



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB4643

Introduced 2/1/2012, by Rep. Darlene J. Senger

SYNOPSIS AS INTRODUCED:

70 ILCS 1205/8-23

705 ILCS 405/1-7

705 ILCS 405/5-905

from Ch. 37, par. 801-7

Amends the Park District Code. Prohibits a park district from knowingly employing a minor who has been adjudicated as committing any of the following offenses: (i) unlawful use of weapons, (ii) a violation of the Illinois Controlled Substances Act, (iii) a violation of certain provisions of the Cannabis Control Act, (iv) a forcible felony, (v) a violation of the Methamphetamine Control and Community Protection Act, or (vi) a felony or a Class A or B misdemeanor. Provides that the Illinois Department of State Police shall conduct a search of the Illinois criminal history records database to ascertain if a minor applicant being considered for employment with a park district has been adjudicated as committing specified offenses. Amends the Juvenile Court Act of 1987. In provisions concerning the confidentiality of the law enforcement records of minors, provides that the president of a park district may have access to specified records of a minor who is applying for employment with the park district. Effective immediately.

LRB097 17256 KMW 62457 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

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

4 Section 5. The Park District Code is amended by changing
5 Section 8-23 as follows:

6 (70 ILCS 1205/8-23)

7 Sec. 8-23. Criminal background investigations.

8 (a) An applicant for employment with a park district is
9 required as a condition of employment to authorize an
10 investigation to determine if the applicant has been convicted
11 of, or adjudicated a delinquent minor for, any of the
12 enumerated criminal or drug offenses in subsection (c) of this
13 Section or has been convicted, within 7 years of the
14 application for employment with the park district, of any other
15 felony under the laws of this State or of any offense committed
16 or attempted in any other state or against the laws of the
17 United States that, if committed or attempted in this State,
18 would have been punishable as a felony under the laws of this
19 State. Authorization for the investigation shall be furnished
20 by the applicant to the park district. Upon receipt of this
21 authorization, the park district shall submit the applicant's
22 name, sex, race, date of birth, and social security number to
23 the Department of State Police on forms prescribed by the

1 Department of State Police. The Department of State Police
2 shall conduct a search of the Illinois criminal history records
3 database to ascertain if the applicant being considered for
4 employment has been convicted of, or adjudicated a delinquent
5 minor for, committing or attempting to commit any of the
6 enumerated criminal or drug offenses in subsection (c) of this
7 Section or has been convicted of committing or attempting to
8 commit, within 7 years of the application for employment with
9 the park district, any other felony under the laws of this
10 State. The Department of State Police shall charge the park
11 district a fee for conducting the investigation, which fee
12 shall be deposited in the State Police Services Fund and shall
13 not exceed the cost of the inquiry. The applicant shall not be
14 charged a fee by the park district for the investigation.

15 (b) If the search of the Illinois criminal history record
16 database indicates that the applicant has been convicted of, or
17 adjudicated a delinquent minor for, committing or attempting to
18 commit any of the enumerated criminal or drug offenses in
19 subsection (c) or has been convicted of committing or
20 attempting to commit, within 7 years of the application for
21 employment with the park district, any other felony under the
22 laws of this State, the Department of State Police and the
23 Federal Bureau of Investigation shall furnish, pursuant to a
24 fingerprint based background check, records of convictions or
25 adjudications as a delinquent minor, until expunged, to the
26 president of the park district. Any information concerning the

1 record of convictions or adjudications as a delinquent minor
2 obtained by the president shall be confidential and may only be
3 transmitted to those persons who are necessary to the decision
4 on whether to hire the applicant for employment. A copy of the
5 record of convictions or adjudications as a delinquent minor
6 obtained from the Department of State Police shall be provided
7 to the applicant for employment. Any person who releases any
8 confidential information concerning any criminal convictions
9 or adjudications as a delinquent minor of an applicant for
10 employment shall be guilty of a Class A misdemeanor, unless the
11 release of such information is authorized by this Section.

12 (c) No park district shall knowingly employ a person who
13 has been convicted, or adjudicated a delinquent minor, for
14 committing attempted first degree murder or for committing or
15 attempting to commit first degree murder, a Class X felony, or
16 any one or more of the following offenses: (i) those defined in
17 Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6,
18 11-9, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17,
19 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-20.1B,
20 11-20.3, 11-21, 11-30, 12-7.3, 12-7.4, 12-7.5, 12-13, 12-14,
21 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961; (ii)
22 those defined in the Cannabis Control Act, except those defined
23 in Sections 4(a), 4(b), and 5(a) of that Act; (iii) those
24 defined in the Illinois Controlled Substances Act; (iv) those
25 defined in the Methamphetamine Control and Community
26 Protection Act; and (v) any offense committed or attempted in

1 any other state or against the laws of the United States,
2 which, if committed or attempted in this State, would have been
3 punishable as one or more of the foregoing offenses. Further,
4 no park district shall knowingly employ a person who has been
5 found to be the perpetrator of sexual or physical abuse of any
6 minor under 18 years of age pursuant to proceedings under
7 Article II of the Juvenile Court Act of 1987. No park district
8 shall knowingly employ a person for whom a criminal background
9 investigation has not been initiated.

