

ILLINOIS 1999 LEGISLATIVE SERVICE
Ninety-First General Assembly, 1999

Copr. © West Group 2000. All rights reserved.

Additions are indicated by <<+ Text +>>; deletions by
 <<- Text ->>. Changes in tables are made but not highlighted.

PUBLIC ACT 91-660
 H.B. 1383

PUBLIC UTILITIES--WIRELESS EMERGENCY TELEPHONE SAFETY ACT

AN ACT concerning wireless 9-1-1 service.

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

<< IL ST CH 50 § 751/1 >>

[S.H.A. 50 ILCS 751/1]

§ 1. Short title. This Act may be cited as the Wireless Emergency Telephone Safety Act.

<< IL ST CH 50 § 751/5 >>

[S.H.A. 50 ILCS 751/5]

§ 5. Purpose. The General Assembly finds and declares it is in the public interest to promote the use of wireless 9-1-1 and wireless enhanced 9-1-1 (E9- 1-1) service in order to save lives and protect the property of the citizens of the State of Illinois.

Wireless carriers are required by the Federal Communications Commission (FCC) to provide E9-1-1 service in the form of automatic location identification and automatic number identification pursuant to policies set forth by the FCC.

Public safety agencies and wireless carriers are encouraged to work together to provide emergency access to wireless 9-1-1 and wireless E9-1-1 service. Public safety agencies and wireless carriers operating wireless 9-1-1 and wireless E9-1-1 systems require adequate funding to recover the costs of designing, purchasing, installing, testing, and operating enhanced facilities, systems, and services necessary to comply with the wireless E9-1-1 requirements mandated by the Federal Communications Commission and to maximize the availability of wireless E9-1-1 services throughout the State of Illinois.

The revenues generated by the wireless carrier surcharge enacted by this Act are required to fund the efforts of the wireless carriers, emergency telephone system boards, qualified governmental entities, and the Department of State Police to improve the public health, safety, and welfare and to serve a public purpose by providing emergency telephone assistance through wireless communications.

It is the intent of the General Assembly to:

(1) establish and implement a cohesive statewide emergency telephone number that will provide wireless telephone users with rapid direct access to public safety agencies by dialing the telephone number 9-1-1;

(2) encourage wireless carriers and public safety agencies to provide E9-1-1 services that will assist public safety agencies in determining the caller's approximate location and wireless telephone number;

(3) grant authority to public safety agencies not already in possession of the authority to finance the cost of installing and operating wireless 9-1-1 systems and reimbursing wireless carriers for costs incurred to provide wireless E9-1-1 services; and

(4) provide for a reasonable fee on wireless telephone service subscribers to accomplish these purposes.

<< IL ST CH 50 § 751/10 >>

[S.H.A. 50 ILCS 751/10]

§ 10. Definitions. In this Act:

"Emergency telephone system board" means a board appointed by the corporate authorities of any county or municipality that provides for the management and operation of a 9-1-1 system within the scope of the duties and powers prescribed by the Emergency Telephone System Act. [FN1]

"Master street address guide" means the computerized geographical database that consists of all street and address data within a 9-1-1 system.

"Public safety agency" means a functional division of a public agency that provides fire fighting, police, medical, or other emergency services. For the purpose of providing wireless service to users of 9-1-1 emergency services, as expressly provided for in this Act, the Department of State Police may be considered a public safety agency.

"Qualified governmental entity" means a unit of local government authorized to provide 9-1-1 services pursuant to the Emergency Telephone System Act where no emergency telephone system board exists.

"Statewide wireless emergency 9-1-1 system" means all areas of the State where an emergency telephone system board or, in the absence of an emergency telephone system board, a qualified governmental entity has not declared its intention for one or more of its public safety answering points to serve as a primary wireless 9-1-1 public safety answering point for its jurisdiction. The operator of the statewide wireless emergency 9-1-1 system shall be the Department of State Police.

"Wireless carrier" means a provider of two-way cellular, broadband PCS, geographic area 800 MHZ and 900 MHZ Commercial Mobile Radio Service (CMRS), Wireless Communications Service (WCS), or other Commercial Mobile Radio Service (CMRS), as defined by the Federal Communications Commission, offering radio communications that may provide fixed, mobile, radio location, or satellite communication services to individuals or businesses within its assigned spectrum block and geographical area or that offers real-time, two-way voice service that is interconnected with the public switched network, including a reseller of such service.

"Wireless enhanced 9-1-1" means the ability to relay the telephone number of the originator of a 9-1-1 call and the location of the cell site or base station receiving a 9-1-1 call from any mobile handset or text telephone device accessing the wireless system to the designated wireless public safety answering point through the use of automatic number identification and pseudo-automatic number identification.

"Wireless public safety answering point" means the functional division of an emergency telephone system board, qualified governmental entity, or the Department of State Police accepting wireless 9-1-1 calls.

"Wireless subscriber" means an individual or entity to whom a wireless service account or number has been assigned by a wireless carrier.

[FN1] 50 ILCS 750/0.01 et seq.

<< IL ST CH 50 § 751/15 >>

[S.H.A. 50 ILCS 751/15]

§ 15. Wireless emergency 9-1-1 service. The digits "9-1-1" shall be the designated emergency telephone number within the wireless system.

(a) Standards. The Illinois Commerce Commission may set non-discriminatory, uniform technical and operational standards consistent with the rules of the Federal Communications Commission for directing calls to authorized public safety answering points. These standards shall not in any way prescribe the technology or manner a wireless carrier shall use to deliver wireless 9-1-1 or wireless E9-1-1 calls and these standards shall not exceed the requirements set by the Federal Communications Commission. However, standards for directing calls to the authorized public safety answering point shall be included. The authority given to the Illinois Commerce Commission in this Section is limited to setting standards as set forth herein and does not constitute authority to regulate wireless carriers.

(b) Wireless public safety answering points. For the purpose of providing wireless 9-1-1 emergency services, an emergency telephone system board or, in the absence of an emergency telephone system board, a qualified governmental entity may declare its intention for one or more of its public safety answering points to serve as a primary wireless 9-1-1 public safety answering point for its jurisdiction by notifying the Chief Clerk of the Illinois Commerce Commission and the Director of State Police in writing within 6 months after the effective date of this Act or within 6 months after receiving its authority to operate a 9-1-1 system under the Emergency Telephone System Act, whichever is later. In addition, 2 or more emergency telephone system boards or qualified units of local government may, by virtue of an intergovernmental agreement, provide wireless 9-1-1 service. The Department of State Police shall be the primary wireless 9-1-1 public safety answering point for any jurisdiction not providing notice to the Commission and the Department of State Police. Nothing in this Act shall require the provision of wireless enhanced 9-1-1 services.

The Illinois Commerce Commission, upon a joint request from the Department of State Police and a qualified governmental entity or an emergency telephone system board, may grant authority to the emergency telephone system board or a qualified governmental entity to provide wireless 9-1-1 service in areas for which the Department of State Police has accepted wireless 9-1-1 responsibility. The Illinois Commerce Commission shall maintain a current list of all 9-1-1 systems and qualified governmental entities providing wireless 9-1-1 service under this Act.

Any emergency telephone system board or qualified governmental entity providing wireless 9-1-1 service prior to the effective date of this Act may continue to operate upon notification as previously described in this Section. An emergency telephone system board or a qualified governmental entity shall submit, with its notification, the date upon which it commenced operating.

(c) Wireless Enhanced 9-1-1 Board. The Wireless Enhanced 9-1-1 Board is created. The Board consists of 7 members appointed by the Governor with the advice and consent of the Senate. It is recommended that the Governor appoint members from the following: the Illinois Chapter of the National Emergency Numbers Association, the Illinois State Police, law enforcement agencies, the wireless telecommunications industry, an emergency telephone system board in Cook County (outside the City of Chicago), an emergency telephone system board in the Metro-east area, and an emergency telephone system board in the collar counties (Lake, McHenry, DuPage, Kane, and Will counties). Members of the Board may not receive any compensation but may, however, be reimbursed for any necessary expenditure in connection with their duties.

Except as provided in Section 45, the Wireless Enhanced 9-1-1 Board shall set the amount of the monthly wireless surcharge required to be imposed under Section 17 on all wireless subscribers in this State. Prior to the Wireless Enhanced 9-1-1 Board

setting any surcharge, the Board shall publish the proposed surcharge in the Illinois Register, hold hearings on the surcharge and the requirements for an efficient wireless emergency number system, and elicit public comment. The Board shall determine the minimum cost necessary for implementation of this system and the amount of revenue produced based upon the number of wireless telephones in use. The Board shall set the surcharge at the minimum amount necessary to achieve the goals of the Act and shall, by July 1, 2000, file this information with the Governor, the Clerk of the House, and the Secretary of the Senate. The surcharge may not be more than \$0.75 per month per CMRS connection.

