



TYRONE C. FAHNER

ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

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FILE NO. 82-025

MOTOR VEHICLES:
Duties of Circuit Clerks to
Report Court Supervision
Orders to the Secretary of State

Honorable Terrence J. Hopkins
State's Attorney, Franklin County
202 West Main Street
Benton, Illinois 62812

Dear Mr. Hopkins:

I have your letter in which you inquire regarding the duties of clerks of the circuit courts under section 6-204 of The Illinois Vehicle Code (Ill. Rev. Stat. 1981, ch. 95 1/2, par. 6-204). Specifically, you ask whether circuit clerks are required to forward, to the Secretary of State, reports concerning persons arrested for driving while under the influence of alcohol, other drug, or combination thereof (Ill. Rev. Stat.

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1981, ch. 95 1/2, par. 11-501), when such persons are subsequently placed on court supervision without referral to a driver remedial or rehabilitative program as a condition thereof. For the reasons hereinafter stated, it is my opinion that section 6-204 of The Illinois Vehicle Code does not require clerks of the circuit court to furnish such reports to the Secretary of State.

Section 11-501 of The Illinois Vehicle Code defines the offense of driving while under the influence of alcohol, other drug, or combination thereof, and provides that every person convicted of the offense shall be guilty of a Class A misdemeanor. Additionally, section 11-501 provides:

" * * *

The Secretary of State shall revoke the driving privileges of any person convicted under this Section or a similar provision of a local ordinance."
(Emphasis added.)

Section 6-117 of The Illinois Vehicle Code (Ill. Rev. Stat. 1981, ch. 95 1/2, par. 6-117) provides, in pertinent part:

"Records to be kept by the Secretary of State.

* * *

(c) The Secretary of State shall maintain appropriate records of convictions reported under this Chapter.

* * *

(e) The Secretary of State shall also maintain appropriate records relative to a driver's referral to

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a driver remedial or rehabilitative program, as required by the Secretary of State or the courts. Such records shall only be available for use by the Secretary and the courts." (Emphasis added.)

Section 6-204 of The Illinois Vehicle Code provides, in pertinent part:

"When Court to forward License and Reports.

(a) For the purpose of providing to the Secretary of State the records essential to the performance of the Secretary's duties under this Code to revoke or suspend the drivers license and privilege to drive motor vehicles of persons found guilty of the criminal offenses or traffic violations which this Code recognizes as evidence relating to unfitness to safely operate motor vehicles, the following duties are imposed upon public officials:

1. Whenever any person is convicted of any offense for which this Code makes mandatory the revocation of the drivers license or permit of such person by the Secretary of State, the judge of the court in which such conviction is had shall require the surrender to the clerk of the court of all drivers licenses or permits then held by the person so convicted, and the clerk of the court shall, within 10 days thereafter, forward the same, together with a report of such conviction, to the Secretary.

* * *

(d) For the purpose of providing the Secretary of State with records necessary to properly monitor and assess driver performance and assist the courts in the proper disposition of repeat traffic law offenders, the clerk of the court shall forward to the Secretary of State, on a form prescribed by the Secretary, records of driver's participation in a driver remedial or rehabilitative program which was required, through a court order or court supervision, in relation to the driver's arrest for a violation of Section 11-501 of this Code or a similar provision of a local ordinance. Such reports shall be sent within ten (10) days after the driver's referral to such driver remedial or rehabilitative program. Such reports shall be recorded to the driver's file, but

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shall not be released to any outside source and shall be used only to assist in assessing driver performance and for the purpose of informing the courts that such driver has been previously referred to a drivers remedial or rehabilitative program." (Emphasis added.)

Section 6-100 of The Illinois Vehicle Code (Ill. Rev. Stat.

1981, ch. 95 1/2, par. 6-100) provides:

"Definition. For the purposes of this Chapter, the following word shall have the meaning ascribed to it as follows:

Conviction. A final adjudication of guilty by a court of competent jurisdiction either after a bench trial, trial by jury, plea of guilty, order of forfeiture, or default."