10 (Source: P.A. 96-1551, eff. 7-1-11.)

11 Section 10. The Juvenile Court Act of 1987 is amended by
12 changing Sections 1-7 and 5-905 as follows:

13 (705 ILCS 405/1-7) (from Ch. 37, par. 801-7)

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

15 (A) Inspection and copying of law enforcement records
16 maintained by law enforcement agencies that relate to a minor
17 who has been arrested or taken into custody before his or her
18 17th birthday shall be restricted to the following:

19 (1) Any local, State or federal law enforcement
20 officers of any jurisdiction or agency when necessary for
21 the discharge of their official duties during the
22 investigation or prosecution of a crime or relating to a
23 minor who has been adjudicated delinquent and there has
24 been a previous finding that the act which constitutes the

1 previous offense was committed in furtherance of criminal
2 activities by a criminal street gang, or, when necessary
3 for the discharge of its official duties in connection with
4 a particular investigation of the conduct of a law
5 enforcement officer, an independent agency or its staff
6 created by ordinance and charged by a unit of local
7 government with the duty of investigating the conduct of
8 law enforcement officers. 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 (2) Prosecutors, probation officers, social workers,
13 or other individuals assigned by the court to conduct a
14 pre-adjudication or pre-disposition investigation, and
15 individuals responsible for supervising or providing
16 temporary or permanent care and custody for minors pursuant
17 to the order of the juvenile court, when essential to
18 performing their responsibilities.

19 (3) 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 institution of criminal proceedings has
24 been permitted or required under Section 5-805 and such
25 minor is the subject of a proceeding to determine the
26 amount of bail; or

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

6 (4) Adult and Juvenile Prisoner Review Board.

7 (5) Authorized military personnel.

8 (6) Persons engaged in bona fide research, with the
9 permission of the Presiding Judge of the Juvenile Court and
10 the chief executive of the respective law enforcement
11 agency; provided that publication of such research results
12 in no disclosure of a minor's identity and protects the
13 confidentiality of the minor's record.

14 (7) Department of Children and Family Services child
15 protection investigators acting in their official
16 capacity.

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

26 (i) unlawful use of weapons under Section 24-1 of

1 the Criminal Code of 1961;
2 (ii) a violation of the Illinois Controlled
3 Substances Act;
4 (iii) a violation of the Cannabis Control Act;
5 (iv) a forcible felony as defined in Section 2-8 of
6 the Criminal Code of 1961; or
7 (v) a violation of the Methamphetamine Control and
8 Community Protection Act.

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

22 (10) The president of a park district. Inspection and
23 copying shall be limited to law enforcement records
24 transmitted to the president of the park district by the
25 Illinois State Police under Section 8-23 of the Park
26 District Code concerning a person who is seeking employment

1 with that park district and who has been adjudicated a
2 juvenile delinquent for any of the offenses listed in
3 subsection (c) of Section 8-23 of the Park District Code.

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

14 (2) Law enforcement officers or other persons or
15 agencies shall transmit to the Department of State Police
16 copies of fingerprints and descriptions of all minors who
17 have been arrested or taken into custody before their 17th
18 birthday for the offense of unlawful use of weapons under
19 Article 24 of the Criminal Code of 1961, a Class X or Class
20 1 felony, a forcible felony as defined in Section 2-8 of
21 the Criminal Code of 1961, or a Class 2 or greater felony
22 under the Cannabis Control Act, the Illinois Controlled
23 Substances Act, the Methamphetamine Control and Community
24 Protection Act, or Chapter 4 of the Illinois Vehicle Code,
25 pursuant to Section 5 of the Criminal Identification Act.
26 Information reported to the Department pursuant to this

1 Section may be maintained with records that the Department
2 files pursuant to Section 2.1 of the Criminal
3 Identification Act. Nothing in this Act prohibits a law
4 enforcement agency from fingerprinting a minor taken into
5 custody or arrested before his or her 17th birthday for an
6 offense other than those listed in this paragraph (2).

7 (C) The records of law enforcement officers, or of an
8 independent agency created by ordinance and charged by a unit
9 of local government with the duty of investigating the conduct
10 of law enforcement officers, concerning all minors under 17
11 years of age must be maintained separate from the records of
12 arrests and may not be open to public inspection or their
13 contents disclosed to the public except by order of the court
14 presiding over matters pursuant to this Act or when the
15 institution of criminal proceedings has been permitted or
16 required under Section 5-805 or such a person has been
17 convicted of a crime and is the subject of pre-sentence
18 investigation or proceedings on an application for probation or
19 when provided by law. For purposes of obtaining documents
20 pursuant to this Section, a civil subpoena is not an order of
21 the court.

22 (1) In cases where the law enforcement, or independent
23 agency, records concern a pending juvenile court case, the
24 party seeking to inspect the records shall provide actual
25 notice to the attorney or guardian ad litem of the minor
26 whose records are sought.

