

JULY 2008

**GUIDANCE DOCUMENT ON
CRIMINAL HISTORY RECORDS INFORMATION CHECKS
FOR CERTIFIED AND NON-CERTIFIED SCHOOL PERSONNEL**

**105 ILCS 5/10-21.9
105 ILCS 5/34-18.5 (CPS)
105 ILCS 5/2-3.25o**

COVERING PUBLIC ACTS

P.A. 93-909	P.A. 94-945
P.A. 94-219	P.A. 94-994
P.A. 94-556	P.A. 95-351
P.A. 94-875	

This document is intended to provide non-regulatory guidance on the subject matter listed above. For specific questions, please contact the person(s) identified in the document.

GUIDANCE FOR CRIMINAL HISTORY RECORDS INFORMATION CHECKS FOR CERTIFIED AND NON-CERTIFIED SCHOOL PERSONNEL

105 ILCS 5/10-21.9 105 ILCS 5/34-18.5 (CPS)

Effective August 12, 2004, Public Act 93-909 amended Sections 10-21.9^{*} and 34-18.5 of the Illinois School Code [105 ILCS 5/10-21.9; 105 ILCS 5/34-18.5] to require school districts to perform a fingerprint-based criminal history records check (also referred to as a “background check”) on all certified and non-certified applicants for employment with a school district. The criminal history records check must be *initiated* prior to employment, but a school district may permit the individual to be hired and begin employment pending the outcome of the criminal history records check. “Initiated” means the applicant’s fingerprint image has been transmitted via LiveScan to the Illinois State Police and FBI. Employees hired prior to August 12, 2004 are not required under the School Code to submit to a fingerprint-based criminal history records check.

Fingerprint-based criminal history records checks apply to all the same individuals as the former Illinois name-based criminal background check. For example, all teachers at charter schools and substitutes that apply to be hired are required to submit to this fingerprint check. “Substitutes” includes, but is not limited to, substitute teachers, aides, playground monitors, and kitchen staff. See 105 ILCS 5/10-21.9 for complete listing. Additionally, any employee(s) of persons or firms holding contracts with any school district who have “direct, daily contact” with any students must submit to fingerprint-based criminal history records checks. Bus drivers who are not employed directly by the school district, student teachers and volunteers are not subject to this fingerprint check (bus drivers are separately checked as part of their licensure), but a school district may require a student teacher or parent volunteer to submit to a fingerprint-based background check, where appropriate, under the Adam Walsh Act or UCIA, per district policy. Please see below for more information on and applicability of Adam Walsh Act and UCIA background checks.

LINK TO P.A. 93-909: <http://www.ilga.gov/legislation/publicacts/fulltext.asp?name=093-0909&GA=093>.

THE FULL TEXT OF 105 ILCS 5/10-21.9 AND 105 ILCS 5/34-18.5, RESPECTIVELY, CAN BE FOUND IN APPENDIX A OF THIS GUIDANCE DOCUMENT, AND VIA THESE LINKS:

<http://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=010500050HArt%2E+10&ActID=1005&ChapAct=105%26nbsp%3BILCS%26nbsp%3B5%2F&ChapterID=17&ChapterName=SCHOOLS&SectionID=48899&SeqStart=52800000&SeqEnd=74000000&ActName=School+Code%2E>

<http://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=010500050HArt%2E+34&ActID=1005&ChapAct=105%26nbsp%3BILCS%26nbsp%3B5%2F&ChapterID=17&ChapterName=SCHOOLS&SectionID=49508&SeqStart=169100000&SeqEnd=190800000&ActName=School+Code%2E>

USE THIS LINK TO THE **CRIMINAL CODE OF 1961** TO REFERENCE THE OFFENSES ENUMERATED IN 105 ILCS 5/10-21.9 AND 105 ILCS 5/34-18.5:

<HTTP://WWW.ILGA.GOV/LEGISLATION/ILCS/ILCS3.ASP?ACTID=1876&CHAPACT=720%26nbsp%3BILCS%26nbsp%3B5%2F&CHAPTERID=53&CHAPTERNAME=CRIMINAL+OFFENSES&ACTNAME=CRIMINAL+CODE+OF+1961%2E>

* All references to 105 ILCS 5/10-21.9 in this document also refer to 105 ILCS 5/34-18.5.

PORTABILITY OF CRIMINAL HISTORY RECORDS CHECKS

Effective July 1, 2006, Public Act 94-875 permits a school board to rely on and share the criminal history records information “certificate” issued by any regional superintendent, for “substitutes, concurrent part-time teachers and concurrent educational support personnel”, with *any school district in the State of Illinois*. (see 105 ILCS 5/10-21.9(b)). Thus, it may not be necessary to conduct another background check. A school board may request a copy of that “certificate” from a regional superintendent or another school board, that has completed a fingerprint-based criminal history records check on a substitute or other employee concurrently employed in more than one district, or if it prefers, may initiate its own check.

