

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 2095

Session of  
1978

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INTRODUCED BY MESSRS. BERSON, RHODES, PRATT AND WHITE, MARCH 13,  
1978

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AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JUNE 22, 1978

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## AN ACT

1 Relating to criminal history record information; providing for  
2 the protection of individual right to privacy and for the  
3 completeness and accuracy of, the control of dissemination  
4 of, the establishment of guidelines for the security of, and  
5 provision for quality control of criminal history record  
6 information; and providing for the right of individuals to  
7 inspect, review and challenge the accuracy of such  
8 information and the establishment of a council to oversee the  
9 administration of this act; and providing penalties for  
10 violations of this act.

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30 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 CHAPTER 1

3 GENERAL PROVISIONS

4 Section 101. Short title.

5 This act shall be known and may be cited as the "Criminal  
6 History Record Information Act."

7 Section 102. Definitions.

8 The following words and phrases when used in this act shall  
9 have the meanings given to them in this section, unless the  
10 context clearly indicates otherwise:

11 "Administration of criminal justice." The activities  
12 directly concerned with the prevention, control or reduction of  
13 crime, the apprehension, detention, pretrial release, post-trial  
14 release, prosecution, adjudication, correctional supervision or  
15 rehabilitation of accused persons or criminal offenders;  
16 criminal identification activities; or the collection, storage  
17 dissemination or usage of criminal history record information.

18 "Audit." The process of reviewing compliance with applicable  
19 Federal and State laws and regulations related to the privacy  
20 and security of criminal history record information.

21 "Central repository." The central location for the  
22 collection, compilation, maintenance and dissemination of  
23 criminal history record information by the Pennsylvania State  
24 Police.

25 "Criminal history record information." Information collected  
26 by criminal justice agencies concerning individuals, consisting  
27 of identifiable descriptions, DATES and notations of arrests, <—  
28 detentions, indictments, informations or other formal charges  
29 and any dispositions arising therefrom. The term does not  
30 include intelligence information, investigative information or

1 treatment information, including medical and psychological  
2 information, or information and records specified in section  
3 104. ~~of this act.~~

<—

4 "Criminal justice agency." Any court, including the minor  
5 judiciary, with criminal jurisdiction or any other governmental  
6 agency, or subunit thereof, created by statute or by the State  
7 or Federal constitutions, specifically authorized to perform as  
8 its principal function the administration of criminal justice,  
9 and which allocates a substantial portion of its annual budget  
10 to such function. Criminal justice agencies include, but are not  
11 limited to: organized State and municipal police departments,  
12 local detention facilities, county, regional and State  
13 correctional facilities, probation agencies, district or  
14 prosecuting attorneys, parole boards and pardon boards.

15 "Disposition." Information indicating that criminal  
16 proceedings have been concluded, including information  
17 disclosing that police have elected not to refer a matter for  
18 prosecution, that a prosecuting authority has elected not to  
19 commence criminal proceedings or that a grand jury has failed to  
20 indict and disclosing the nature of the termination of the  
21 proceedings; or information disclosing that proceedings have  
22 been indefinitely postponed and also disclosing the reason for  
23 such postponement. Dispositions of criminal proceedings in the  
24 Commonwealth shall include, but not be limited to, acquittal,  
25 acquittal by reason of insanity, pretrial probation or  
26 diversion, charge dismissed, guilty plea, nolle prosequi, no  
27 information filed, nolo contendere plea, convicted, abatement,  
28 discharge under rules of the Pennsylvania Rules of Criminal  
29 Procedure, demurrer sustained, pardoned, sentence commuted,  
30 mistrial-defendant discharged, discharge from probation or

1 parole or correctional supervision.

2 "Dissemination." The oral or written transmission or  
3 disclosure of criminal history record information, including the  
4 confirmation of its existence or nonexistence, to individuals or  
5 agencies other than the criminal justice agency which maintains  
6 the information.

7 "Expunge."

8 (1) to remove information so that there is no trace or  
9 indication that such information existed; or

10 (2) to eliminate all identifiers which may be used to  
11 trace the identity of an individual, allowing remaining data  
12 to be used for statistical purposes.

13 "Repository." Any location in which criminal history record  
14 information is collected, compiled, maintained and disseminated  
15 by a criminal justice agency.

16 "Secondary dissemination." The subsequent transmission or  
17 disclosure of criminal history record information received from  
18 a repository or confirmation of the existence or nonexistence of  
19 criminal history record information received from a repository.

20 Section 103. Applicability.

21 This act shall apply to persons within the Commonwealth and  
22 to any agency of the Commonwealth or its political subdivisions  
23 which collects, maintains, disseminates or receives criminal  
24 history record information.