The Wireless Enhanced 9-1-1 Board shall report to the General Assembly by July 1, 2000 on implementing wireless non-emergency services for the purpose of public safety using the digits 3-1-1. The Board shall consider the delivery of 3-1-1 services in a 6 county area, including rural Cook County (outside of the City of Chicago), and DuPage, Lake, McHenry, Will, and Kane Counties, as well as counties outside of this area by an emergency telephone system board, a qualified governmental entity, or private industry. The Board, upon completion of all its duties required under this Act, is dissolved.

<< IL ST CH 50 § 751/17 >>

[S.H.A. 50 ILCS 751/17]

§ 17. Wireless carrier surcharge.

(a) Except as provided in Section 45, each wireless carrier shall impose a monthly wireless carrier surcharge per CMRS connection that either has a telephone number within an area code assigned to Illinois by the North American Numbering Plan Administrator or has a billing address in this State. No wireless carrier shall impose the surcharge authorized by this Section upon any subscriber who is subject to the surcharge imposed by a unit of local government pursuant to Section 45. The wireless carrier that provides wireless service to the subscriber shall collect the surcharge set by the Wireless Enhanced 9-1-1 Board from the subscriber. The surcharge shall be stated as a separate item on the subscriber's monthly bill. The wireless carrier shall begin collecting the surcharge on bills issued within 90 days after the Wireless Enhanced 9-1-1 Board sets the monthly wireless surcharge. State and local taxes shall not apply to the wireless carrier surcharge.

(b) Except as provided in Section 45, a wireless carrier shall, within 45 days of collection, remit, either by check or by electronic funds transfer, to the State Treasurer the amount of the wireless carrier surcharge collected from each subscriber. Of the amounts remitted under this subsection, the State Treasurer shall deposit one-third into the Wireless Carrier Reimbursement Fund and two-thirds into the Wireless Service Emergency Fund.

(c) The first such remittance by wireless carriers shall include the number of customers by zip code, and the 9-digit zip code if currently being used or later implemented by the carrier, that shall be the means by which the Department of Central Management Services shall determine distributions from the Wireless Service Emergency Fund. This information shall be updated no less often than every year. Wireless carriers are not required to remit surcharge moneys that are billed to subscribers but not yet collected.

<< IL ST CH 50 § 751/20 >>

[S.H.A. 50 ILCS 751/20]

§ 20. Wireless Service Emergency Fund; uses. The Wireless Service Emergency Fund is created as a special fund in the State treasury. Subject to appropriation, moneys in the Wireless Service Emergency Fund may only be used for grants for emergency telephone system boards, qualified government entities, or the Department of State Police. These grants may be used only for the design, implementation, operation, maintenance, or upgrade of wireless 9-1-1 or E9-1-1 emergency services and public safety answering points, and for no other purposes.

The moneys received by the Department of State Police from the Wireless Service Emergency Fund, in any year, may be used for any costs relating to the leasing, modification, or maintenance of any building or facility used to house personnel or equipment associated with the operation of wireless 9-1-1 or wireless E9-1-1 emergency services, to ensure service in those areas where service is not otherwise provided.

Moneys from the Wireless Service Emergency Fund may not be used to pay for or recover any costs associated with public safety agency equipment or personnel dispatched in response to wireless 9-1-1 or wireless E9-1-1 emergency calls.

<< IL ST CH 50 § 751/25 >>

[S.H.A. 50 ILCS 751/25]

§ 25. Wireless Service Emergency Fund; distribution of moneys. Within 60 days after the effective date of this Act, wireless carriers shall submit to the Department of Central Management Services the number of wireless subscribers by zip code and the 9-digit zip code of the wireless subscribers, if currently being used or later implemented by the carrier.

The Department of Central Management Services shall, subject to appropriation, make monthly proportional grants to the appropriate emergency telephone system board or qualified governmental entity based upon the United States Postal Zip Code of the wireless subscriber's billing address. No matching funds shall be required from grant recipients.

If the Department of Central Management Services is notified of an area of overlapping jurisdiction, grants for that area shall be made based upon reference to an official Master Street Address Guide to the emergency telephone system board or qualified governmental entity whose public service answering points provide wireless 9-1-1 service in that area. The emergency telephone system board or qualified governmental entity shall provide the Department of Central Management Services with a valid copy of the appropriate Master Street Address Guide. The Department of Central Management Services does not have a duty to verify jurisdictional responsibility.

In the event of a subscriber billing address being matched to an incorrect jurisdiction by the Department of Central Management Services, the recipient, upon notification from the Department of Central Management Services, shall redirect the funds to the correct jurisdiction. The Department of Central Management Services shall not be held liable for any damages relating to an act or omission under this Act, unless the act or omission constitutes gross negligence, recklessness, or intentional misconduct.

In the event of a dispute between emergency telephone system boards or qualified governmental entities concerning a subscriber billing address, the Department of Central Management Services shall resolve the dispute.

The Department of Central Management Services shall maintain detailed records of all receipts and disbursements and shall provide an annual accounting of all receipts and disbursements to the Auditor General.

The Department of Central Management Services shall adopt rules to govern the grant process.

<< IL ST CH 50 § 751/30 >>

[S.H.A. 50 ILCS 751/30]

§ 30. Wireless Carrier Reimbursement Fund; uses. The Wireless Carrier Reimbursement Fund is created as a special fund in the State treasury. Moneys in the Wireless Carrier Reimbursement Fund may be used, subject to appropriation, only

to reimburse wireless carriers for all of their costs incurred in complying with the applicable provisions of Federal Communications Commission wireless enhanced 9-1-1 service mandates. This reimbursement may include, but need not be limited to, the cost of designing, upgrading, purchasing, leasing, programming, installing, testing, and maintaining necessary data, hardware, and software and associated operating and administrative costs and overhead.

<< IL ST CH 50 § 751/35 >>

[S.H.A. 50 ILCS 751/35]

§ 35. Wireless Carrier Reimbursement Fund; reimbursement. To recover costs from the Wireless Carrier Reimbursement Fund, the wireless carrier shall submit sworn invoices to the Department of Central Management Services. In no event may any invoice for payment be approved for (i) costs that are not related to compliance with the requirements established by the wireless enhanced 9-1-1 mandates of the Federal Communications Commission, (ii) costs with respect to any wireless enhanced 9-1-1 service that is not operable at the time the invoice is submitted, or (iii) costs of any wireless carrier exceeding 125% of the wireless emergency services charges remitted to the Wireless Carrier Reimbursement Fund by the wireless carrier under Section 17(b) unless the wireless carrier received prior approval for the expenditures from the Department of Central Management Services.

If in any month the total amount of invoices submitted to the Department of Central Management Services and approved for payment exceeds the amount available in the Wireless Carrier Reimbursement Fund, wireless carriers that have invoices approved for payment shall receive a pro-rata share of the amount available in the Wireless Carrier Reimbursement Fund based on the relative amount of their approved invoices available that month, and the balance of the payments shall be carried into the following months, and shall include appropriate interest at the statutory rate, until all of the approved payments are made.

A wireless carrier may not receive payment from the Wireless Carrier Reimbursement Fund for its costs of providing wireless enhanced 9-1-1 services in an area when a unit of local government or emergency telephone system board provides wireless 9-1-1 services in that area and was imposing and collecting a wireless carrier surcharge prior to July 1, 1998.

The Department of Central Management Services shall maintain detailed records of all receipts and disbursements and shall provide an annual accounting of all receipts and disbursements to the Auditor General.

The Department of Central Management Services shall adopt rules to govern the reimbursement process.

<< IL ST CH 50 § 751/40 >>

[S.H.A. 50 ILCS 751/40]

§ 40. Public disclosure. Because of the highly competitive nature of the wireless telephone industry, a public disclosure of information about surcharge moneys paid by wireless carriers could have the effect of stifling competition to the detriment of the public and the delivery of wireless 9-1-1 services. Therefore, the Department of Central Management Services, the Department of State Police, governmental agencies, and individuals with access to that information shall take appropriate steps to prevent public disclosure of this information. Information and data supporting the amount and distribution of surcharge moneys collected and remitted by an individual wireless carrier shall be deemed exempt information for purposes of the Freedom of Information Act [FN1] and shall not be publicly disclosed. The gross amount paid by all carriers shall not be deemed exempt and may be publicly disclosed.

[FN1] 5 ILCS 140/1 et seq.

<< IL ST CH 50 § 751/45 >>

[S.H.A. 50 ILCS 751/45]

§ 45. Continuation of current practices. Notwithstanding any other provision of this Act, a unit of local government or emergency telephone system board providing wireless 9-1-1 service and imposing and collecting a wireless carrier surcharge prior to July 1, 1998 may continue its practices of imposing and collecting its wireless carrier surcharge, but in no event shall that monthly surcharge exceed \$1.25 per commercial mobile radio service (CMRS) connection or in-service telephone number billed on a monthly basis.

