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FILE NO. S-1200

CRIMINAL LAW:
Transmission of
Juvenile Records

Honorable William A. Redmond
Speaker of the House
Illinois House of Representatives
Springfield, Illinois 62706

Dear Speaker Redmond:

I have your letter wherein you ask the following questions:

1. Does the word "persons" in section 5 of "AN ACT in relation to criminal identification and investigation" include children under the age of 17?
2. Do sections 2.1 and 5 of "AN ACT in relation to criminal identification and investigation" restrict the Juvenile Court Act?
3. Does "AN ACT in relation to criminal identification and investigation" restrict or supersede the Illinois Commission on Delinquency Prevention Act?

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Section 5 of "AN ACT in relation to criminal identification and investigation" (Ill. Rev. Stat. 1975, ch. 38, par. 206-5) sets out the general procedure for transmitting fingerprints to the Department of Law Enforcement.

Section 5 provides in pertinent part as follows:

"All policing bodies of this State shall furnish to the Department, daily, in the form and detail the Department requires, copies of finger prints and descriptions, of all persons who are arrested on charges of violating any penal statute of this State; * * *"

Section 2-8(2) of the Juvenile Court Act (Ill. Rev. Stat. 1975, ch. 37, par. 708-2(2)) establishes a special procedure for transmitting the fingerprints of a minor arrested prior to his 17th birthday. According to this section, a court order must be obtained before fingerprints are transmitted to the Department of Law Enforcement. Section 2-8(2) reads as follows:

"(2) No law enforcement officer or other person or agency may knowingly transmit to the Department of Corrections, Adult Division or the Department of Law Enforcement or to the Federal Bureau of Investigation any fingerprints or photograph relating to a minor who has been arrested or taken into custody before his 17th birthday, unless the court in proceedings under

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this Act authorizes the transmission or enters an order under Section 2-7 permitting the institution of criminal proceedings."

When two statutes relate to the same subject, one being general and the other special, the special statute must prevail and must be treated as an exception to the general statute. (People v. Hale, 55 Ill. App. 2d 260.) The special procedure for transmitting a juvenile's fingerprints to the Department of Law Enforcement prevails over the general procedure for the transmission of fingerprints. Section 5 of "AN ACT in relation to criminal identification and investigation", therefore, does not apply to children under the age of 17, unless by court order in a specific case as provided in the Juvenile Court Act.

In response to your second question, it is my opinion that neither section 2.1 nor section 5 of "AN ACT in relation to criminal identification and investigation" (Ill. Rev. Stat. 1975, ch. 38, pars. 206-2.1 and 206-5) restricts the Juvenile Court Act (Ill. Rev. Stat. 1975, ch. 37, pars. 701-1 et seq.). Sections 2.1 and 5 and the other sections of "AN ACT in relation to criminal identification and

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investigation" (Ill. Rev. Stat. 1975, ch. 38, pars. 206-1 et seq.) are concerned with criminal identification and investigation, criminal records, criminal cases, and criminal offenses. Because delinquency proceedings under the Juvenile Court Act are not criminal proceedings (People ex rel. Hanrahan v. Felt, 48 Ill. 2d 171), sections 2.1 and 5 do not pertain to Juvenile Court proceedings.

In regard to your third question, "AN ACT in relation to criminal identification and investigation" neither restricts nor supersedes the Illinois Commission on Delinquency Act (Ill. Rev. Stat. 1975, ch. 23, par. 2701 et seq.). As explained above, the former Act provides for the transmission of criminal records to the Department of Law Enforcement. The latter Act provides for the maintenance and control of juvenile records by the Illinois Delinquency Prevention Commission; the purpose of the Commission's juvenile records is to enable youth officers to make appropriate dispositions which will best serve the interests of the child and the community (Ill. Rev. Stat. 1975, ch. 23, par. 2705.9). Thus,

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the purposes and provisions of the two Acts are not inconsistent and concern separate subjects.

Very truly yours,

A T T O R N E Y G E N E R A L