



Sen. Emil Jones, III

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LRB096 18293 RLC 38099 a

1 AMENDMENT TO SENATE BILL 3513

2 AMENDMENT NO. _____. Amend Senate Bill 3513 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Sections 1-8 and 5-905 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

1 conducting an ongoing investigation or relating to a minor
2 who has been adjudicated delinquent and there has been a
3 previous finding that the act which constitutes the
4 previous offense was committed in furtherance of criminal
5 activities by a criminal street gang.

6 Before July 1, 1994, for the purposes of this Section,
7 "criminal street gang" means any ongoing organization,
8 association, or group of 3 or more persons, whether formal
9 or informal, having as one of its primary activities the
10 commission of one or more criminal acts and that has a
11 common name or common identifying sign, symbol or specific
12 color apparel displayed, and whose members individually or
13 collectively engage in or have engaged in a pattern of
14 criminal activity.

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

19 (3) Judges, hearing officers, prosecutors, probation
20 officers, social workers or other individuals assigned by
21 the court to conduct a pre-adjudication or predisposition
22 investigation, and individuals responsible for supervising
23 or providing temporary or permanent care and custody for
24 minors pursuant to the order of the juvenile court when
25 essential to performing their responsibilities.

26 (4) Judges, prosecutors and probation officers:

1 (a) in the course of a trial when institution of
2 criminal proceedings has been permitted or required
3 under Section 5-805; or

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

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

13 (d) when a minor becomes 17 years of age or older,
14 and is the subject of criminal proceedings, including a
15 hearing to determine the amount of bail, a pre-trial
16 investigation, a pre-sentence investigation, a fitness
17 hearing, or proceedings on an application for
18 probation.

19 (5) Adult and Juvenile Prisoner Review Boards.

20 (6) Authorized military personnel.

21 (7) Victims, their subrogees and legal
22 representatives; however, such persons shall have access
23 only to the name and address of the minor and information
24 pertaining to the disposition or alternative adjustment
25 plan of the juvenile court.

26 (8) Persons engaged in bona fide research, with the

1 permission of the presiding judge of the juvenile court and
2 the chief executive of the agency that prepared the
3 particular records; provided that publication of such
4 research results in no disclosure of a minor's identity and
5 protects the confidentiality of the record.

6 (9) The Secretary of State to whom the Clerk of the
7 Court shall report the disposition of all cases, as
8 required in Section 6-204 of the Illinois Vehicle Code.
9 However, information reported relative to these offenses
10 shall be privileged and available only to the Secretary of
11 State, courts, and police officers.

12 (10) The administrator of a bonafide substance abuse
13 student assistance program with the permission of the
14 presiding judge of the juvenile court.

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

1 (12) Appropriate school officials, for the purpose of
2 preventing foreseeable future violence involving minors,
3 with the permission of the presiding judge of the juvenile
4 court and the chief executive of the agency that prepared
5 the particular records.

6 (A-1) Findings and exclusions of paternity entered in
7 proceedings occurring under Article II of this Act shall be
8 disclosed, in a manner and form approved by the Presiding Judge
9 of the Juvenile Court, to the Department of Healthcare and
10 Family Services when necessary to discharge the duties of the
11 Department of Healthcare and Family Services under Article X of
12 the Illinois Public Aid Code.

13 (B) A minor who is the victim in a juvenile proceeding
14 shall be provided the same confidentiality regarding
15 disclosure of identity as the minor who is the subject of
16 record.

17 (C) Except as otherwise provided in this subsection (C),
18 juvenile court records shall not be made available to the
19 general public but may be inspected by representatives of
20 agencies, associations and news media or other properly
21 interested persons by general or special order of the court
22 presiding over matters pursuant to this Act.

23 (0.1) In cases where the records concern a pending
24 juvenile court case, the party seeking to inspect the
25 juvenile court records shall provide actual notice to the
26 attorney or guardian ad litem of the minor whose records

1 are sought.

2 (0.2) In cases where the records concern a juvenile
3 court case that is no longer pending, the party seeking to
4 inspect the juvenile court records shall provide actual
5 notice to the minor or the minor's parent or legal
6 guardian, and the matter shall be referred to the chief
7 judge presiding over matters pursuant to this Act.

8 (0.3) In determining whether the records should be
9 available for inspection, the court shall consider the
10 minor's interest in confidentiality and rehabilitation
11 over the moving party's interest in obtaining the
12 information. The State's Attorney, the minor, and the
13 minor's parents, guardian, and counsel shall at all times
14 have the right to examine court files and records. For
15 purposes of obtaining documents pursuant to this Section, a
16 civil subpoena is not an order of the court.

17 (0.4) Any records obtained in violation of this
18 subsection (C) shall not be admissible in any criminal or
19 civil proceeding, or operate to disqualify a minor from
20 subsequently holding public office, or operate as a
21 forfeiture of any public benefit, right, privilege, or
22 right to receive any license granted by public authority.