Statutes are to be construed according to the plain and obvious meaning of the language used by the General Assembly, and where the language of a statute is plain and certain, it must be given effect. (Bovinette v. City of Mascoutah (1973), 55 Ill. 2d 129, 133; Stiska v. City of Chicago (1950), 405 Ill. 374, 379.) Words of a statute are to be given their ordinary meaning unless otherwise defined therein, in which case they must be construed according to the definitions contained in the statute. Stiska v. City of Chicago (1950), 405 Ill. 374, 379; Krebs v. Thompson (1944), 387 Ill. 471, 478.

Subsections 6-117(c) and 6-204(a) of The Illinois Vehicle Code clearly require circuit clerks to forward, to the Secretary of State, reports concerning any person convicted of violating section 11-501 of The Illinois Vehicle Code, an

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offense for which the revocation of the convicted offender's driving privileges is mandatory. For purposes of sections 6-117 and 6-204 of The Illinois Vehicle Code, a conviction means a final adjudication of guilt by a court of competent jurisdiction. (Ill. Rev. Stat. 1981, ch. 95 1/2, par. 6-100.)

Section 5-1-21 of the Unified Code of Corrections (Ill. Rev. Stat. 1981, ch. 38, par. 1005-1-21) defines supervision as:

"Supervision. 'Supervision' means a disposition of conditional and revocable release without probationary supervision, but under such conditions and reporting requirements as are imposed by the court, at the successful conclusion of which disposition the defendant is discharged and a judgment dismissing the charges is entered."

Section 5-6-1 of the Unified Code of Corrections (Ill. Rev. Stat. 1981, ch. 38, par. 1005-6-1), which authorizes the disposition of supervision, provides in pertinent part:

" * * *

(c) The court may, upon a plea of guilty or a stipulation by the defendant of the facts supporting the charge or a finding of guilt, defer further proceedings and the imposition of a sentence, and enter an order for supervision of the defendant if the defendant is not charged with a felony * * *

* * *

"

Section 5-6-3.1 of the Unified Code of Corrections (Ill. Rev. Stat. 1981, ch. 38, par. 1005-6-3.1) provides in pertinent part:

"Incidents and Conditions of Supervision. (a) When a defendant is placed on supervision, the court shall enter an order for supervision specifying the

period of such supervision, and shall defer further proceedings in the case until the conclusion of the period.

* * *

(c) The court may in addition to other reasonable conditions relating to the nature of the offense or the rehabilitation of the defendant as determined for each defendant in the proper discretion of the court require that the person:

(1) make a report to and appear in person before or participate with the court or such courts, person, or social service agency as directed by the court in the order of supervision;

* * *

(d) The court shall defer entering any judgment on the charges until the conclusion of the supervision.

(e) At the conclusion of the period of supervision, if the court determines that the defendant has successfully complied with all of the conditions of supervision, the court shall discharge the defendant and enter a judgment dismissing the charges.

(f) Discharge and dismissal upon a successful conclusion of a disposition of supervision shall be deemed without adjudication of guilt and shall not be termed a conviction for purposes of disqualification or disabilities imposed by law upon conviction of a crime. * * *

* * *

"

(Emphasis added.)

Under the unambiguous terms of section 5-6-3.1 of the Unified Code of Corrections, a disposition of supervision is not an adjudication of guilt. If the court determines that the defendant has successfully complied with all conditions of his supervision order, it discharges the defendant and dismisses

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the charges pending against him. Therefore, imposing a disposition of supervision upon a defendant charged with violating section 11-501 of The Illinois Vehicle Code is not a conviction, as defined in section 6-100 of The Illinois Vehicle Code, which the clerk of the court must report to the Secretary of State pursuant to section 6-204 of The Illinois Vehicle Code.

Section 6-204 also requires clerks of the courts to forward, to the Secretary of State, reports concerning persons required, by court order or as a condition of supervision, to participate in a driver's remedial or rehabilitative program, in relation to an arrest for a violation of section 11-501 of The Illinois Vehicle Code. The phrase "driver remedial or rehabilitative program" is not defined in The Illinois Vehicle Code. It has, however, a readily ascertainable meaning when construed according to the plain and ordinary meaning of its words. See, Dep't of Pub. Wks. & Bldgs. v. Wishnevsky (1972), 51 Ill. 2d 550, 552.