25 Section 104. Scope.

26 (a) Except for the provisions of Chapters 2, 4 and 6,  
27 nothing in this act shall be construed to apply to:

28 (1) Original records of entry compiled chronologically,  
29 including, but not limited to, police blotters.

30 (2) Any documents, records or indices prepared or

maintained by or filed in any court of this Commonwealth,  
including but not limited to the minor judiciary.

(3) Posters, announcements, or lists for identifying or  
apprehending fugitives or wanted persons.

(4) Announcements of executive clemency.

(b) Court dockets and police blotters and information  
contained therein shall, for the purpose of this act, be  
considered public record.

(c) Where court dockets are not maintained any reasonable  
substitute containing that information traditionally available  
in court dockets shall, for the purpose of this act, be  
considered public record.

(d) Nothing in this act must be interpreted to limit the  
disclosure by the arresting authority, a court, or other  
criminal justice agency having legal jurisdiction over the  
individual to any individual or agency of the current status of  
an individual involved in a criminal case in progress or for  
which an individual is currently in the criminal justice system  
so long as such information is disseminated no more than 180  
days from the occurrence of any final official action by or  
final release from the supervision, custody or jurisdiction of  
that agency.

(e) Nothing in this act shall prohibit a criminal justice  
agency from disclosing an individual's prior criminal activity  
to an individual or agency if the information disclosed is based  
on records set forth in section 104.

(f) Information collected by noncriminal justice agencies  
and individuals from the sources identified in this section  
shall not be considered criminal history record information.  
Section 105. Other criminal justice information.



1 (relating to retail theft), the issuing authority shall order  
2 the defendant to submit for fingerprinting by the municipal  
3 police of the jurisdiction in which the offense allegedly was  
4 committed or in the absence of a police department the State  
5 police. Fingerprints so obtained shall be forwarded immediately  
6 to the central repository.

7 (c) The central repository shall transmit the criminal  
8 history record information to the criminal justice agency which  
9 submitted the fingerprint card.

10 Section 203. Disposition reporting by criminal justice  
11 agencies.

12 (a) All criminal justice agencies, including but not limited  
13 to, courts, county, regional and State correctional institutions  
14 and parole and probation agencies, shall collect and submit  
15 reports of dispositions occurring within their respective  
16 agencies for criminal history record information, within 90 days  
17 of the date of such disposition to the central repository as  
18 provided for in this section.

19 (b) Courts shall collect and submit criminal court  
20 dispositions as required by the Administrative Office of  
21 Pennsylvania Courts.

22 (c) County and regional correctional institutions shall  
23 collect and submit information regarding the admission, release  
24 and length of sentence of individuals sentenced to local and  
25 county institutions as required by the Bureau of Correction.

26 (d) County probation and parole offices shall collect and  
27 submit information relating to the length of time and charges  
28 for which an individual is placed under and released from the  
29 jurisdiction of such agency as required by the Pennsylvania  
30 Board of Probation and Parole.



1 (e) The Administrative Office of Pennsylvania Courts, the  
2 Bureau of Correction, the Pennsylvania Board of Probation and  
3 Parole and the Pennsylvania Board of Pardons, shall collect and  
4 submit to the central repository such information necessary to  
5 maintain complete and accurate criminal history record  
6 information. Such criminal history record information shall be  
7 submitted in accordance with the standards for completeness and  
8 accuracy promulgated by the Privacy and Security Council. Each  
9 state agency listed in this subsection shall submit to the  
10 central repository any reports of dispositions occurring within  
11 their respective agencies and such information reported from  
12 county and local criminal justice agencies.

13 Section 204. Correction of inaccurate information.

14 ~~(a)~~ Within 15 days of the detection of inaccurate data in a <—  
15 criminal history record, regardless of the manner of discovery,  
16 the criminal justice agency which reported the information shall  
17 comply with the following procedures to effect correction:

18 (1) Correct its own records.

19 (2) Notify all recipients, including the central  
20 repository, of the inaccurate data and the required  
21 correction.

## 22 CHAPTER 3

### 23 DISSEMINATION OF CRIMINAL HISTORY RECORD INFORMATION

24 Section 301. General regulations.

25 (a) No dissemination of criminal history record information  
26 is permitted except as provided for by this act or by rule of  
27 court promulgated by the Supreme Court of Pennsylvania or by  
28 resolution of either House of the General Assembly. No  
29 administrative rule or regulation promulgated by any  
30 Commonwealth agency, referring to or inferring the need for

1 criminal history record information, shall be sufficient  
2 authority for the dissemination of criminal history record  
3 information.