LINK TO P.A. 94-875: <http://ilga.gov/legislation/publicacts/94/PDF/094-0875.pdf>.

COMPONENTS OF A COMPLETE SECTION 10-21.9 BACKGROUND CHECK

As explained further below, several Public Acts have amended Section 10-21.9 of the School Code to expand the requirements for a complete criminal history records check. A complete Section 10-21.9 criminal history records check now consists of:

- fingerprint-based checks through the Illinois State Police (ISP) and the FBI,
- check of the Illinois Sex Offender Registry (see below), and
- check of the Violent Offender Against Youth Registry (see below).

ILLINOIS SEX OFFENDER REGISTRY

Effective August 14, 2005, Public Act 94-219 amended Section 10-21.9 of the Illinois School Code [105 ILCS 5/10-21.9] to require school districts and regional superintendents to perform a search of the Illinois Sex Offender Registry (IL-SOR) under the Sex Offender and Child Murderer Community Notification Law in conjunction with every criminal history records check initiated. When checking this Registry, please note that some of the offenses that will require registration under this Registry will automatically prohibit an applicant from holding certification and/or being employed in the public schools, but other offenses included in the Registry do not, and will require the school district to determine whether an applicant should be hired. A list of offenses that automatically prohibit employment and/or certification can be found at 105 ILCS 5/10-21.9 and 105 ILCS 5/21-23a of the School Code.

The IL-SOR and numerous other helpful resources can be accessed via the Illinois State Police (ISP) website link below. Searches may be conducted using the applicant’s last name and his/her city of residence. In 2007, the ISP unveiled a mapping function on the IL-SOR, which displays registered sex offenders in a neighborhood in relation to schools and parks.

LINK TO P.A. 94-219: <http://www.ilga.gov/legislation/publicacts/fulltext.asp?name=094-0219&GA=094>.

Please note that Public Act 94-994 amended 730 ILCS 152/120, the section under the Sex Offenders Registration Law that covers community notification of sex offenders to require, after January 1, 2007, that during either school registration or parent-teacher conferences, a principal or a teacher must notify the parents of children attending the school that parents may access information regarding registered sex offenders that is available to the public. This amendment is intended to increase awareness of the IL-SOR and to encourage parents to review the information available to them.

LINK TO P.A. 94-994: <http://ilga.gov/legislation/publicacts/fulltext.asp?Name=094-0994&GA=094>

ACCESS THE IL SEX OFFENDER REGISTRY: <http://www.isp.state.il.us/sor/>

ILLINOIS VIOLENT OFFENDER AGAINST YOUTH REGISTRY

Public Act 94-945 created the Child Murderer/Violent Offender Against Youth Notification Law and Registry (link below), which is intended to be a companion to the IL-SOR, and houses information on adults and minors who were convicted for committing certain violent but not sexually-based offenses

against a child or children and are required to register with local law enforcement in the municipality in which the offender resides, works or attends school. Violent offenses that require registration include: kidnapping, aggravated kidnapping, unlawful restraint, aggravated unlawful restraint, any attempt of any of those offenses, first degree murder, child abduction and forcible detention. With the creation of this Registry, the IL-SOR will no longer include individuals who have been convicted solely of non-sexually based offenses against children and who have successfully petitioned in their jurisdiction to be removed from the IL-SOR to the Violent Offender Registry.

P.A. 94-945 mandates school districts and regional superintendents to check the Child Murderer/ Violent Offender Against Youth Registry in conjunction with any background check for any applicant for employment. When checking this Registry, please note that some of the offenses that will require registration under this Registry will automatically prohibit an applicant from holding certification and/or being employed in the public schools, but other offenses included in the Registry do not, and will require the school district to determine whether an applicant should be hired. A list of offenses that automatically prohibit employment and/or certification can be found at 105 ILCS 5/10-21.9 and 105 ILCS 5/21-23a of the School Code.

This Registry also includes a mapping function, which will display registered violent offenders in a neighborhood in relation to schools and parks. ISBE encourages principals and teachers to notify parents of this Registry as well.

LINK TO P.A. 94-945: <http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=094-0945>

ACCESS CHILD MURDERER/ VIOLENT OFFENDER AGAINST YOUTH REGISTRY: <http://www.isp.state.il.us/cmvo/>

METHAMPHETAMINE CONTROL AND COMMUNITY PROTECTION ACT

Public Act 94-556 amended Section 10-21.9 of the Illinois School Code to prohibit employment in the public schools for anyone who has been convicted for an offense under the Methamphetamine Control and Community Protection Act [720 ILCS 646/1].