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

1 (A) The adjudication of delinquency was based upon
2 the minor's commission of first degree murder, attempt
3 to commit first degree murder, aggravated criminal
4 sexual assault, or criminal sexual assault; or

5 (B) The court has made a finding that the minor was
6 at least 13 years of age at the time the act was
7 committed and the adjudication of delinquency was
8 based upon the minor's commission of: (i) an act in
9 furtherance of the commission of a felony as a member
10 of or on behalf of a criminal street gang, (ii) an act
11 involving the use of a firearm in the commission of a
12 felony, (iii) an act that would be a Class X felony
13 offense under or the minor's second or subsequent Class
14 2 or greater felony offense under the Cannabis Control
15 Act if committed by an adult, (iv) an act that would be
16 a second or subsequent offense under Section 402 of the
17 Illinois Controlled Substances Act if committed by an
18 adult, (v) an act that would be an offense under
19 Section 401 of the Illinois Controlled Substances Act
20 if committed by an adult, (vi) an act that would be a
21 second or subsequent offense under Section 60 of the
22 Methamphetamine Control and Community Protection Act,
23 or (vii) an act that would be an offense under another
24 Section of the Methamphetamine Control and Community
25 Protection Act.

26 (2) The court shall allow the general public to have

1 access to the name, address, and offense of a minor who is
2 at least 13 years of age at the time the offense is
3 committed and who is convicted, in criminal proceedings
4 permitted or required under Section 5-4, under either of
5 the following circumstances:

6 (A) The minor has been convicted of first degree
7 murder, attempt to commit first degree murder,
8 aggravated criminal sexual assault, or criminal sexual
9 assault,

10 (B) The court has made a finding that the minor was
11 at least 13 years of age at the time the offense was
12 committed and the conviction was based upon the minor's
13 commission of: (i) an offense in furtherance of the
14 commission of a felony as a member of or on behalf of a
15 criminal street gang, (ii) an offense involving the use
16 of a firearm in the commission of a felony, (iii) a
17 Class X felony offense under or a second or subsequent
18 Class 2 or greater felony offense under the Cannabis
19 Control Act, (iv) a second or subsequent offense under
20 Section 402 of the Illinois Controlled Substances Act,
21 (v) an offense under Section 401 of the Illinois
22 Controlled Substances Act, (vi) an act that would be a
23 second or subsequent offense under Section 60 of the
24 Methamphetamine Control and Community Protection Act,
25 or (vii) an act that would be an offense under another
26 Section of the Methamphetamine Control and Community

1 Protection Act.

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

11 (E) Nothing in this Section shall affect the right of a
12 Civil Service Commission or appointing authority of any state,
13 county or municipality examining the character and fitness of
14 an applicant for employment with a law enforcement agency,
15 correctional institution, or fire department to ascertain
16 whether that applicant was ever adjudicated to be a delinquent
17 minor and, if so, to examine the records of disposition or
18 evidence which were made in proceedings under this Act.

19 (F) Following any adjudication of delinquency for a crime
20 which would be a felony if committed by an adult, or following
21 any adjudication of delinquency for a violation of Section
22 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961, the
23 State's Attorney shall ascertain whether the minor respondent
24 is enrolled in school and, if so, shall provide a copy of the
25 dispositional order to the principal or chief administrative
26 officer of the school. Access to such juvenile records shall be

1 limited to the principal or chief administrative officer of the
2 school and any guidance counselor designated by him.

3 (G) Nothing contained in this Act prevents the sharing or
4 disclosure of information or records relating or pertaining to
5 juveniles subject to the provisions of the Serious Habitual
6 Offender Comprehensive Action Program when that information is
7 used to assist in the early identification and treatment of
8 habitual juvenile offenders.

9 (H) When a Court hearing a proceeding under Article II of
10 this Act becomes aware that an earlier proceeding under Article
11 II had been heard in a different county, that Court shall
12 request, and the Court in which the earlier proceedings were
13 initiated shall transmit, an authenticated copy of the Court
14 record, including all documents, petitions, and orders filed
15 therein and the minute orders, transcript of proceedings, and
16 docket entries of the Court.

17 (I) The Clerk of the Circuit Court shall report to the
18 Department of State Police, in the form and manner required by
19 the Department of State Police, the final disposition of each
20 minor who has been arrested or taken into custody before his or
21 her 17th birthday for those offenses required to be reported
22 under Section 5 of the Criminal Identification Act. Information
23 reported to the Department under this Section may be maintained
24 with records that the Department files under Section 2.1 of the
25 Criminal Identification Act.

26 (Source: P.A. 95-123, eff. 8-13-07; 96-212, eff. 8-10-09.)