<< IL ST CH 50 § 751/50 >>

[S.H.A. 50 ILCS 751/50]

§ 50. Limitation of liability. Notwithstanding any other provision of law, in no event shall a unit of local government, the Department of Central Management Services, the Department of State Police, or a public safety agency, public safety answering point, emergency telephone system board, or wireless carrier, or its officers, employees, assigns, or agents, be liable for any form of civil damages or criminal liability that directly or indirectly results from, or is caused by, any act or omission in the development, design, installation, operation, maintenance, performance, or provision of wireless 9-1-1 or wireless E9-1-1 service, unless the act or omission constitutes gross negligence, recklessness, or intentional misconduct.

A unit of local government, the Department of Central Management Services, the Department of State Police, or a public safety agency, public safety answering point, emergency telephone system board, or wireless carrier, or its officers, employees, assigns, or agents, shall not be liable for any form of civil damages or criminal liability that directly or indirectly results from, or is caused by, the release of subscriber information to any governmental entity as required under the provisions of this Act, unless the release constitutes gross negligence, recklessness, or intentional misconduct.

<< IL ST CH 50 § 751/55 >>

[S.H.A. 50 ILCS 751/55]

§ 55. Severability. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity of that provision or application does not affect other provisions or applications of this Act that can be given effect without the invalid application or provision.

<< IL ST CH 50 § 751/60 >>

[S.H.A. 50 ILCS 751/60]

§ 60. Home rule. A home rule unit, other than a home rule municipality having a population in excess of 500,000 that was imposing its own surcharge on wireless carriers prior to July 1, 1998, may not impose a separate surcharge on wireless 9-1-1 service in addition to the surcharge imposed on wireless 9-1-1 service under this Act. This Section is a limitation under subsection (g) of Section 6 of Article VII of the Illinois Constitution on the powers and functions of home rule units not exercised or performed by the State.

<< IL ST CH 50 § 751/65 >>

[S.H.A. 50 ILCS 751/65]

§ 65. Review. This Act and any regulation established by a State agency pursuant to this Act shall be reviewed by the Auditor General prior to October 1, 2001.

<< IL ST CH 50 § 751/70 >>

[S.H.A. 50 ILCS 751/70]

§ 70. Repealer. This Act is repealed on April 1, 2005.

Section 800. The Freedom of Information Act is amended by changing Section 7 as follows:

<< IL ST CH 5 § 140/7 >>

[S.H.A. 5 ILCS 140/7] (5 ILCS 140/7) (from Ch. 116, par. 207)

§ 7. Exemptions.

(1) The following shall be exempt from inspection and copying:

(a) Information specifically prohibited from disclosure by federal or State law or rules and regulations adopted under federal or State law.

(b) Information that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy. Information exempted under this subsection (b) shall include but is not limited to:

(i) files and personal information maintained with respect to clients, patients, residents, students or other individuals receiving social, medical, educational, vocational, financial, supervisory or custodial care or services directly or indirectly from federal agencies or public bodies;

(ii) personnel files and personal information maintained with respect to employees, appointees or elected officials of any public body or applicants for those positions;

(iii) files and personal information maintained with respect to any applicant, registrant or licensee by any public body cooperating with or engaged in professional or occupational registration, licensure or discipline;

(iv) information required of any taxpayer in connection with the assessment or collection of any tax unless disclosure is otherwise required by State statute; and

(v) information revealing the identity of persons who file complaints with or provide information to administrative, investigative, law enforcement or penal agencies; provided, however, that identification of witnesses to traffic accidents, traffic accident reports, and rescue reports may be provided by agencies of local government, except in a case for which a criminal investigation is ongoing, without constituting a clearly unwarranted per se invasion of personal privacy under this subsection.

(c) Records compiled by any public body for administrative enforcement proceedings and any law enforcement or correctional agency for law enforcement purposes or for internal matters of a public body, but only to the extent that disclosure would:

(i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency;

(ii) interfere with pending administrative enforcement proceedings conducted by any public body;

(iii) deprive a person of a fair trial or an impartial hearing;

(iv) unavoidably disclose the identity of a confidential source or confidential

information furnished only by the confidential source;

(v) disclose unique or specialized investigative techniques other than those generally used and known or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct;

(vi) constitute an invasion of personal privacy under subsection (b) of this Section;

(vii) endanger the life or physical safety of law enforcement personnel or any other person; or

(viii) obstruct an ongoing criminal investigation.

(d) Criminal history record information maintained by State or local criminal justice agencies, except the following which shall be open for public inspection and copying:

(i) chronologically maintained arrest information, such as traditional arrest logs or blotters;

(ii) the name of a person in the custody of a law enforcement agency and the charges for which that person is being held;

(iii) court records that are public;

(iv) records that are otherwise available under State or local law; or

(v) records in which the requesting party is the individual identified, except as provided under part (vii) of paragraph (c) of subsection (1) of this Section.

"Criminal history record information" means data identifiable to an individual and consisting of descriptions or notations of arrests, detentions, indictments, informations, pre-trial proceedings, trials, or other formal events in the criminal justice system or descriptions of notations of criminal charges (including criminal violations of local municipal ordinances) and the nature of any disposition arising therefrom, including sentencing, court or correctional supervision, rehabilitation and release. The term does not apply to statistical records and reports in which individuals are not identified and from which their identities are not ascertainable, or to information that is for criminal investigative or intelligence purposes.

(e) Records that relate to or affect the security of correctional institutions and detention facilities.

(f) Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body. The exemption provided in this paragraph (f) extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents.

(g) Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or information are proprietary, privileged or confidential, or where disclosure of the trade secrets or information may cause competitive harm, including all information determined to be confidential under Section 4002 of the Technology Advancement and Development Act. [FN1] Nothing contained in this paragraph (g) shall be construed to prevent a person or business from consenting to disclosure.

(h) Proposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor agreement with the

body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made.

(i) Valuable formulae, designs, drawings and research data obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss.

(j) Test questions, scoring keys and other examination data used to administer an academic examination or determined the qualifications of an applicant for a license or employment.

(k) Architects' plans and engineers' technical submissions for projects not constructed or developed in whole or in part with public funds and for projects constructed or developed with public funds, to the extent that disclosure would compromise security.

(l) Library circulation and order records identifying library users with specific materials.

(m) Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act [FN2] until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act. [FN3]

(n) Communications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation, and materials prepared or compiled by or for a public body in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the public body, and materials prepared or compiled with respect to internal audits of public bodies.

(o) Information received by a primary or secondary school, college or university under its procedures for the evaluation of faculty members by their academic peers.

(p) Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section.

(q) Documents or materials relating to collective negotiating matters between public bodies and their employees or representatives, except that any final contract or agreement shall be subject to inspection and copying.

(r) Drafts, notes, recommendations and memoranda pertaining to the financing and marketing transactions of the public body. The records of ownership, registration, transfer, and exchange of municipal debt obligations, and of persons to whom payment with respect to these obligations is made.

(s) The records, documents and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under Article VII of the Code of Civil Procedure, [FN4] records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale shall be exempt until a sale is consummated.

(t) Any and all proprietary information and records to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered health and accident cooperative or pool.

(u) Information concerning a university's adjudication of student or employee

grievance or disciplinary cases, to the extent that disclosure would reveal the identity of the student or employee and information concerning any public body's adjudication of student or employee grievance or disciplinary cases, except for the final outcome of the cases.

(v) Course materials or research materials used by faculty members.

(w) Information related to the internal personnel rules and practices of a public body.

(x) Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible for the regulation or supervision of financial institutions or insurance companies, unless disclosure is otherwise required by State law.

(y) Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act. [FN5]

(z) Manuals or instruction to staff that relate to establishment or collection of liability for any State tax or that relate to investigations by a public body to determine violation of any criminal law.

(aa) Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.

(bb) Insurance or self insurance (including any intergovernmental risk management association or self insurance pool) claims, loss or risk management information, records, data, advice or communications.

(cc) Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act. [FN6]

(dd) Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act. [FN7]

(ee) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act. [FN8]

(ff) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act [FN9] or the State of Missouri under the Bi-State Transit Safety Act. [FN10]

(gg) Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act. [FN11]

(hh) Information the disclosure of which is exempted under Section 80 of the State Gift Ban Act. [FN12]

<<+(ii) Beginning July 1, 1999,+>> <<-(hh)->> information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs, or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act. [FN13]

<<+(jj) Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act. [FN14]+>>

(2) This Section does not authorize withholding of information of limit the

availability of records to the public, except as stated in this Section or otherwise provided in this Act.

(Source: P.A. 90-262, eff. 7-30-97; 90-273, eff. 7-30-97; 90-546, eff. 12-1-97; 90-655, eff. 7-30-98; 90-737, eff. 1-1-99; 90-759, eff. 7-1-99; revised 9-8-98.)

[FN1] 20 ILCS 700/4002.

[FN2] 5 ILCS 120/1 et seq.

[FN3] 5 ILCS 120/2.06.

[FN4] 735 ILCS 5/7-10.

[FN5] 220 ILCS 5/5-108.

[FN6] 410 ILCS 325/1.

[FN7] 420 ILCS 44/30.

[FN8] 30 ILCS 535/55.