4 (b) Any criminal justice agency which disseminates criminal  
5 history record information must indicate to the recipient that  
6 the information disseminated is only that information contained  
7 in its own file, the date of the last entry, and that a summary  
8 of the Statewide criminal history record information may be  
9 obtained from the central repository.

10 (c) Except during joint criminal investigations, no  
11 secondary dissemination of criminal history record information  
12 is permitted except as provided for by this act.

13 (d) No duplication of criminal history record information by  
14 any agency or individual receiving criminal history record  
15 information is permitted.

16 (e) All noncriminal justice agencies or individuals or  
17 agencies receiving criminal history record information must  
18 return to the disseminating agency or destroy, in accordance  
19 with an agreement with the repository, all such information  
20 received upon completion of the specific purpose for which  
21 criminal history record information was received; nor shall such  
22 information be permanently incorporated into the files or  
23 records of the agency or individual receiving it.

24 (f) Repositories must enter as a permanent part of an  
25 individual's criminal history record information file, a listing  
26 of all persons and agencies to whom they have disseminated that  
27 particular criminal history record information and the date and  
28 purpose for which the information was disseminated. Such listing  
29 shall be maintained separate from the record itself.

30 (g) Repositories shall ensure that criminal history record

1 information is disseminated only to agencies or individuals  
2 authorized by the provisions of this act to receive such  
3 information.

4 (h) No agency or individual shall confirm or deny in any  
5 manner the existence or nonexistence of criminal history record  
6 information to any person or agency not eligible to receive the  
7 information itself unless such information is obtained from  
8 records identified in section 104. ~~of this act.~~ <—

9 (i) Any noncriminal justice official, agency or organization  
10 requesting criminal history record information prior to receipt  
11 of any such criminal history record information, must sign a  
12 contract with the repository from which it is seeking criminal  
13 history record information, agreeing to abide by the provisions  
14 of this act. Any such noncriminal justice official, agency or  
15 organization entering into such a contract with a repository is  
16 bound by and subject to the provisions of this act.

17 (j) Except as otherwise provided in this act, no criminal  
18 history record information acquired from repositories other than  
19 the central repository shall be permanently incorporated into  
20 the files or records of the criminal justice agency or  
21 individual and must be destroyed upon completion of the specific  
22 purpose for which such information was received.

23 Section 302. Access to criminal history record information.

24 (a) Access to criminal history record information shall be  
25 limited to:

26 (1) Criminal justice agencies for the purpose of the  
27 administration of criminal justice and criminal justice  
28 agency employment.

29 (2) Auditors working under the direction of the Privacy  
30 and Security Council.

1           (3) Such other individuals and agencies authorized by  
2 statute to receive criminal history record information or  
3 which require criminal history record information to  
4 implement a statute expressly referring to criminal conduct  
5 and containing either requirements or exclusions or both  
6 expressly based upon such criminal conduct.

7           (4) Agencies of Federal, State and foreign governments  
8 authorized by statute to conduct investigations determining  
9 employment suitability or eligibility for security  
10 clearances.

11           (5) (i) The chief executive of any Federal, State or  
12 local government or any governmental body of the same  
13 required to confirm an appointment or nomination for the  
14 purpose of determining the suitability of a potential  
15 appointment or nomination of an individual to a  
16 governmental position.

17           (ii) The office of the Governor may make a request  
18 to any repository for an oral report concerning the  
19 contents of the criminal history record information  
20 maintained on a prospective appointee to a Commonwealth  
21 board or commission. A copy of the criminal history  
22 record information will be provided upon receipt of  
23 fingerprint identification of the subject about whom  
24 criminal history record information is sought.

25           (iii) The office of the Governor, in order to assist  
26 the Governor in the exercise of the pardoning power  
27 provided by Article IV, section 9 of Constitution of  
28 Pennsylvania.

29           (6) Defense counsel, through the court, for the purpose  
30 of obtaining criminal history record information about a

1 client or witness with regard to a case in progress.

2 (7) (i) Individuals and agencies for the express  
3 purpose of research, evaluative or statistical  
4 activities, ~~pursuant~~, or other services required for <—  
5 administration of criminal justice PURSUANT to an <—  
6 agreement with the disseminating agency which authorizes  
7 access to criminal history record information, limits the  
8 use of criminal history record information to research,  
9 evaluative or statistical purposes and ensures the  
10 confidentiality and security of the criminal history  
11 record information, consistent with this act. Such  
12 individuals and agencies are bound by and subject to the  
13 provisions of this act.