1 (705 ILCS 405/5-905)

2 Sec. 5-905. Law enforcement records.

3 (1) Law Enforcement Records. Inspection and copying of law
4 enforcement records maintained by law enforcement agencies
5 that relate to a minor who has been arrested or taken into
6 custody before his or her 17th birthday shall be restricted to
7 the following and when necessary for the discharge of their
8 official duties:

9 (a) A judge of the circuit court and members of the
10 staff of the court designated by the judge;

11 (b) Law enforcement officers, probation officers or
12 prosecutors or their staff, or, when necessary for the
13 discharge of its official duties in connection with a
14 particular investigation of the conduct of a law
15 enforcement officer, an independent agency or its staff
16 created by ordinance and charged by a unit of local
17 government with the duty of investigating the conduct of
18 law enforcement officers;

19 (c) The minor, the minor's parents or legal guardian
20 and their attorneys, but only when the juvenile has been
21 charged with an offense;

22 (d) Adult and Juvenile Prisoner Review Boards;

23 (e) Authorized military personnel;

24 (f) Persons engaged in bona fide research, with the
25 permission of the judge of juvenile court and the chief

1 executive of the agency that prepared the particular
2 recording: provided that publication of such research
3 results in no disclosure of a minor's identity and protects
4 the confidentiality of the record;

5 (g) Individuals responsible for supervising or
6 providing temporary or permanent care and custody of minors
7 pursuant to orders of the juvenile court or directives from
8 officials of the Department of Children and Family Services
9 or the Department of Human Services who certify in writing
10 that the information will not be disclosed to any other
11 party except as provided under law or order of court;

12 (h) The appropriate school official. Inspection and
13 copying shall be limited to law enforcement records
14 transmitted to the appropriate school official by a local
15 law enforcement agency under a reciprocal reporting system
16 established and maintained between the school district and
17 the local law enforcement agency under Section 10-20.14 of
18 the School Code concerning a minor enrolled in a school
19 within the school district who has been arrested for any
20 offense classified as a felony or a Class A or B
21 misdemeanor.

22 (2) Except as otherwise provided in subsection (2.5),
23 information ~~Information~~ identifying victims and alleged
24 victims of sex offenses, shall not be disclosed or open to
25 public inspection ~~under any circumstances~~. Nothing in this
26 Section shall prohibit the victim or alleged victim of any sex

1 offense from voluntarily disclosing his or her identity.

2 (2.5) Information identifying victims of aggravated
3 battery, battery, attempted first degree murder, or other
4 non-sexual violent offenses may be disclosed to appropriate
5 school officials by a local law enforcement agency pursuant to
6 an agreement established between the school district and the
7 local law enforcement agency subject to the approval by the
8 presiding judge of the juvenile court.

9 (3) Relevant information, reports and records shall be made
10 available to the Department of Juvenile Justice when a juvenile
11 offender has been placed in the custody of the Department of
12 Juvenile Justice.

13 (4) Nothing in this Section shall prohibit the inspection
14 or disclosure to victims and witnesses of photographs contained
15 in the records of law enforcement agencies when the inspection
16 or disclosure is conducted in the presence of a law enforcement
17 officer for purposes of identification or apprehension of any
18 person in the course of any criminal investigation or
19 prosecution.

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

1 or when the institution of criminal proceedings has been
2 permitted under Section 5-130 or 5-805 or required under
3 Section 5-130 or 5-805 or such a person has been convicted of a
4 crime and is the subject of pre-sentence investigation or when
5 provided by law.

6 (6) Except as otherwise provided in this subsection (6),
7 law enforcement officers, and personnel of an independent
8 agency created by ordinance and charged by a unit of local
9 government with the duty of investigating the conduct of law
10 enforcement officers, may not disclose the identity of any
11 minor in releasing information to the general public as to the
12 arrest, investigation or disposition of any case involving a
13 minor. Any victim or parent or legal guardian of a victim may
14 petition the court to disclose the name and address of the
15 minor and the minor's parents or legal guardian, or both. Upon
16 a finding by clear and convincing evidence that the disclosure
17 is either necessary for the victim to pursue a civil remedy
18 against the minor or the minor's parents or legal guardian, or
19 both, or to protect the victim's person or property from the
20 minor, then the court may order the disclosure of the
21 information to the victim or to the parent or legal guardian of
22 the victim only for the purpose of the victim pursuing a civil
23 remedy against the minor or the minor's parents or legal
24 guardian, or both, or to protect the victim's person or
25 property from the minor.

26 (7) Nothing contained in this Section shall prohibit law

1 enforcement agencies when acting in their official capacity
2 from communicating with each other by letter, memorandum,
3 teletype or intelligence alert bulletin or other means the
4 identity or other relevant information pertaining to a person
5 under 17 years of age. The information provided under this
6 subsection (7) shall remain confidential and shall not be
7 publicly disclosed, except as otherwise allowed by law.

8 (8) No person shall disclose information under this Section
9 except when acting in his or her official capacity and as
10 provided by law or order of court.

11 (Source: P.A. 96-419, eff. 8-13-09.)".