[FN9] 70 ILCS 3615/2.11.

[FN10] 45 ILCS 111/1 et seq.

[FN11] 110 ILCS 979/50.

[FN12] 5 ILCS 425/80.

[FN13] 5 ILCS 175/1-101 et seq.

[FN14] 50 ILCS 751/1 et seq.

Section 805. The Civil Administrative Code of Illinois is amended by changing Section 55a as follows:

<< IL ST CH 20 § 2605/55a >>

[S.H.A. 20 ILCS 2605/55a] (20 ILCS 2605/55a) (from Ch. 127, par. 55a)

(Text of Section before amendment by P.A. 90-590)

§ 55a. Powers and duties.

(A) The Department of State Police shall have the following powers and duties, and those set forth in Sections 55a-1 through 55c:

1. To exercise the rights, powers and duties which have been vested in the Department of Public Safety by the State Police Act. [FN1]

2. To exercise the rights, powers and duties which have been vested in the Department of Public Safety by the State Police Radio Act. [FN2]

3. To exercise the rights, powers and duties which have been vested in the Department of Public Safety by the Criminal Identification Act. [FN3]

4. To (a) investigate the origins, activities, personnel and incidents of crime and the ways and means to redress the victims of crimes, and study the impact, if any, of legislation relative to the effusion of crime and growing crime rates, and enforce the criminal laws of this State related thereto, (b) enforce all laws regulating the production, sale, prescribing, manufacturing, administering, transporting, having in possession, dispensing, delivering, distributing, or use of controlled substances and cannabis, (c) employ skilled experts, scientists,

technicians, investigators or otherwise specially qualified persons to aid in preventing or detecting crime, apprehending criminals, or preparing and presenting evidence of violations of the criminal laws of the State, (d) cooperate with the police of cities, villages and incorporated towns, and with the police officers of any county, in enforcing the laws of the State and in making arrests and recovering property, (e) apprehend and deliver up any person charged in this State or any other State of the United States with treason, felony, or other crime, who has fled from justice and is found in this State, and (f) conduct such other investigations as may be provided by law. Persons exercising these powers within the Department are conservators of the peace and as such have all the powers possessed by policemen in cities and sheriffs, except that they may exercise such powers anywhere in the State in cooperation with and after contact with the local law enforcement officials. Such persons may use false or fictitious names in the performance of their duties under this paragraph, upon approval of the Director, and shall not be subject to prosecution under the criminal laws for such use.

5. To: (a) be a central repository and custodian of criminal statistics for the State, (b) be a central repository for criminal history record information, (c) procure and file for record such information as is necessary and helpful to plan programs of crime prevention, law enforcement and criminal justice, (d) procure and file for record such copies of fingerprints, as may be required by law, (e) establish general and field crime laboratories, (f) register and file for record such information as may be required by law for the issuance of firearm owner's identification cards, (g) employ polygraph operators, laboratory technicians and other specially qualified persons to aid in the identification of criminal activity, and (h) undertake such other identification, information, laboratory, statistical or registration activities as may be required by law.

6. To (a) acquire and operate one or more radio broadcasting stations in the State to be used for police purposes, (b) operate a statewide communications network to gather and disseminate information for law enforcement agencies, (c) operate an electronic data processing and computer center for the storage and retrieval of data pertaining to criminal activity, and (d) undertake such other communication activities as may be required by law.

7. To provide, as may be required by law, assistance to local law enforcement agencies through (a) training, management and consultant services for local law enforcement agencies, and (b) the pursuit of research and the publication of studies pertaining to local law enforcement activities.

8. To exercise the rights, powers and duties which have been vested in the Department of State Police and the Director of the Department of State Police by the Narcotic Control Division Abolition Act. [FN4]

9. To exercise the rights, powers and duties which have been vested in the Department of Public Safety by the Illinois Vehicle Code. [FN5]

10. To exercise the rights, powers and duties which have been vested in the Department of Public Safety by the Firearm Owners Identification Card Act. [FN6]

11. To enforce and administer such other laws in relation to law enforcement as may be vested in the Department.

12. To transfer jurisdiction of any realty title to which is held by the State of Illinois under the control of the Department to any other department of the State government or to the State Employees Housing Commission, or to acquire or accept Federal land, when such transfer, acquisition or acceptance is advantageous to the State and is approved in writing by the Governor.

13. With the written approval of the Governor, to enter into agreements with other departments created by this Act, for the furlough of inmates of the penitentiary to such other departments for their use in research programs being conducted by them.

For the purpose of participating in such research projects, the Department may

extend the limits of any inmate's place of confinement, when there is reasonable cause to believe that the inmate will honor his or her trust by authorizing the inmate, under prescribed conditions, to leave the confines of the place unaccompanied by a custodial agent of the Department. The Department shall make rules governing the transfer of the inmate to the requesting other department having the approved research project, and the return of such inmate to the unextended confines of the penitentiary. Such transfer shall be made only with the consent of the inmate.

The willful failure of a prisoner to remain within the extended limits of his or her confinement or to return within the time or manner prescribed to the place of confinement designated by the Department in granting such extension shall be deemed an escape from custody of the Department and punishable as provided in Section 3-6-4 of the Unified Code of Corrections. [FN7]

14. To provide investigative services, with all of the powers possessed by policemen in cities and sheriffs, in and around all race tracks subject to the Horse Racing Act of 1975. [FN8]

15. To expend such sums as the Director deems necessary from Contractual Services appropriations for the Division of Criminal Investigation for the purchase of evidence and for the employment of persons to obtain evidence. Such sums shall be advanced to agents authorized by the Director to expend funds, on vouchers signed by the Director.

16. To assist victims and witnesses in gang crime prosecutions through the administration of funds appropriated from the Gang Violence Victims and Witnesses Fund to the Department. Such funds shall be appropriated to the Department and shall only be used to assist victims and witnesses in gang crime prosecutions and such assistance may include any of the following:

- (a) temporary living costs;
- (b) moving expenses;
- (c) closing costs on the sale of private residence;
- (d) first month's rent;
- (e) security deposits;
- (f) apartment location assistance;
- (g) other expenses which the Department considers appropriate; and
- (h) compensation for any loss of or injury to real or personal property resulting from a gang crime to a maximum of \$5,000, subject to the following provisions:
 - (1) in the case of loss of property, the amount of compensation shall be measured by the replacement cost of similar or like property which has been incurred by and which is substantiated by the property owner,
 - (2) in the case of injury to property, the amount of compensation shall be measured by the cost of repair incurred and which can be substantiated by the property owner,
 - (3) compensation under this provision is a secondary source of compensation and shall be reduced by any amount the property owner receives from any other source as compensation for the loss or injury, including, but not limited to, personal insurance coverage,
 - (4) no compensation may be awarded if the property owner was an offender or an accomplice of the offender, or if the award would unjustly benefit the offender or offenders, or an accomplice of the offender or offenders.

No victim or witness may receive such assistance if he or she is not a part of or fails to fully cooperate in the prosecution of gang crime members by law enforcement authorities.

The Department shall promulgate any rules necessary for the implementation of this amendatory Act of 1985.

17. To conduct arson investigations.

18. To develop a separate statewide statistical police contact record keeping system for the study of juvenile delinquency. The records of this police contact system shall be limited to statistical information. No individually identifiable information shall be maintained in the police contact statistical record system.

19. To develop a separate statewide central adjudicatory and dispositional records system for persons under 19 years of age who have been adjudicated delinquent minors and to make information available to local registered participating police youth officers so that police youth officers will be able to obtain rapid access to the juvenile's background from other jurisdictions to the end that the police youth officers can make appropriate dispositions which will best serve the interest of the child and the community. Information maintained in the adjudicatory and dispositional record system shall be limited to the incidents or offenses for which the minor was adjudicated delinquent by a court, and a copy of the court's dispositional order. All individually identifiable records in the adjudicatory and dispositional records system shall be destroyed when the person reaches 19 years of age.

20. To develop rules which guarantee the confidentiality of such individually identifiable adjudicatory and dispositional records except when used for the following:

(a) by authorized juvenile court personnel or the State's Attorney in connection with proceedings under the Juvenile Court Act of 1987; [FN9] or

(b) inquiries from registered police youth officers.

For the purposes of this Act "police youth officer" means a member of a duly organized State, county or municipal police force who is assigned by his or her Superintendent, Sheriff or chief of police, as the case may be, to specialize in youth problems.