14 (ii) Requests by any noncriminal justice agency,  
15 individual or organization for criminal history record  
16 information for research or statistical purposes,  
17 requiring the identity of persons about whom such records  
18 are maintained, must be approved by the Privacy and  
19 Security Council. Any individual or agency requesting  
20 criminal history record information for research or  
21 statistical purposes must submit a research proposal to  
22 the Privacy and Security Council.

23 (8) Officials of correctional facilities or  
24 institutions, with the consent of the individual about whom  
25 information is sought, may disseminate criminal history  
26 record information to prospective employers or other  
27 individuals, when such information is helpful in obtaining  
28 employment or rehabilitating the individual about whom the  
29 information relates.

30 (9) Any individual, upon request and proper verification

1 of identity, for the purpose of reviewing his own criminal  
2 history record information, according to the procedure set  
3 forth in Chapter 6.

4 (10) Agencies authorized to issue visas or grant  
5 citizenship.

6 (11) Individuals and agencies authorized by a court  
7 order to receive criminal history record information relating  
8 to a case in progress.

9 ~~(b)~~ (12) The Pennsylvania Department of Banking, the  
10 Pennsylvania Insurance Department and the Pennsylvania  
11 Department of Education shall have access to criminal history  
12 record information maintained in the central repository for the  
13 purpose of determining the employment suitability of any  
14 employee; or nomination or appointment of directors, trustees  
15 and proposed officers; for the granting of charters; issuance of  
16 any license, certificate or permits; or the revocation or  
17 suspension of such license, permit or certification of any  
18 agency, institution, individual or affiliate thereof over which  
19 they have legal authority or jurisdiction, including services  
20 performed under contract or other written agreement by any such  
21 agency, institution or individual.

22 ~~(e)~~ (B) Fingerprint identification of the individual about  
23 whom information is requested shall be required under paragraphs  
24 (3), (5)(i) and (10) of subsection (a).

25 Section 303. Expungement.

26 (a) Criminal history record information shall be expunged in  
27 a specific criminal proceeding when:

28 (1) no disposition has been received or, upon request  
29 for criminal history record information, no disposition has  
30 been recorded in the repository within 18 months after the

1 date of arrest AND the court of proper jurisdiction certifies <—  
2 to the ~~directory~~ DIRECTOR of the repository that no <—  
3 disposition is available and no action is pending.

4 Expungement shall not occur until the certification from the  
5 court is received and the director of the repository  
6 authorizes such expungement; or

7 (2) a court order requires that such nonconviction data  
8 be expunged.

9 (b) Criminal history record information may be expunged  
10 when:

11 (1) an individual who is the subject of the information  
12 reaches 70 years of age and has been free of arrest or  
13 prosecution for ten years following final release from  
14 confinement or supervision; or

15 (2) an individual who is the subject of the information  
16 has been dead for three years.

17 (c) Requests for criminal history record information which  
18 has been expunged must be answered only with a statement that no  
19 such information exists.

20 (d) Notice of expungement shall promptly be submitted to the  
21 central repository which shall notify all criminal justice  
22 agencies which have received the criminal history record  
23 information to be expunged.

24 (e) Public records listed in section 104 shall not be  
25 expunged.

## 26 CHAPTER 4

### 27 SECURITY

28 Section 401. Security requirements for repositories.

29 Every criminal justice agency collecting, storing or  
30 disseminating criminal history record information shall ensure

1 the confidentiality and security of criminal history record  
2 information by providing that wherever such information is  
3 maintained, a criminal justice agency must:

4 (1) Institute procedures to reasonably protect any  
5 repository from theft, fire, sabotage, flood, wind or other  
6 natural or man-made disasters.

7 (2) Select, supervise, ~~educate~~ and train all personnel <—  
8 authorized to have access to criminal history record  
9 information.

10 (3) Ensure that, where computerized data processing is  
11 employed, the equipment utilized for maintaining criminal  
12 history record information is solely dedicated to purposes  
13 related to the administration of criminal justice, or, if the  
14 equipment is not used solely for the administration of  
15 criminal justice, the criminal justice agency shall be  
16 accorded equal management participation in computer  
17 operations used to maintain the criminal history record  
18 information.

19 (4) Provide that criminal history record information  
20 maintained in a repository is disseminated upon proper  
21 validation only to those individuals and agencies authorized  
22 to receive the information by the provisions of this act.

## 23 CHAPTER 5

### 24 AUDIT

25 Section 501. Annual audit of repositories.

26 (a) The Privacy and Security Council shall establish an  
27 auditing team to conduct annual audits of the central repository  
28 and of a representative sample of all repositories to ensure  
29 that the provisions of this act are upheld.