LINK TO P.A. 94-556: <http://www.ilga.gov/legislation/publicacts/94/PDF/094-0556.pdf>

LINK TO METHAMPHETAMINE CONTROL AND COMMUNITY PROTECTION ACT:

<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2733&ChapAct=720%26nbsp%3BILCS%26nbsp%3B646%2F&ChapterID=53&ChapterName=CRIMINAL+OFFENSES&ActName=Methamphetamine+Control+and+Community+Protection+Act%2E>

ADAM WALSH CHILD PROTECTION AND SAFETY ACT OF 2006

In July 2006, the U.S. Congress enacted the Adam Walsh Child Protection and Safety Act (P.L. 109-248), allowing various entities to access the FBI repository of criminal history information: governmental social service agencies with child protection responsibilities, child welfare agencies and public and private elementary and secondary schools and state and local educational agencies. Public colleges and universities were also granted access to the FBI repository to conduct criminal history records checks on, for example, students entering teacher preparation programs and/or clinical/field experiences. Public schools in Illinois already had access to the FBI repository under the authority of Section 10-21.9 of the School Code to conduct background checks on certified and non-certified applicants for hire; therefore, the Adam Walsh Act grants access to public schools to conduct background checks on non-employees (i.e., volunteers and student teachers) and to private elementary and secondary schools.

TO BEGIN CONDUCTING CHECKS UNDER THE ADAM WALSH ACT, PLEASE CONTACT THE ISP BUREAU OF IDENTIFICATION AT (815) 740-5160 TO SET UP A USER AGREEMENT AND OBTAIN AN ADAM WALSH ORI NUMBER.

ACCESS THE ISP ADAM WALSH BROCHURE: http://www.isbe.net/pdf/Adam_Walsh.pdf

BACKGROUND CHECKS FOR NON-PUBLIC SCHOOLS REQUIRED FOR RECOGNITION STATUS

P.A. 95-351 amended Section 2-3.25o of the Illinois School Code [105 ILCS 5/2-3.25o] to require nonpublic schools as defined in this Section to conduct criminal history records checks on all certified and non-certified applicants for employment after July 1, 2007, or the nonpublic school will be prohibited from obtaining or continuing "Non-public School Recognition" status with ISBE. Additionally, any employee(s) of persons or firms holding contracts with any non-public school who have "direct, daily contact" with any students must submit to fingerprint-based criminal history records checks. The background check required for employees of nonpublic schools and any employee(s) of persons or firms holding contracts with any non-public school consists of a fingerprint-based check through the Illinois State Police and the FBI, and a check of the Illinois Sex Offender Registry.

LINK TO P.A. 95-351: <http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=095-0351>

FOR FURTHER INFORMATION OR GUIDANCE REGARDING CRIMINAL HISTORY RECORDS CHECKS, PLEASE REVIEW THE **ISP GUIDE TO UNDERSTANDING CRIMINAL BACKGROUND CHECK INFORMATION**: <http://www.isp.state.il.us/media/docdetails.cfm?DocID=508>.

The ISP generally conducts two training seminars annually, in the fall and spring, at various locations around the State, for non-criminal justice entities conducting background checks. Please contact the ISP at (815) 740-5160 for information regarding the next training seminar.

OTHER RESOURCES:

NATIONAL SEX OFFENDER REGISTRY

An additional resource for school districts and nonpublic schools is the Dru Sjodin National Sex Offender Public Registry, maintained by the U.S. Department of Justice. While not a required part of any background check under the Illinois School Code, the national database is a resource that school districts, universities or nonpublic schools may want to include in their background checks. The national Registry is a cooperative agreement between states that maintain sex offender registries and the federal government.

ACCESS THE DRU SJODIN NATIONAL SEX OFFENDER PUBLIC REGISTRY: <http://www.nsopr.gov/>

UNIFORM CONVICTION INFORMATION ACT (UCIA) BACKGROUND CHECKS

Aside from all the amendments discussed above, school districts and regional superintendents still have the discretion to require name- or fingerprint-based background checks on personnel who are not required to submit to background checks under the School Code, such as chaperones or volunteers, or were hired by the district prior to August 12, 2004. For school district or regional superintendents that want to complete background checks on personnel not required to submit to a background check under Section 10-21.9 of the School Code, prior Illinois conviction information can also be accessed through the ISP under the Uniform Conviction Information Act (UCIA) [20 ILCS 2635].

Contact the ISP at (815) 740-5160 or request forms to initiate the UCIA check via the ISP website at <http://www.isp.state.il.us/services/uciaformreq.cfm>. There is a \$10 fee for a name-based check and a \$15 fee for a fingerprint-based check when submitted electronically. ISBE encourages the use of the fingerprint-based UCIA check over the name-based UCIA check.

LINK TO THE UCIA:

<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=351&ChapAct=20%26nbsp%3BILCS%26nbsp%3B2635%2F&ChapterID=5&ChapterName=EXECUTIVE+BRANCH&ActName=Illinois+Uniform+Conviction+Information+Act%2E>

FOR ADDITIONAL INFORMATION, PLEASE CONTACT:

Illinois State Police
Bureau of Identification Customer Service Hotline
260 N. Chicago Street
Joliet, Illinois 60432-4072
(815) 740-5160 — Phone
(815) 740-5174 — Fax
askisp@isp.state.il.us

Jessica Riddick
ISBE Assistant Legal Advisor
100 W. Randolph Street, Suite 14-300
Chicago, Illinois 60601
(312) 814-2223 — Phone
(312) 814-8871 — Fax
jriddick@isbe.net

For inquiries related to the FBI portion of the criminal history records check, please contact the FBI Helpdesk at (304) 625-2000.