21. To develop administrative rules and administrative hearing procedures which allow a minor, his or her attorney, and his or her parents or guardian access to individually identifiable adjudicatory and dispositional records for the purpose of determining or challenging the accuracy of the records. Final administrative decisions shall be subject to the provisions of the Administrative Review Law. [FN10]

22. To charge, collect, and receive fees or moneys equivalent to the cost of providing Department of State Police personnel, equipment, and services to local governmental agencies when explicitly requested by a local governmental agency and pursuant to an intergovernmental agreement as provided by this Section, other State agencies, and federal agencies, including but not limited to fees or moneys equivalent to the cost of providing dispatching services, radio and radar repair, and training to local governmental agencies on such terms and conditions as in the judgment of the Director are in the best interest of the State; and to establish, charge, collect and receive fees or moneys based on the cost of providing responses to requests for criminal history record information pursuant to positive identification and any Illinois or federal law authorizing access to some aspect of such information and to prescribe the form and manner for requesting and furnishing such information to the requestor on such terms and conditions as in the judgment of the Director are in the best interest of the State, provided fees for requesting and furnishing criminal history record information may be waived for requests in the due

administration of the criminal laws. The Department may also charge, collect and receive fees or moneys equivalent to the cost of providing electronic data processing lines or related telecommunication services to local governments, but only when such services can be provided by the Department at a cost less than that experienced by said local governments through other means. All services provided by the Department shall be conducted pursuant to contracts in accordance with the Intergovernmental Cooperation Act, [FN11] and all telecommunication services shall be provided pursuant to the provisions of Section 67.18 of this Code.

All fees received by the Department of State Police under this Act or the Illinois Uniform Conviction Information Act [FN12] shall be deposited in a special fund in the State Treasury to be known as the State Police Services Fund. The money deposited in the State Police Services Fund shall be appropriated to the Department of State Police for expenses of the Department of State Police.

Upon the completion of any audit of the Department of State Police as prescribed by the Illinois State Auditing Act, [FN13] which audit includes an audit of the State Police Services Fund, the Department of State Police shall make the audit open to inspection by any interested person.

23. To exercise the powers and perform the duties which have been vested in the Department of State Police by the Intergovernmental Missing Child Recovery Act of 1984, [FN14] and to establish reasonable rules and regulations necessitated thereby.

24. (a) To establish and maintain a statewide Law Enforcement Agencies Data System (LEADS) for the purpose of providing electronic access by authorized entities to criminal justice data repositories and effecting an immediate law enforcement response to reports of missing persons, including lost, missing or runaway minors. The Department shall implement an automatic data exchange system to compile, to maintain and to make available to other law enforcement agencies for immediate dissemination data which can assist appropriate agencies in recovering missing persons and provide access by authorized entities to various data repositories available through LEADS for criminal justice and related purposes. To assist the Department in this effort, funds may be appropriated from the LEADS Maintenance Fund.

(b) In exercising its duties under this subsection, the Department shall:

(1) provide a uniform reporting format for the entry of pertinent information regarding the report of a missing person into LEADS;

(2) develop and implement a policy whereby a statewide or regional alert would be used in situations relating to the disappearances of individuals, based on criteria and in a format established by the Department. Such a format shall include, but not be limited to, the age of the missing person and the suspected circumstance of the disappearance;

(3) notify all law enforcement agencies that reports of missing persons shall be entered as soon as the minimum level of data specified by the Department is available to the reporting agency, and that no waiting period for the entry of such data exists;

(4) compile and retain information regarding lost, abducted, missing or runaway minors in a separate data file, in a manner that allows such information to be used by law enforcement and other agencies deemed appropriate by the Director, for investigative purposes. Such information shall include the disposition of all reported lost, abducted, missing or runaway minor cases;

(5) compile and maintain an historic data repository relating to lost, abducted, missing or runaway minors and other missing persons in order to develop and improve techniques utilized by law enforcement agencies when responding to reports of missing persons; and

(6) create a quality control program regarding confirmation of missing person

data, timeliness of entries of missing person reports into LEADS and performance audits of all entering agencies.

25. On request of a school board or regional superintendent of schools, to conduct an inquiry pursuant to Section 10-21.9 or 34-18.5 of the School Code [FN15] to ascertain if an applicant for employment in a school district has been convicted of any criminal or drug offenses enumerated in Section 10-21.9 or 34-18.5 of the School Code. The Department shall furnish such conviction information to the President of the school board of the school district which has requested the information, or if the information was requested by the regional superintendent to that regional superintendent.

26. To promulgate rules and regulations necessary for the administration and enforcement of its powers and duties, wherever granted and imposed, pursuant to the Illinois Administrative Procedure Act. [FN16]

27. To (a) promulgate rules pertaining to the certification, revocation of certification and training of law enforcement officers as electronic criminal surveillance officers, (b) provide training and technical assistance to State's Attorneys and local law enforcement agencies pertaining to the interception of private oral communications, (c) promulgate rules necessary for the administration of Article 108B of the Code of Criminal Procedure of 1963, [FN17] including but not limited to standards for recording and minimization of electronic criminal surveillance intercepts, documentation required to be maintained during an intercept, procedures in relation to evidence developed by an intercept, and (d) charge a reasonable fee to each law enforcement agency that sends officers to receive training as electronic criminal surveillance officers.

28. Upon the request of any private organization which devotes a major portion of its time to the provision of recreational, social, educational or child safety services to children, to conduct, pursuant to positive identification, criminal background investigations of all of that organization's current employees, current volunteers, prospective employees or prospective volunteers charged with the care and custody of children during the provision of the organization's services, and to report to the requesting organization any record of convictions maintained in the Department's files about such persons. The Department shall charge an application fee, based on actual costs, for the dissemination of conviction information pursuant to this subsection. The Department is empowered to establish this fee and shall prescribe the form and manner for requesting and furnishing conviction information pursuant to this subsection. Information received by the organization from the Department concerning an individual shall be provided to such individual. Any such information obtained by the organization shall be confidential and may not be transmitted outside the organization and may not be transmitted to anyone within the organization except as needed for the purpose of evaluating the individual. Only information and standards which bear a reasonable and rational relation to the performance of child care shall be used by the organization. Any employee of the Department or any member, employee or volunteer of the organization receiving confidential information under this subsection who gives or causes to be given any confidential information concerning any criminal convictions of an individual shall be guilty of a Class A misdemeanor unless release of such information is authorized by this subsection.

29. Upon the request of the Department of Children and Family Services, to investigate reports of child abuse or neglect.

30. To obtain registration of a fictitious vital record pursuant to Section 15.1 of the Vital Records Act. [FN18]

31. To collect and disseminate information relating to "hate crimes" as defined under Section 12-7.1 of the Criminal Code of 1961 [FN19] contingent upon the availability of State or Federal funds to revise and upgrade the Illinois Uniform Crime Reporting System. All law enforcement agencies shall report monthly to the Department of State Police concerning such offenses in such form and in such manner as may be prescribed by rules and regulations adopted by the Department of State

Police. Such information shall be compiled by the Department and be disseminated upon request to any local law enforcement agency, unit of local government, or state agency. Dissemination of such information shall be subject to all confidentiality requirements otherwise imposed by law. The Department of State Police shall provide training for State Police officers in identifying, responding to, and reporting all hate crimes. The Illinois <<-Local Governmental->> Law Enforcement <<- Officer's->> Training <<+Standards+>> Board shall develop and certify a course of such training to be made available to local law enforcement officers.

32. Upon request of a private carrier company that provides transportation under Section 28b of the Metropolitan Transit Authority Act, [FN20] to ascertain if an applicant for a driver position has been convicted of any criminal or drug offense enumerated in Section 28b of the Metropolitan Transit Authority Act. The Department shall furnish the conviction information to the private carrier company that requested the information.

33. To apply for grants or contracts, receive, expend, allocate, or disburse funds and moneys made available by public or private entities, including but not limited to, contracts, bequests, grants, or receiving equipment from corporations, foundations, or public or private institutions of higher learning. All funds received by the Department from these sources shall be deposited into the appropriate fund in the State Treasury to be appropriated to the Department for the purposes as indicated by the grantor or contractor or, in the case of funds or moneys bequeathed or granted for no specific purpose, for any purpose as deemed appropriate by the Director in administering the responsibilities of the Department.

34. Upon the request of the Department of Children and Family Services, the Department of State Police shall provide properly designated employees of the Department of Children and Family Services with criminal history record information as defined in the Illinois Uniform Conviction Information Act and information maintained in the adjudicatory and dispositional record system as defined in subdivision (A)19 of this Section if the Department of Children and Family Services determines the information is necessary to perform its duties under the Abused and Neglected Child Reporting Act, [FN21] the Child Care Act of 1969, [FN22] and the Children and Family Services Act. [FN23] The request shall be in the form and manner specified by the Department of State Police.

35. The Illinois Department of Public Aid is an authorized entity under this Section for the purpose of obtaining access to various data, repositories available through LEADS, to facilitate the location of individuals for establishing paternity, and establishing, modifying, and enforcing child support obligations, pursuant to the Illinois Public Aid Code [FN24] and Title IV, Part D of the Social Security Act. [FN25] The Department shall enter into an agreement with the Illinois Department of Public Aid consistent with these purposes.

36. Upon request of the Department of Human Services, to conduct an assessment and evaluation of sexually violent persons as mandated by the Sexually Violent Persons Commitment Act, [FN26] the Department shall furnish criminal history information maintained on the requested person. The request shall be in the form and manner specified by the Department.