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

7 (3) In determining whether the records should be
8 available for inspection, the court shall consider the
9 minor's interest in confidentiality and rehabilitation
10 over the moving party's interest in obtaining the
11 information. Any records obtained in violation of this
12 subsection (C) shall not be admissible in any criminal or
13 civil proceeding, or operate to disqualify a minor from
14 subsequently holding public office or securing employment,
15 or operate as a forfeiture of any public benefit, right,
16 privilege, or right to receive any license granted by
17 public authority.

18 (D) Nothing contained in subsection (C) of this Section
19 shall prohibit the inspection or disclosure to victims and
20 witnesses of photographs contained in the records of law
21 enforcement agencies when the inspection and disclosure is
22 conducted in the presence of a law enforcement officer for the
23 purpose of the identification or apprehension of any person
24 subject to the provisions of this Act or for the investigation
25 or prosecution of any crime.

26 (E) Law enforcement officers, and personnel of an

1 independent agency created by ordinance and charged by a unit
2 of local government with the duty of investigating the conduct
3 of law enforcement officers, may not disclose the identity of
4 any minor in releasing information to the general public as to
5 the arrest, investigation or disposition of any case involving
6 a minor.

7 (F) Nothing contained in this Section shall prohibit law
8 enforcement agencies from communicating with each other by
9 letter, memorandum, teletype or intelligence alert bulletin or
10 other means the identity or other relevant information
11 pertaining to a person under 17 years of age if there are
12 reasonable grounds to believe that the person poses a real and
13 present danger to the safety of the public or law enforcement
14 officers. The information provided under this subsection (F)
15 shall remain confidential and shall not be publicly disclosed,
16 except as otherwise allowed by law.

17 (G) Nothing in this Section shall prohibit the right of a
18 Civil Service Commission or appointing authority of any state,
19 county or municipality examining the character and fitness of
20 an applicant for employment with a law enforcement agency,
21 correctional institution, or fire department from obtaining
22 and examining the records of any law enforcement agency
23 relating to any record of the applicant having been arrested or
24 taken into custody before the applicant's 17th birthday.

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

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
26 executive of the agency that prepared the particular

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

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

11 (h) 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 for any
19 offense classified as a felony or a Class A or B
20 misdemeanor;

21 (i) The president of a park district. Inspection and
22 copying shall be limited to law enforcement records
23 transmitted to the president of the park district by the
24 Illinois State Police under Section 8-23 of the Park
25 District Code concerning a person who is seeking employment
26 with that park district and who has been adjudicated a

1 juvenile delinquent for any of the offenses listed in
2 subsection (c) of Section 8-23 of the Park District Code.

3 (2) Information identifying victims and alleged victims of
4 sex offenses, shall not be disclosed or open to public
5 inspection under any circumstances. Nothing in this Section
6 shall prohibit the victim or alleged victim of any sex offense
7 from voluntarily disclosing his or her identity.

8 (2.5) If the minor is a victim of aggravated battery,
9 battery, attempted first degree murder, or other non-sexual
10 violent offense, the identity of the victim may be disclosed to
11 appropriate school officials, for the purpose of preventing
12 foreseeable future violence involving minors, by a local law
13 enforcement agency pursuant to an agreement established
14 between the school district and a local law enforcement agency
15 subject to the approval by the presiding judge of the juvenile
16 court.

17 (3) Relevant information, reports and records shall be made
18 available to the Department of Juvenile Justice when a juvenile
19 offender has been placed in the custody of the Department of
20 Juvenile Justice.

21 (4) Nothing in this Section shall prohibit the inspection
22 or disclosure to victims and witnesses of photographs contained
23 in the records of law enforcement agencies when the inspection
24 or disclosure is conducted in the presence of a law enforcement
25 officer for purposes of identification or apprehension of any
26 person in the course of any criminal investigation or

1 prosecution.

2 (5) The records of law enforcement officers, or of an
3 independent agency created by ordinance and charged by a unit
4 of local government with the duty of investigating the conduct
5 of law enforcement officers, concerning all minors under 17
6 years of age must be maintained separate from the records of
7 adults and may not be open to public inspection or their
8 contents disclosed to the public except by order of the court
9 or when the institution of criminal proceedings has been
10 permitted under Section 5-130 or 5-805 or required under
11 Section 5-130 or 5-805 or such a person has been convicted of a
12 crime and is the subject of pre-sentence investigation or when
13 provided by law.

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

1 both, or to protect the victim's person or property from the
2 minor, then the court may order the disclosure of the
3 information to the victim or to the parent or legal guardian of
4 the victim only for the purpose of the victim pursuing a civil
5 remedy against the minor or the minor's parents or legal
6 guardian, or both, or to protect the victim's person or
7 property from the minor.

8 (7) Nothing contained in this Section shall prohibit law
9 enforcement agencies when acting in their official capacity
10 from communicating with each other by letter, memorandum,
11 teletype or intelligence alert bulletin or other means the
12 identity or other relevant information pertaining to a person
13 under 17 years of age. The information provided under this
14 subsection (7) shall remain confidential and shall not be
15 publicly disclosed, except as otherwise allowed by law.

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

19 (Source: P.A. 96-419, eff. 8-13-09; 96-1414, eff. 1-1-11.)

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.