FEEES

School districts may use funds from their ADA School Safety and Educational Improvement Block Grant to pay for fingerprint-based criminal history records checks. Regional superintendents may use their operations funds, which include an ROE Services appropriation. Certified and non-certified applicants for employment with a school district shall not be charged any part of the fee.

Fee information may also be found in Appendix E of the **ISP GUIDE TO UNDERSTANDING CRIMINAL BACKGROUND CHECK INFORMATION**: <http://www.isp.state.il.us/media/docdetails.cfm?DocID=508>.

Effective 10/1/2007. Fees subject to change. Please check with the ISP.

	<i>Received via Livescan</i>	<i>Received through Mail</i>
<u>FEE APPLICANT</u>		
State Fingerprint Card	\$15.00	\$20.00
FBI Fingerprint Card	\$19.25	\$19.25
Full set	\$34.25	\$39.25
RESUBMISSIONS		
State Fingerprint Card	\$10.00	\$10.00
FBI Fingerprint Card	\$10.00	\$10.00
<u>UCIA</u>		
FINGERPRINT		
Fingerprint Card	\$15.00	\$20.00
RESUBMISSIONS		
Fingerprint Card	\$10.00	\$10.00
NON-FINGERPRINT FORM		
Non-Fingerprint Form	\$10.00	\$16.00
<u>EXPUNGEMENTS</u>		
Expungement	N/A	\$60.00
Petitions	N/A	No Charge

Please note that the Illinois State Police generally no longer accept electronic name files or paper name inquiries for the criminal history records checks. If you have established an auto name inquiry system, paid for services and prefer a refund, call (815) 740-5160 for information on obtaining a refund. Refunds will only be made upon request. Districts may be able to use their draw down accounts to pay for other electronic or manual fingerprint card submissions rather than receive a refund.

ELECTRONIC & MANUAL FINGERPRINT SUBMISSION

Electronic submission is the preferred method of the Illinois State Police; fingerprint cards (manual submission) are discouraged because they are prone to human error and take longer to process. School districts and regional superintendents should contact either the Illinois State Police or a Livescan vendor to learn about the process of requesting electronic fingerprint submissions. School districts and regional superintendents may also consider contacting their local law enforcement authorities to determine if they offer electronic fingerprinting, and the costs of performing this task locally.

APPENDIX A

SCHOOL CODE REFERENCES:

105 ILCS 5/10-21.9
105 ILCS 5/34-18.5
105 ILCS 5/2-3.25o

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

SEC. 10-21.9. CRIMINAL HISTORY RECORDS CHECKS AND CHECKS OF THE STATEWIDE SEX OFFENDER DATABASE AND STATEWIDE CHILD MURDERER AND VIOLENT OFFENDER AGAINST YOUTH DATABASE.

(a) Certified and noncertified applicants for employment with a school district, except school bus driver applicants, are required as a condition of employment to authorize a fingerprint-based criminal history records check to determine if such applicants have been convicted of any of the enumerated criminal or drug offenses in subsection (c) of this Section or have been convicted, within 7 years of the application for employment with the school district, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State. Authorization for the check shall be furnished by the applicant to the school district, except that if the applicant is a substitute teacher seeking employment in more than one school district, a teacher seeking concurrent part-time employment positions with more than one school district (as a reading specialist, special education teacher or otherwise), or an educational support personnel employee seeking employment positions with more than one district, any such district may require the applicant to furnish authorization for the check to the regional superintendent of the educational service region in which are located the school districts in which the applicant is seeking employment as a substitute or concurrent part-time teacher or concurrent educational support personnel employee. Upon receipt of this authorization, the school district or the appropriate regional superintendent, as the case may be, shall submit the applicant's name, sex, race, date of birth, social security number, fingerprint images, and other identifiers, as prescribed by the Department of State Police, to the Department. The regional superintendent submitting the requisite information to the Department of State Police shall promptly notify the school districts in which the applicant is seeking employment as a substitute or concurrent part-time teacher or concurrent educational support personnel employee that the check of the applicant has been requested. The Department of State Police and the Federal Bureau of Investigation shall furnish, pursuant to a fingerprint-based criminal history records check, records of convictions, until expunged, to the president of the school board for the school district that requested the check, or to the regional superintendent who requested the check. The Department shall charge the school district or the appropriate regional superintendent a fee for conducting such check, which fee shall be deposited in the State Police Services Fund and shall not exceed the cost of the inquiry; and the applicant shall not be charged a fee for such check by the school district or by the regional superintendent. Subject to appropriations for these purposes, the State Superintendent of Education shall reimburse school districts and regional superintendents for fees paid to obtain criminal history records checks under this Section.