<<+37. To exercise the powers and perform the duties specifically assigned to the Department under the Wireless Emergency Telephone Safety Act [FN27] with respect to the development and improvement of emergency communications procedures and facilities in such a manner as to facilitate a quick response to any person calling the number "9-1-1" seeking police, fire, medical, or other emergency services through a wireless carrier as defined in Section 10 of the Wireless Emergency Telephone Safety Act. [FN28] Nothing in the Wireless Emergency Telephone Safety Act shall require the Illinois State Police to provide wireless enhanced 9-1-1 services.+>>

(B) The Department of State Police may establish and maintain, within the Department of State Police, a Statewide Organized Criminal Gang Database (SWORD) for the purpose of tracking organized criminal gangs and their memberships. Information

in the database may include, but not be limited to, the name, last known address, birth date, physical descriptions (such as scars, marks, or tattoos), officer safety information, organized gang affiliation, and entering agency identifier. The Department may develop, in consultation with the Criminal Justice Information Authority, and in a form and manner prescribed by the Department, an automated data exchange system to compile, to maintain, and to make this information electronically available to prosecutors and to other law enforcement agencies. The information may be used by authorized agencies to combat the operations of organized criminal gangs statewide.

(C) The Department of State Police may ascertain the number of bilingual police officers and other personnel needed to provide services in a language other than English and may establish, under applicable personnel rules and Department guidelines or through a collective bargaining agreement, a bilingual pay supplement program.

(Source: P.A. 89-54, eff. 6-30-95; 90-18, eff. 7-1-97; 90-130, eff. 1-1-98; 90-372, eff. 7-1-98; 90-655, eff. 7-30-98; 90-793, eff. 8-14-98; revised 10-6-98.)

[FN1] 20 ILCS 2610/0.01 et seq.

[FN2] 20 ILCS 2615/0.01 et seq.

[FN3] 20 ILCS 2630/0.01 et seq.

[FN4] 20 ILCS 2620/0.01 et seq.

[FN5] 625 ILCS 5/1-100 et seq.

[FN6] 430 ILCS 65/0.01 et seq.

[FN7] 730 ILCS 5/3-6-4.

[FN8] 230 ILCS 5/1 et seq.

[FN9] 705 ILCS 405/1-1 et seq.

[FN10] 735 ILCS 5/3-101 et seq.

[FN11] 5 ILCS 220/1 et seq.

[FN12] 20 ILCS 2635/1 et seq.

[FN13] 30 ILCS 5/1-1 et seq.

[FN14] 325 ILCS 40/1 et seq.

[FN15] 105 ILCS 5/10-21.9 or 5/34-18.5.

[FN16] 5 ILCS 100/1-1 et seq.

[FN17] 725 ILCS 5/108B-1 et seq.

[FN18] 410 ILCS 535/15.1.

[FN19] 720 ILCS 5/12-7.1.

[FN20] 70 ILCS 3605/28b.

[FN21] 325 ILCS 5/1 et seq.

[FN22] 225 ILCS 10/1 et seq.

[FN23] 20 ILCS 505/1 et seq.

[FN24] 305 ILCS 5/1-1 et seq.

[FN25] 42 U.S.C.A. § 601 et seq.

[FN26] 725 ILCS 207/1 et seq.

[FN27] 50 ILCS 751/1 et seq.

[FN28] 50 ILCS 751/10.

(Text of Section after amendment by P.A. 90-590)

§ 55a. Powers and duties. (A) The Department of State Police shall have the following powers and duties, and those set forth in Sections 55a-1 through 55c:

1. To exercise the rights, powers and duties which have been vested in the Department of Public Safety by the State Police Act. [FN1]
2. To exercise the rights, powers and duties which have been vested in the Department of Public Safety by the State Police Radio Act. [FN2]
3. To exercise the rights, powers and duties which have been vested in the Department of Public Safety by the Criminal Identification Act. [FN3]
4. To (a) investigate the origins, activities, personnel and incidents of crime and the ways and means to redress the victims of crimes, and study the impact, if any, of legislation relative to the effusion of crime and growing crime rates, and enforce the criminal laws of this State related thereto, (b) enforce all laws regulating the production, sale, prescribing, manufacturing, administering, transporting, having in possession, dispensing, delivering, distributing, or use of controlled substances and cannabis, (c) employ skilled experts, scientists, technicians, investigators or otherwise specially qualified persons to aid in preventing or detecting crime, apprehending criminals, or preparing and presenting evidence of violations of the criminal laws of the State, (d) cooperate with the police of cities, villages and incorporated towns, and with the police officers of any county, in enforcing the laws of the State and in making arrests and recovering property, (e) apprehend and deliver up any person charged in this State or any other State of the United States with treason, felony, or other crime, who has fled from justice and is found in this State, and (f) conduct such other investigations as may be provided by law. Persons exercising these powers within the Department are conservators of the peace and as such have all the powers possessed by policemen in cities and sheriffs, except that they may exercise such powers anywhere in the State in cooperation with and after contact with the local law enforcement officials. Such persons may use false or fictitious names in the performance of their duties under this paragraph, upon approval of the Director, and shall not be subject to prosecution under the criminal laws for such use.
5. To: (a) be a central repository and custodian of criminal statistics for the State, (b) be a central repository for criminal history record information, (c) procure and file for record such information as is necessary and helpful to plan programs of crime prevention, law enforcement and criminal justice, (d) procure and file for record such copies of fingerprints, as may be required by law, (e) establish general and field crime laboratories, (f) register and file for record such information as may be required by law for the issuance of firearm owner's identification cards, (g) employ polygraph operators, laboratory technicians and other specially qualified persons to aid in the identification of criminal activity, and (h) undertake such other identification, information, laboratory, statistical or registration activities as may be required by law.
6. To (a) acquire and operate one or more radio broadcasting stations in the State to be used for police purposes, (b) operate a statewide communications network to gather and disseminate information for law enforcement agencies, (c) operate an electronic data processing and computer center for the storage and retrieval of data

pertaining to criminal activity, and (d) undertake such other communication activities as may be required by law.

7. To provide, as may be required by law, assistance to local law enforcement agencies through (a) training, management and consultant services for local law enforcement agencies, and (b) the pursuit of research and the publication of studies pertaining to local law enforcement activities.

8. To exercise the rights, powers and duties which have been vested in the Department of State Police and the Director of the Department of State Police by the Narcotic Control Division Abolition Act. [FN4]

9. To exercise the rights, powers and duties which have been vested in the Department of Public Safety by the Illinois Vehicle Code. [FN5]

10. To exercise the rights, powers and duties which have been vested in the Department of Public Safety by the Firearm Owners Identification Card Act. [FN6]

11. To enforce and administer such other laws in relation to law enforcement as may be vested in the Department.

12. To transfer jurisdiction of any realty title to which is held by the State of Illinois under the control of the Department to any other department of the State government or to the State Employees Housing Commission, or to acquire or accept Federal land, when such transfer, acquisition or acceptance is advantageous to the State and is approved in writing by the Governor.

13. With the written approval of the Governor, to enter into agreements with other departments created by this Act, for the furlough of inmates of the penitentiary to such other departments for their use in research programs being conducted by them.

For the purpose of participating in such research projects, the Department may extend the limits of any inmate's place of confinement, when there is reasonable cause to believe that the inmate will honor his or her trust by authorizing the inmate, under prescribed conditions, to leave the confines of the place unaccompanied by a custodial agent of the Department. The Department shall make rules governing the transfer of the inmate to the requesting other department having the approved research project, and the return of such inmate to the unextended confines of the penitentiary. Such transfer shall be made only with the consent of the inmate.

The willful failure of a prisoner to remain within the extended limits of his or her confinement or to return within the time or manner prescribed to the place of confinement designated by the Department in granting such extension shall be deemed an escape from custody of the Department and punishable as provided in Section 3-6-4 of the Unified Code of Corrections. [FN7]

14. To provide investigative services, with all of the powers possessed by policemen in cities and sheriffs, in and around all race tracks subject to the Horse Racing Act of 1975. [FN8]

15. To expend such sums as the Director deems necessary from Contractual Services appropriations for the Division of Criminal Investigation for the purchase of evidence and for the employment of persons to obtain evidence. Such sums shall be advanced to agents authorized by the Director to expend funds, on vouchers signed by the Director.

16. To assist victims and witnesses in gang crime prosecutions through the administration of funds appropriated from the Gang Violence Victims and Witnesses Fund to the Department. Such funds shall be appropriated to the Department and shall only be used to assist victims and witnesses in gang crime prosecutions and such assistance may include any of the following:

(a) temporary living costs;

- (b) moving expenses;
- (c) closing costs on the sale of private residence;
- (d) first month's rent;
- (e) security deposits;
- (f) apartment location assistance;
- (g) other expenses which the Department considers appropriate; and
- (h) compensation for any loss of or injury to real or personal property resulting from a gang crime to a maximum of \$5,000, subject to the following provisions:
 - (1) in the case of loss of property, the amount of compensation shall be measured by the replacement cost of similar or like property which has been incurred by and which is substantiated by the property owner,
 - (2) in the case of injury to property, the amount of compensation shall be measured by the cost of repair incurred and which can be substantiated by the property owner,
 - (3) compensation under this provision is a secondary source of compensation and shall be reduced by any amount the property owner receives from any other source as compensation for the loss or injury, including, but not limited to, personal insurance coverage,
 - (4) no compensation may be awarded if the property owner was an offender or an accomplice of the offender, or if the award would unjustly benefit the offender or offenders, or an accomplice of the offender or offenders.