"Remedial" has been defined to mean:

" * * * designating or of any special course for helping students overcome deficiencies." (Webster's New World Dictionary 1201 (Second College Edition 1980).)

"Rehabilitative" has been defined as:

"of, relating to, or designed to accomplish rehabilitation." (Webster's Third New International Dictionary 1914 (Unabridged 1966).)

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"Program" is defined to include:

"* * * a plan or procedure for dealing with some matter * * *" (Webster's New World Dictionary 1135 (Second College Edition (1980).)

Thus, the phrase "driver remedial or rehabilitative program" clearly refers to organized programs or courses of study intended to remedy the deficiencies of, or to rehabilitate drivers.

Participation in a driver remedial or rehabilitative program, by persons charged with violating section 11-501 of The Illinois Vehicle Code, would appear to be a reasonable condition of an order of supervision entered pursuant to section 5-6-3.1 of the Uniform Code of Corrections. However, unless the court specifically requires participation in such a program as a condition of supervision imposed in relation to violations of section 11-501 of The Illinois Vehicle Code, section 6-204 of The Illinois Vehicle Code does not require clerks of the court to report supervision orders to the Secretary of State.

Therefore, it is my opinion that circuit clerks are not required under section 6-204 of The Illinois Vehicle Code to forward, to the Secretary of State, reports concerning persons arrested for violating section 11-501 of The Illinois Vehicle Code who are subsequently placed on supervision, unless such persons are also required to participate in a driver remedial or rehabilitative program as a condition of supervision.

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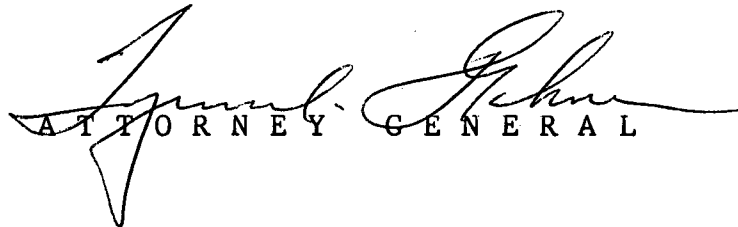
You note in your letter that the Secretary of State has requested circuit clerks to provide to him, in addition to those reports required under section 6-204 of The Illinois Vehicle Code, reports of all other persons placed on court supervision in relation to arrests for violations of section 11-501 of The Illinois Vehicle Code. The Secretary has indicated that he considers such information essential for the identification of drivers who have been repeatedly arrested for such violations. The Secretary has further indicated that such reports will be recorded and protected in the same manner as records relating to participation in a driver's remedial and rehabilitative program, and information will be released only to inform the courts that a driver has previously been placed on supervision relating to an arrest for a violation of section 11-501 of The Illinois Vehicle Code.

I am aware of nothing which prohibits the courts or their officers from voluntarily complying with the Secretary of State's request for reports of supervision orders, and nothing contained in this opinion should be construed to restrict such voluntary compliance. The records of the proceedings of Illinois courts are public records, open to public inspection, unless a statute or court order otherwise provides. (1954 Ill. Att'y Gen. Op. 146, 148; Ill. Rev. Stat. 1981, ch. 25, par. 16; see also, Ill. Rev. Stat. 1981, ch. 37, par. 702-10; ch. 40,

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par. 1522; Annot., 84 A.L.R.3d 598 (1978).) The dissemination of accurate reports concerning judicial proceedings is conditionally privileged, and will not ordinarily give rise to a cause of action for defamation, invasion of privacy, or other tort. (Oden v. Cahill (1979), 79 Ill. App. 3d 768, 771; Bannach v. Field Enterprises, Inc. (1972), 5 Ill. App. 3d 692, 693; Segall v. Lindsay Schaub Newspapers, Inc. (1966), 68 Ill. App. 2d 209.) Therefore, although clerks of the circuit court are not required to report orders of supervision relating to arrests for violations of section 11-501 of The Illinois Vehicle Code to the Secretary of State, it is my opinion that such orders may be reported on a voluntary basis.

Very truly yours,


ATTORNEY GENERAL