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

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

(b) Any information concerning the record of convictions obtained by the president of the school board or the regional superintendent shall be confidential and may only be transmitted to the superintendent of the school district or his designee, the appropriate regional superintendent if the check was requested by the school district, the presidents of the appropriate school boards if the check was requested from the Department of State Police by the regional superintendent, the State Superintendent of Education, the State Teacher Certification Board or any other person necessary to the decision of hiring the applicant for employment. A copy of the record of convictions obtained from the Department of State Police shall be provided to the applicant for employment. Upon the check of the Statewide Sex Offender Database, the school district or regional superintendent shall notify an applicant as to whether or not the applicant has

been identified in the Database as a sex offender. If a check of an applicant for employment as a substitute or concurrent part-time teacher or concurrent educational support personnel employee in more than one school district was requested by the regional superintendent, and the Department of State Police upon a check ascertains that the applicant has not been convicted of any of the enumerated criminal or drug offenses in subsection (c) or has not been convicted, within 7 years of the application for employment with the school district, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State and so notifies the regional superintendent and if the regional superintendent upon a check ascertains that the applicant has not been identified in the Sex Offender Database as a sex offender, then the regional superintendent shall issue to the applicant a certificate evidencing that as of the date specified by the Department of State Police the applicant has not been convicted of any of the enumerated criminal or drug offenses in subsection (c) or has not been convicted, within 7 years of the application for employment with the school district, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State and evidencing that as of the date that the regional superintendent conducted a check of the Statewide Sex Offender Database, the applicant has not been identified in the Database as a sex offender. The school board of any school district may rely on the certificate issued by any regional superintendent to that substitute teacher, concurrent part-time teacher, or concurrent educational support personnel employee or may initiate its own criminal history records check of the applicant through the Department of State Police and its own check of the Statewide Sex Offender Database as provided in subsection (a). Any person who releases any confidential information concerning any criminal convictions of an applicant for employment shall be guilty of a Class A misdemeanor, unless the release of such information is authorized by this Section.

(c) No school board shall knowingly employ a person who has been convicted for committing attempted first degree murder or for committing or attempting to commit first degree murder or a Class X felony or any one or more of the following offenses: (i) those defined in Sections 11-6, 11-9, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15 and 12-16 of the Criminal Code of 1961; (ii) those defined in the Cannabis Control Act except those defined in Sections 4(a), 4(b) and 5(a) of that Act; (iii) those defined in the Illinois Controlled Substances Act; (iv) those defined in the Methamphetamine Control and Community Protection Act; and (v) any offense committed or attempted in any other state or against the laws of the United States, which if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses. Further, no school board shall knowingly employ a person who has been found to be the perpetrator of sexual or physical abuse of any minor under 18 years of age pursuant to proceedings under Article II of the Juvenile Court Act of 1987.

(d) No school board shall knowingly employ a person for whom a criminal history records check and a Statewide Sex Offender Database check has not been initiated.

(e) Upon receipt of the record of a conviction of or a finding of child abuse by a holder of any certificate issued pursuant to Article 21 or Section 34-8.1 or 34-83 of the School Code, the appropriate regional superintendent of schools or the State Superintendent of Education shall initiate the certificate suspension and revocation proceedings authorized by law.

(f) After January 1, 1990 the provisions of this Section shall apply to all employees of persons or firms holding contracts with any school district including, but not limited to, food service workers, school bus drivers and other transportation employees, who have direct, daily contact with the pupils of any school in such district. For purposes of criminal history records checks and checks of the Statewide Sex Offender Database on employees of persons or firms holding contracts with more than one school district and

assigned to more than one school district, the regional superintendent of the educational service region in which the contracting school districts are located may, at the request of any such school district, be responsible for receiving the authorization for a criminal history records check prepared by each such employee and submitting the same to the Department of State Police and for conducting a check of the Statewide Sex Offender Database for each employee. Any information concerning the record of conviction and identification as a sex offender of any such employee obtained by the regional superintendent shall be promptly reported to the president of the appropriate school board or school boards.

(Source: P.A. 94-219, eff. 7-14-05; 94-556, eff. 9-11-05; 94-875, eff. 7-1-06; 94-945, eff. 6-27-06; 95-331, eff. 8-21-07.)

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

SEC. 34-18.5. CRIMINAL HISTORY RECORDS CHECKS AND CHECKS OF THE STATEWIDE SEX OFFENDER DATABASE AND STATEWIDE CHILD MURDERER AND VIOLENT OFFENDER AGAINST YOUTH DATABASE.