No victim or witness may receive such assistance if he or she is not a part of or fails to fully cooperate in the prosecution of gang crime members by law enforcement authorities.

The Department shall promulgate any rules necessary for the implementation of this amendatory Act of 1985.

- 17. To conduct arson investigations.
- 18. To develop a separate statewide statistical police contact record keeping system for the study of juvenile delinquency. The records of this police contact system shall be limited to statistical information. No individually identifiable information shall be maintained in the police contact statistical record system.
- 19. To develop a separate statewide central juvenile records system for persons arrested prior to the age of 17 under Section 5-401 of the Juvenile Court Act of 1987 [FN9] or adjudicated delinquent minors and to make information available to local law enforcement officers so that law enforcement officers will be able to obtain rapid access to the background of the minor from other jurisdictions to the end that the juvenile police officers can make appropriate decisions which will best serve the interest of the child and the community. The Department shall submit a quarterly report to the General Assembly and Governor which shall contain the number of juvenile records that the Department has received in that quarter <<+and+>><<-,->> a list, by category, of offenses that minors were arrested for or convicted of by age, race and gender.
- 20. To develop rules which guarantee the confidentiality of such individually identifiable juvenile records except to juvenile authorities who request information concerning the minor and who certify in writing that the information will not be disclosed to any other party except as provided under law or order of court. For purposes of this Section, "juvenile authorities" means: (i) a judge of the circuit

court and members of the staff of the court designated by the judge; (ii) parties to the proceedings under the Juvenile Court Act of 1987 [FN10] and their attorneys; (iii) probation officers and court appointed advocates for the juvenile authorized by the judge hearing the case; (iv) any individual <<+or+>><<-,->> public <<+or+>> <<- of->> private agency having custody of the child pursuant to court order; (v) any individual <<+or+>><<-,->> public or private agency providing education, medical or mental health service to the child when the requested information is needed to determine the appropriate service or treatment for the minor; (vi) any potential placement provider when such release is authorized by the court for the limited purpose of determining the appropriateness of the potential placement; (vii) law enforcement officers and prosecutors; (viii) adult and juvenile prisoner review boards; (ix) authorized military personnel; (x) individuals authorized by court; (xi) the Illinois General Assembly or any committee or commission thereof.

21. To develop administrative rules and administrative hearing procedures which allow a minor, his or her attorney, and his or her parents or guardian access to individually identifiable juvenile records for the purpose of determining or challenging the accuracy of the records. Final administrative decisions shall be subject to the provisions of the Administrative Review Law. [FN11]

22. To charge, collect, and receive fees or moneys equivalent to the cost of providing Department of State Police personnel, equipment, and services to local governmental agencies when explicitly requested by a local governmental agency and pursuant to an intergovernmental agreement as provided by this Section, other State agencies, and federal agencies, including but not limited to fees or moneys equivalent to the cost of providing dispatching services, radio and radar repair, and training to local governmental agencies on such terms and conditions as in the judgment of the Director are in the best interest of the State; and to establish, charge, collect and receive fees or moneys based on the cost of providing responses to requests for criminal history record information pursuant to positive identification and any Illinois or federal law authorizing access to some aspect of such information and to prescribe the form and manner for requesting and furnishing such information to the requestor on such terms and conditions as in the judgment of the Director are in the best interest of the State, provided fees for requesting and furnishing criminal history record information may be waived for requests in the due administration of the criminal laws. The Department may also charge, collect and receive fees or moneys equivalent to the cost of providing electronic data processing lines or related telecommunication services to local governments, but only when such services can be provided by the Department at a cost less than that experienced by said local governments through other means. All services provided by the Department shall be conducted pursuant to contracts in accordance with the Intergovernmental Cooperation Act, [FN12] and all telecommunication services shall be provided pursuant to the provisions of Section 67.18 of this Code.

All fees received by the Department of State Police under this Act or the Illinois Uniform Conviction Information Act [FN13] shall be deposited in a special fund in the State Treasury to be known as the State Police Services Fund. The money deposited in the State Police Services Fund shall be appropriated to the Department of State Police for expenses of the Department of State Police.

Upon the completion of any audit of the Department of State Police as prescribed by the Illinois State Auditing Act, [FN14] which audit includes an audit of the State Police Services Fund, the Department of State Police shall make the audit open to inspection by any interested person.

23. To exercise the powers and perform the duties which have been vested in the Department of State Police by the Intergovernmental Missing Child Recovery Act of 1984, [FN15] and to establish reasonable rules and regulations necessitated thereby.

24. (a) To establish and maintain a statewide Law Enforcement Agencies Data System (LEADS) for the purpose of providing electronic access by authorized entities to criminal justice data repositories and effecting an immediate law enforcement response to reports of missing persons, including lost, missing or runaway minors. The Department shall implement an automatic data exchange system to compile, to

maintain and to make available to other law enforcement agencies for immediate dissemination data which can assist appropriate agencies in recovering missing persons and provide access by authorized entities to various data repositories available through LEADS for criminal justice and related purposes. To assist the Department in this effort, funds may be appropriated from the LEADS Maintenance Fund.

(b) In exercising its duties under this subsection, the Department shall:

(1) provide a uniform reporting format for the entry of pertinent information regarding the report of a missing person into LEADS;

(2) develop and implement a policy whereby a statewide or regional alert would be used in situations relating to the disappearances of individuals, based on criteria and in a format established by the Department. Such a format shall include, but not be limited to, the age of the missing person and the suspected circumstance of the disappearance;

(3) notify all law enforcement agencies that reports of missing persons shall be entered as soon as the minimum level of data specified by the Department is available to the reporting agency, and that no waiting period for the entry of such data exists;

(4) compile and retain information regarding lost, abducted, missing or runaway minors in a separate data file, in a manner that allows such information to be used by law enforcement and other agencies deemed appropriate by the Director, for investigative purposes. Such information shall include the disposition of all reported lost, abducted, missing or runaway minor cases;

(5) compile and maintain an historic data repository relating to lost, abducted, missing or runaway minors and other missing persons in order to develop and improve techniques utilized by law enforcement agencies when responding to reports of missing persons; and

(6) create a quality control program regarding confirmation of missing person data, timeliness of entries of missing person reports into LEADS and performance audits of all entering agencies.

25. On request of a school board or regional superintendent of schools, to conduct an inquiry pursuant to Section 10-21.9 or 34-18.5 of the School Code [FN16] to ascertain if an applicant for employment in a school district has been convicted of any criminal or drug offenses enumerated in Section 10-21.9 or 34-18.5 of the School Code. The Department shall furnish such conviction information to the President of the school board of the school district which has requested the information, or if the information was requested by the regional superintendent to that regional superintendent.

26. To promulgate rules and regulations necessary for the administration and enforcement of its powers and duties, wherever granted and imposed, pursuant to the Illinois Administrative Procedure Act. [FN17]

27. To (a) promulgate rules pertaining to the certification, revocation of certification and training of law enforcement officers as electronic criminal surveillance officers, (b) provide training and technical assistance to State's Attorneys and local law enforcement agencies pertaining to the interception of private oral communications, (c) promulgate rules necessary for the administration of Article 108B of the Code of Criminal Procedure of 1963, [FN18] including but not limited to standards for recording and minimization of electronic criminal surveillance intercepts, documentation required to be maintained during an intercept, procedures in relation to evidence developed by an intercept, and (d) charge a reasonable fee to each law enforcement agency that sends officers to receive training as electronic criminal surveillance officers.

28. Upon the request of any private organization which devotes a major portion of

its time to the provision of recreational, social, educational or child safety services to children, to conduct, pursuant to positive identification, criminal background investigations of all of that organization's current employees, current volunteers, prospective employees or prospective volunteers charged with the care and custody of children during the provision of the organization's services, and to report to the requesting organization any record of convictions maintained in the Department's files about such persons. The Department shall charge an application fee, based on actual costs, for the dissemination of conviction information pursuant to this subsection. The Department is empowered to establish this fee and shall prescribe the form and manner for requesting and furnishing conviction information pursuant to this subsection. Information received by the organization from the Department concerning an individual shall be provided to such individual. Any such information obtained by the organization shall be confidential and may not be transmitted outside the organization and may not be transmitted to anyone within the organization except as needed for the purpose of evaluating the individual. Only information and standards which bear a reasonable and rational relation to the performance of child care shall be used by the organization. Any employee of the Department or any member, employee or volunteer of the organization receiving confidential information under this subsection who gives or causes to be given any confidential information concerning any criminal convictions of an individual shall be guilty of a Class A misdemeanor unless release of such information is authorized by this subsection.

