police, in the form and manner required by  
7 the Department of State Police, the final disposition of each  
8 minor who has been arrested or taken into custody before his or  
9 her 17th birthday for those offenses required to be reported  
10 under Section 5 of the Criminal Identification Act. Information  
11 reported to the Department under this Section may be maintained  
12 with records that the Department files under Section 2.1 of the  
13 Criminal Identification Act.

14 (Source: P.A. 94-556, eff. 9-11-05; 95-123, eff. 8-13-07.)

15 Section 99. Effective date. This Act takes effect upon  
16 becoming law.