(a) Certified and noncertified applicants for employment with the school district are required as a condition of employment to authorize a fingerprint-based criminal history records check to determine if such applicants have been convicted of any of the enumerated criminal or drug offenses in subsection (c) of this Section or have been convicted, within 7 years of the application for employment with the school district, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State. Authorization for the check shall be furnished by the applicant to the school district, except that if the applicant is a substitute teacher seeking employment in more than one school district, or a teacher seeking concurrent part-time employment positions with more than one school district (as a reading specialist, special education teacher or otherwise), or an educational support personnel employee seeking employment positions with more than one district, any such district may require the applicant to furnish authorization for the check to the regional superintendent of the educational service region in which are located the school districts in which the applicant is seeking employment as a substitute or concurrent part-time teacher or concurrent educational support personnel employee. Upon receipt of this authorization, the school district or the appropriate regional superintendent, as the case may be, shall submit the applicant's name, sex, race, date of birth, social security number, fingerprint images, and other identifiers, as prescribed by the Department of State Police, to the Department. The regional superintendent submitting the requisite information to the Department of State Police shall promptly notify the school districts in which the applicant is seeking employment as a substitute or concurrent part-time teacher or concurrent educational support personnel employee that the check of the applicant has been requested. The Department of State Police and the Federal Bureau of Investigation shall furnish, pursuant to a fingerprint-based criminal history records check, records of convictions, until expunged, to the president of the school board for the school district that requested the check, or to the regional superintendent who requested the check. The Department shall charge the school district or the appropriate regional superintendent a fee for conducting such check, which fee shall be deposited in the State Police Services Fund and shall not exceed the cost of the inquiry; and the applicant shall not be charged a fee for such check by the school district or by the regional superintendent. Subject to appropriations for these purposes, the State Superintendent of Education shall reimburse the school district and regional superintendent for fees paid to obtain criminal history records checks under this Section.

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

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

(b) Any information concerning the record of convictions obtained by the president of the board of education or the regional superintendent shall be confidential and may only be transmitted to the general superintendent of the school district or his designee, the appropriate regional superintendent if the check was requested by the board of education for the school district, the presidents of the appropriate board of education or school boards if the check was requested from the Department of State Police by the regional superintendent, the State Superintendent of Education, the State Teacher Certification Board or any other person necessary to the decision of hiring the applicant for employment. A copy of the record of convictions obtained from the Department of State Police shall be provided to the applicant for employment. Upon the check of the Statewide Sex Offender Database, the school district or regional

superintendent shall notify an applicant as to whether or not the applicant has been identified in the Database as a sex offender. If a check of an applicant for employment as a substitute or concurrent part-time teacher or concurrent educational support personnel employee in more than one school district was requested by the regional superintendent, and the Department of State Police upon a check ascertains that the applicant has not been convicted of any of the enumerated criminal or drug offenses in subsection (c) or has not been convicted, within 7 years of the application for employment with the school district, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State and so notifies the regional superintendent and if the regional superintendent upon a check ascertains that the applicant has not been identified in the Sex Offender Database as a sex offender, then the regional superintendent shall issue to the applicant a certificate evidencing that as of the date specified by the Department of State Police the applicant has not been convicted of any of the enumerated criminal or drug offenses in subsection (c) or has not been convicted, within 7 years of the application for employment with the school district, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State and evidencing that as of the date that the regional superintendent conducted a check of the Statewide Sex Offender Database, the applicant has not been identified in the Database as a sex offender. The school board of any school district may rely on the certificate issued by any regional superintendent to that substitute teacher, concurrent part-time teacher, or concurrent educational support personnel employee or may initiate its own criminal history records check of the applicant through the Department of State Police and its own check of the Statewide Sex Offender Database as provided in subsection (a). Any person who releases any confidential information concerning any criminal convictions of an applicant for employment shall be guilty of a Class A misdemeanor, unless the release of such information is authorized by this Section.

(c) The board of education shall not knowingly employ a person who has been convicted for committing attempted first degree murder or for committing or attempting to commit first degree murder or a Class X felony or any one or more of the following offenses: (i) those defined in Sections 11-6, 11-9, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15 and 12-16 of the Criminal Code of 1961; (ii) those defined in the Cannabis Control Act, except those defined in Sections 4(a), 4(b) and 5(a) of that Act; (iii) those defined in the Illinois Controlled Substances Act; (iv) those defined in the Methamphetamine Control and Community Protection Act; and (v) any offense committed or attempted in any other state or against the laws of the United States, which if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses. Further, the board of education shall not knowingly employ a person who has been found to be the perpetrator of sexual or physical abuse of any minor under 18 years of age pursuant to proceedings under Article II of the Juvenile Court Act of 1987.

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

(e) Upon receipt of the record of a conviction of or a finding of child abuse by a holder of any certificate issued pursuant to Article 21 or Section 34-8.1 or 34-83 of the School Code, the board of education or the State Superintendent of Education shall initiate the certificate suspension and revocation proceedings authorized by law.