29. Upon the request of the Department of Children and Family Services, to investigate reports of child abuse or neglect.

30. To obtain registration of a fictitious vital record pursuant to Section 15.1 of the Vital Records Act. [FN19]

31. To collect and disseminate information relating to "hate crimes" as defined under Section 12-7.1 of the Criminal Code of 1961 [FN20] contingent upon the availability of State or Federal funds to revise and upgrade the Illinois Uniform Crime Reporting System. All law enforcement agencies shall report monthly to the Department of State Police concerning such offenses in such form and in such manner as may be prescribed by rules and regulations adopted by the Department of State Police. Such information shall be compiled by the Department and be disseminated upon request to any local law enforcement agency, unit of local government, or state agency. Dissemination of such information shall be subject to all confidentiality requirements otherwise imposed by law. The Department of State Police shall provide training for State Police officers in identifying, responding to, and reporting all hate crimes. The Illinois Law Enforcement Training Standards Board shall develop and certify a course of such training to be made available to local law enforcement officers.

32. Upon the request of a private carrier company that provides transportation under Section 28b of the Metropolitan Transit Authority Act, [FN21] to ascertain if an applicant for a driver position has been convicted of any criminal or drug offense enumerated in Section 28b of the Metropolitan Transit Authority Act. The Department shall furnish the conviction information to the private carrier company that requested the information.

33. To apply for grants or contracts, receive, expend, allocate, or disburse funds and moneys made available by public or private entities, including, but not limited to, contracts, bequests, grants, or receiving equipment from corporations, foundations, or public and private institutions of higher learning. All funds received by the Department from these sources shall be deposited into the appropriate fund in the State Treasury to be appropriated to the Department for purposes as indicated by the grantor or contractor or, in the case of funds or moneys bequeathed or granted for no specific purpose, for any purpose as deemed appropriate by the Director in administering the responsibilities of the Department.

34. Upon the request of the Department of Children and Family Services, the Department of State Police shall provide properly designated employees of the Department of Children and Family Services with criminal history record information

as defined in the Illinois Uniform Conviction Information Act and information maintained in the Statewide Central Juvenile record system as defined in subdivision (A)19 of this Section if the Department of Children and Family Services determines the information is necessary to perform its duties under the Abused and Neglected Child Reporting Act, [FN22] the Child Care Act of 1969, [FN23] and the Children and Family Services Act. [FN24] The request shall be in the form and manner specified by the Department of State Police.

35. The Illinois Department of Public Aid is an authorized entity under this Section for the purpose of exchanging information, in the form and manner required by the Department of State Police<<+,+>> <<-obtaining access to various data repositories available through LEADS,->> to facilitate the location of individuals for establishing paternity, and establishing, modifying, and enforcing child support obligations, pursuant to the Illinois Public Aid Code [FN25] and Title IV, Part <<-Section->> D of the Social Security Act. [FN26] <<- The Department shall enter into an agreement with the Illinois Department of Public Aid consistent with these purposes.->>

36. Upon request of the Department of Human Services, to conduct an assessment and evaluation of sexually violent persons as mandated by the Sexually Violent Persons Commitment Act, [FN27] the Department shall furnish criminal history information maintained on the requested person. The request shall be in the form and manner specified by the Department.

<<+37. To exercise the powers and perform the duties specifically assigned to the Department under the Wireless Emergency Telephone Safety Act [FN28] with respect to the development and improvement of emergency communications procedures and facilities in such a manner as to facilitate a quick response to any person calling "9-1-1" seeking police, fire, medical, or other emergency services through a wireless carrier as defined in Section 10 of the Wireless Emergency Telephone Safety Act. [FN29] Nothing in the Wireless Emergency Telephone Safety Act shall require the Illinois State Police to provide wireless enhanced 9-1-1 services.+>>

(B) The Department of State Police may establish and maintain, within the Department of State Police, a Statewide Organized Criminal Gang Database (SWORD) for the purpose of tracking organized criminal gangs and their memberships. Information in the database may include, but not be limited to, the name, last known address, birth date, physical descriptions (such as scars, marks, or tattoos), officer safety information, organized gang affiliation, and entering agency identifier. The Department may develop, in consultation with the Criminal Justice Information Authority, and in a form and manner prescribed by the Department, an automated data exchange system to compile, to maintain, and to make this information electronically available to prosecutors and to other law enforcement agencies. The information may be used by authorized agencies to combat the operations of organized criminal gangs statewide.

(C) The Department of State Police may ascertain the number of bilingual police officers and other personnel needed to provide services in a language other than English and may establish, under applicable personnel rules and Department guidelines or through a collective bargaining agreement, a bilingual pay supplement program.

(Source: P.A. 89-54, eff. 6-30-95; 90-18, eff. 7-1-97; 90-130, eff. 1-1-98; 90-372, eff. 7-1-98; 90-590, eff. 1-1-00; 90-655, eff. 7-30-98; 90-793, eff. 8-14-98; revised 1-21-99.)

[FN1] 20 ILCS 2610/0.01 et seq.

[FN2] 20 ILCS 2615/0.01 et seq.

[FN3] 20 ILCS 2630/0.01 et seq.

[FN4] 20 ILCS 2620/0.01 et seq.

[FN5] 625 ILCS 5/1-100 et seq.
 [FN6] 430 ILCS 65/0.01 et seq.
 [FN7] 730 ILCS 5/3-6-4.
 [FN8] 230 ILCS 5/1 et seq.
 [FN9] 705 ILCS 405/5-401.
 [FN10] 705 ILCS 405/1-1 et seq.
 [FN11] 735 ILCS 5/3-101 et seq.
 [FN12] 5 ILCS 220/1 et seq.
 [FN13] 20 ILCS 2635/1 et seq.
 [FN14] 30 ILCS 5/1-1 et seq.
 [FN15] 325 ILCS 40/1 et seq.
 [FN16] 105 ILCS 5/10-21.9 or 5/34-18.5.
 [FN17] 5 ilcs 100/1-1 et seq.
 [FN18] 725 ILCS 5/108B-1 et seq.
 [FN19] 410 ILCS 535/15.1.
 [FN20] 720 ILCS 5/12-7.1.
 [FN21] 70 ILCS 3605/28b.
 [FN22] 325 ILCS 5/1 et seq.
 [FN23] 225 ILCS 10/1 et seq.
 [FN24] 20 ILCS 505/1 et seq.
 [FN25] 305 ILCS 5/1-1 et seq.
 [FN26] 42 U.S.C.A. § 601 et seq.
 [FN27] 725 ILCS 207/1 et seq.
 [FN28] 50 ILCS 751/1 et seq.
 [FN29] 50 ILCS 751/10.

Section 810. The State Finance Act is amended by adding Sections 5.490, 5.491, 5.492, and 8.36 as follows:

<< IL ST CH 30 § 105/5.490 >>

[S.H.A. 30 ILCS 105/5.490] (30 ILCS 105/5.490 new)

<<+§ 5.490. Wireless Service Emergency Fund.+>>

<< IL ST CH 30 § 105/5.491 >>

[S.H.A. 30 ILCS 105/5.491] (30 ILCS 105/5.491 new)

<<+§ 5.491. State Police Wireless Service Emergency Fund.+>>

<< IL ST CH 30 § 105/5.492 >>

[S.H.A. 30 ILCS 105/5.492] (30 ILCS 105/5.492 new)

<<+§ 5.492. Wireless Carrier Reimbursement Fund.+>>

<< IL ST CH 30 § 105/8.36 >>

[S.H.A. 30 ILCS 105/8.36] (30 ILCS 105/8.36 new)

§ 8.36. State Police Wireless Service Emergency Fund.

<<+(a) The State Police Wireless Service Emergency Fund is created as a special fund in the State Treasury.+>>

<<+(b) Grants to the Department of State Police from the Wireless Service Emergency Fund shall be deposited into the State Police Wireless Service Emergency Fund and shall be used in accordance with Section 20 of the Wireless Emergency Telephone Safety Act. [FN1]+>>

<<+(c) On July 1, 1999, the State Comptroller and State Treasurer shall transfer \$1,300,000 from the General Revenue Fund to the State Police Wireless Service Emergency Fund. On June 30, 2003 the State Comptroller and State Treasurer shall transfer \$1,300,000 from the State Police Wireless Service Emergency Fund to the General Revenue Fund.+>>

[FN1] 50 ILCS 751/20.

<< IL ST CH 50 § 751/995 >>

[S.H.A. 50 ILCS 751/995]

§ 995. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

<< IL ST CH 50 § 751/999 >>

[S.H.A. 50 ILCS 751/999]

§ 999. Effective Date. This Act takes effect July 1, 1999.

Certified: December 22, 1999

Effective: December 22, 1999

IL LEGIS 91-660 (1999)

END OF DOCUMENT