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Student Criminal Reports to be Shared with Districts

Important changes to the parameters within which public schools may acquire and use information contained in law enforcement records about students who have been arrested and/or charged with criminal offenses are on the horizon. Public Act 97-1104, which takes effect on January 1, 2013, amends the Illinois School Code and Juvenile Court Act to allow law enforcement officials to provide school districts with information that can be used to maintain and enhance school safety and may lead to the provision of services to students who run afoul of the law.

School Code Changes

The new law amends the School Code to make it mandatory that all courts, law enforcement agencies of the State of Illinois and its political subdivisions report to the principal of any Illinois public school any time a child enrolled in that school is detained under the Juvenile Court Act, for any criminal offense, or for any violation of any municipal or county



ordinance. The report to be provided to the principal must contain the following information:

- the basis for detaining the child;
- the events that led up to the child's detention and;
- the status of the proceedings.

Law enforcement officials must update the report, as appropriate, to keep the principal aware of the status of the judicial proceedings. Principals who receive law enforcement reports under this provision must keep them separate and apart from the student's "official school record," and the reports do not constitute public records. The information obtained by the principal may be used only by "a school official or school officials who the school has determined have a legitimate educational or safety interest to aid the proper rehabilitation of the child and to protect the safety of students and employees in the school."

Juvenile Court Act Changes

This new law also amends the Juvenile Court Act to comport with the changes to the School Code governing the dissemination and use of law enforcement reports. Further, the list of persons and

agencies entitled to access to law enforcement reports about a child taken into custody on or before his/her 17th birthday is expanded to include “appropriate school officials,” if a law enforcement officer or agency believes there is an imminent threat of physical harm to students, school personnel, or others who are present at the school or on school grounds. The Act makes it clear that not all school personnel may have unlimited access to these reports, however. Mirroring the changes to the School Code, the new provisions of the Juvenile Court Act restrict inspection and copying of the reports to “a school official or officials who the school has determined have a legitimate educational or safety interest by a local law enforcement agency under a reciprocal reporting system with respect to a minor arrested or taken into custody for any one of a series of serious offenses,” which include violation of the Illinois Controlled Substance Act, the Harassing and Obscene Communications Act, and “forcible felonies” under the Criminal Code.

The Act also makes other noteworthy amendments to the Juvenile Court Act. Law enforcement records related to the arrest or detention of a minor for specifically enumerated offenses before

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or on their 17th birthday may be released to select school district personnel if the law enforcement agency or officer believes that there is an imminent threat of physical harm to students, school personnel or others who are present in the school or on school grounds. The reports obtained from law enforcement officers or agencies are to be kept in a separate file, shall not be made a part of the child's school record, and are not a public record. If law enforcement agencies and appropriate school officials conclude that it is in the best interest of the arrested or detained student, referral to school- or community-based services may be made, including a determination of eligibility for special education services or drug or alcohol prevention or treatment programs. Finally, if a child is the subject of an ongoing police investigation that is directly related to school safety, law enforcement agencies or officials may share the information contained in law enforcement reports with select school officials verbally but may not provide actual copies of their reports. School officials entitled to receive verbal information from ongoing investigative reports may reduce what they have learned to writing, but must keep their written summary separate from the child's official record and shall not consider it a part of the

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child's official record or a public record.

Public Act 97-1104 presents a new and important opportunity for schools and law enforcement agencies to communicate for the purpose of ensuring that educators are kept abreast of the status of school children involved in the juvenile or criminal justice systems. These amendments to the School Code and Juvenile Court Act seek to strike a balance between the need to better protect safety in schools, the maintenance of confidentiality of student records, and the interests of court-involved students. We recommend that these new provisions be incorporated into any reciprocal reporting agreements your district has with local law enforcement.

If you have questions concerning these impending changes to the law or their impact on your policies and procedures on reciprocal reporting or student records, please contact one of our attorneys in Flossmoor (708-799-6766) or Oak Brook (630-928-1200).