(f) After March 19, 1990, the provisions of this Section shall apply to all employees of persons or firms holding contracts with any school district including, but not limited to, food service workers, school bus drivers and other transportation employees, who have direct, daily contact with the pupils of any school in such district. For purposes of criminal history records checks and checks of the Statewide Sex Offender

Database on employees of persons or firms holding contracts with more than one school district and assigned to more than one school district, the regional superintendent of the educational service region in which the contracting school districts are located may, at the request of any such school district, be responsible for receiving the authorization for a criminal history records check prepared by each such employee and submitting the same to the Department of State Police and for conducting a check of the Statewide Sex Offender Database for each employee. Any information concerning the record of conviction and identification as a sex offender of any such employee obtained by the regional superintendent shall be promptly reported to the president of the appropriate school board or school boards.

(Source: P.A. 94-219, eff. 7-14-05; 94-556, eff. 9-11-05; 94-875, eff. 7-1-06; 94-945, eff. 6-27-06; 95-331, eff. 8-21-07.)

SEC. 2-3.25O. REGISTRATION AND RECOGNITION OF NON-PUBLIC ELEMENTARY AND SECONDARY SCHOOLS.

(a) Findings. The General Assembly finds and declares (i) that the Constitution of the State of Illinois provides that a "fundamental goal of the People of the State is the educational development of all persons to the limits of their capacities" and (ii) that the educational development of every school student serves the public purposes of the State. In order to ensure that all Illinois students and teachers have the opportunity to enroll and work in State-approved educational institutions and programs, the State Board of Education shall provide for the voluntary registration and recognition of non-public elementary and secondary schools.

(b) Registration. All non-public elementary and secondary schools in the State of Illinois may voluntarily register with the State Board of Education on an annual basis. Registration shall be completed in conformance with procedures prescribed by the State Board of Education. Information required for registration shall include assurances of compliance (i) with federal and State laws regarding health examination and immunization, attendance, length of term, and nondiscrimination and (ii) with applicable fire and health safety requirements.

(c) Recognition. All non-public elementary and secondary schools in the State of Illinois may voluntarily seek the status of "Non-public School Recognition" from the State Board of Education. This status may be obtained by compliance with administrative guidelines and review procedures as prescribed by the State Board of Education. The guidelines and procedures must recognize that some of the aims and the financial bases of non-public schools are different from public schools and will not be identical to those for public schools, nor will they be more burdensome. The guidelines and procedures must also recognize the diversity of non-public schools and shall not impinge upon the noneducational relationships between those schools and their clientele.

(c-5) Prohibition against recognition. A non-public elementary or secondary school may not obtain "Non-public School Recognition" status unless the school requires all certified and non-certified applicants for employment with the school, after July 1, 2007, to authorize a fingerprint-based criminal history records check as a condition of employment to determine if such applicants have been convicted of any of the enumerated criminal or drug offenses set forth in this subsection (c-5) or have been convicted, within 7 years of the application for employment, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State.

Authorization for the check shall be furnished by the applicant to the school, except that if the applicant is a substitute teacher seeking employment in more than one non-public school, a teacher seeking concurrent part-time employment positions with more than one non-public school (as a reading specialist, special education teacher, or otherwise), or an educational support personnel employee seeking employment positions with more than one non-public school, then only one of the non-public schools employing the individual shall request the authorization. Upon receipt of this authorization, the non-public school shall submit the applicant's name, sex, race, date of birth, social security number, fingerprint images, and other identifiers, as prescribed by the Department of State Police, to the Department of State Police.

The Department of State Police and Federal Bureau of Investigation shall furnish, pursuant to a fingerprint-based criminal history records check, records of convictions, forever and hereafter, until expunged, to the president or principal of the non-public school that requested the check. The Department of State Police shall charge that school a fee for conducting such check, which fee must be deposited into the State Police Services Fund and must not exceed the cost of the inquiry. Subject to appropriations for

these purposes, the State Superintendent of Education shall reimburse non-public schools for fees paid to obtain criminal history records checks under this Section.

A non-public school may not obtain recognition status unless the school also performs a check of the Statewide Sex Offender Database, as authorized by the Sex Offender Community Notification Law, for each applicant for employment, after July 1, 2007, to determine whether the applicant has been adjudicated a sex offender.

Any information concerning the record of convictions obtained by a non-public school's president or principal under this Section is confidential and may be disseminated only to the governing body of the non-public school or any other person necessary to the decision of hiring the applicant for employment. A copy of the record of convictions obtained from the Department of State Police shall be provided to the applicant for employment. Upon a check of the Statewide Sex Offender Database, the non-public school shall notify the applicant as to whether or not the applicant has been identified in the Sex Offender Database as a sex offender. Any information concerning the records of conviction obtained by the non-public school's president or principal under this Section for a substitute teacher seeking employment in more than one non-public school, a teacher seeking concurrent part-time employment positions with more than one non-public school (as a reading specialist, special education teacher, or otherwise), or an educational support personnel employee seeking employment positions with more than one non-public school may be shared with another non-public school's principal or president to which the applicant seeks employment. Any person who releases any criminal history record information concerning an applicant for employment is guilty of a Class A misdemeanor and may be subject to prosecution under federal law, unless the release of such information is authorized by this Section.

No non-public school may obtain recognition status that knowingly employs a person, hired after July 1, 2007, for whom a Department of State Police and Federal Bureau of Investigation fingerprint-based criminal history records check and a Statewide Sex Offender Database check has not been initiated or who has been convicted for committing attempted first degree murder or for committing or attempting to commit first degree murder or a Class X felony or any one or more of the following offenses: (i) those defined in Sections 11-6, 11-9, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961; (ii) those defined in the Cannabis Control Act, except those defined in Sections 4(a), 4(b), and 5(a) of that Act; (iii) those defined in the Illinois Controlled Substances Act; and (iv) any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses. No non-public school may obtain recognition status under this Section that knowingly employs a person who has been found to be the perpetrator of sexual or physical abuse of a minor under 18 years of age pursuant to proceedings under Article II of the Juvenile Court Act of 1987.

In order to obtain recognition status under this Section, a non-public school must require compliance with the provisions of this subsection (c-5) from all employees of persons or firms holding contracts with the school, including, but not limited to, food service workers, school bus drivers, and other transportation employees, who have direct, daily contact with pupils. Any information concerning the records of conviction or identification as a sex offender of any such employee obtained by the non-public school principal or president must be promptly reported to the school's governing body.

(d) Public purposes. The provisions of this Section are in the public interest, for the public benefit, and serve secular public purposes.

(e) Definition. For purposes of this Section, a non-public school means any non-profit, non-home-based, and non-public elementary or secondary school that is in compliance with Title VI of the Civil Rights Act of 1964 and attendance at which satisfies the requirements of Section 26-1 of this Code.

(Source: P.A. 95-351, eff. 8-23-07.)

APPENDIX B

LIVESCAN VENDOR CONTACT INFORMATION

The following certified LiveScan vendors have requested that ISBE list their contact information as a directory service to school districts and regional superintendents. ISBE does not solicit information from any vendor for any purpose and does not endorse any service or product provided by a vendor listed here. There may be other qualified vendors in Illinois that have LiveScan capabilities to scan and submit the fingerprints of applicants directly to the Illinois State Police and the Federal Bureau of Investigation.

Diamond Detective Agency 1651 S. Halsted St. Chicago Heights, IL 60411 800-999-6744	Digby's Detective and Security Agency, Inc. 2630 S. Wabash Ave. Chicago, IL 60616 312-326-1100
The Security Professionals, Inc. 5650 S. Archer Ave. Chicago, IL 60638 773-581-8181	Indentix Identification Services 1650 Wabash Ave. Suite D Springfield, IL 62704 800-377-2080
Accurate Biometrics, Inc. 4849 N. Milwaukee Ave, Suite 101 Chicago, IL 60630 866-361-9944	Futures in Rehab Management, Inc. 206 South Sixth St. Springfield, IL 62701 217-753-1190
Background Resources, Inc. 29W140 Butterfield Rd. Suite 105 Warrenville, IL 60555 630-873-2270	Levy Security 8750 West Bryn Mawr Ave. Chicago, IL 60631 773-867-8824
ICCI, Inc. 816 West Rollins Road Round Lake Heights, IL 60073 847-546-9698	Andy Frain Services 761 Shoreline Drive Aurora, IL 60504 630-820-3820
Browder's Maximum Security Services, Inc. 2100 S. Indiana Ave. #108 Chicago, IL 60616 312-225-7900	Argus Services, Inc. 330 S. Wells #514 Chicago, IL 60606 312-922-6766
Richardson & Associates Private Detective Agency 18503 Torrence Ave. Lansing, IL 60438 708-474-4900	Anthony's Mobile Fingerprinting, Inc. 10 South Riverside Plaza, Suite 1800 Chicago, IL 60606 312-474-6394 TheFingerprintMan.com

<p>InfoTrack Information Services, Inc 111 Deer Lake Rd, Suite 105 Deerfield, IL 60015 800-275-5594 www.infotrackinc.com</p>	<p>Fact Finders Group, Inc. 4747 Lincoln Mall Dr, Suite 415 Matteson, IL 60443 708-283-4200 708-283-0186 Fax</p>
<p>BioMetric Impressions 188 W. Industrial Dr. Suite 208 Elmhurst, IL 60126 630-715-2760 www.biometricimpressions.com</p>	<p>iTouch Biometrics, LLC 1320 Tower Road Schaumburg, IL 60173 847-706-6789 847-304-0074 Fax 847-571-0062 Cell lbornhofen@itouchbiometrics.com</p>
<p>Trace Identity Services, Inc. 222 Vollmer Rd. Suite AC Chicago Heights, IL 60411 708-524-2900 www.traceidentitysi.com</p>	