30 (b) Persons conducting the audit shall be provided access to



1 all records, reports and listings required to conduct an audit  
2 of criminal history record information, and all persons with  
3 access to such information or authorized to receive such  
4 information shall cooperate with and provide information  
5 requested by the auditing team.

6 (c) The auditing team shall prepare a report of deficiencies  
7 and recommendations for the correction of such deficiencies.

8 Upon the completion of every audit, the audited agency shall  
9 carry out the recommendations within a reasonable period of time  
10 unless the audit report is appealed to the Privacy and Security  
11 Council and the appeal is upheld.

12 (d) The Privacy and Security Council shall have the power to  
13 modify the corrective measures ordered by the auditing team.

14 Section 502. Quality control.

15 Each repository shall establish effective procedures, in  
16 compliance with rules and regulations promulgated by the Privacy  
17 and Security Council, for the completeness and accuracy of  
18 criminal history record information.

## 19 CHAPTER 6

### 20 INDIVIDUAL RIGHT OF ACCESS AND REVIEW

21 Section 601. Right to access and review.

22 (a) Any individual or his legal representative has the right  
23 to review, challenge, and appeal the accuracy and completeness  
24 of his criminal history record information.

25 (b) Persons incarcerated in correctional facilities and  
26 institutions may authorize a correctional employee to obtain a  
27 copy of their criminal history record information for the  
28 purpose of review, challenge and appeal.

29 Section 602. Procedure.

30 (a) The Privacy and Security Council shall promulgate rules

1 and regulations to implement this section and shall establish  
2 reasonable fees.

3 (b) Any individual requesting to review his or her own  
4 criminal history record information shall submit proper  
5 identification to the criminal justice agency which maintains  
6 his or her record. Proper identification shall be determined by  
7 the officials of the repository where the request is made. If  
8 criminal history record information exists the individual may  
9 review a copy of such information without undue delay for the  
10 purpose of review and challenge.

11 (c) The individual may challenge the accuracy of his or her  
12 criminal history record information by specifying which portion  
13 of the record is incorrect and what the correct version should  
14 be. Failure to challenge any portion of the record in existence  
15 at that time will place the burden of proving the inaccuracy of  
16 any part subsequently challenged upon the individual.  
17 Information subsequently added to such record shall also be  
18 subject to review, challenge, correction or appeal.

19 (d) All criminal justice agencies shall have 60 days to  
20 conduct a review of any challenge and shall have the burden of  
21 proving the accuracy of the record. If the challenge is deemed  
22 valid, the appropriate officials must ensure that:

23 (1) The criminal history record information is  
24 corrected.

25 (2) A certified and corrected copy of the criminal  
26 history record information is provided to the individual.

27 (3) Prior erroneous criminal history record information  
28 disseminated to criminal justice agencies shall be destroyed  
29 or returned and replaced with corrected information.

30 (4) The individual is supplied with the names of those

1 noncriminal justice agencies and individuals which have  
2 received erroneous criminal history record information.

3 (e) (1) If the challenge is ruled invalid, an individual  
4 has the right to appeal the decision to the Privacy and  
5 Security Council within 30 days of notification of the  
6 decision by the criminal justice agency.

7 (2) The Privacy and Security Council shall have the  
8 authority to conduct administrative appeal hearings in  
9 accordance with the act of June 4, 1945 (P.L.1388, No.442),  
10 known as the "Administrative Agency Law."

11 (3) The decision of the Privacy and Security Council may  
12 be appealed to the Commonwealth Court by an aggrieved  
13 individual.

14 Section 603. Individual rights on access and review.

15 Any individual exercising his or her right to access and  
16 review under the provisions of this chapter, shall be informed  
17 when criminal history record information is made available that  
18 he or she is under no obligation to divulge such information to  
19 any person or agency.

## 20 CHAPTER 7

### 21 PRIVACY AND SECURITY COUNCIL

22 Section 701. Privacy and Security Council.

23 (a) There is hereby created a Privacy and Security Council,  
24 which shall function independently of but for administrative  
25 purposes shall be in the office of the Governor.

26 (b) The Privacy and Security Council shall consist of the  
27 Attorney General, the Commissioner of the Pennsylvania State  
28 Police, the State Court Administrator, the President pro tempore  
29 of the Senate shall appoint one member, and the Speaker of the  
30 House shall appoint one member, a local chief of police and one

1 private citizen to be appointed by the Governor.

2 (c) Each member shall be eligible for reappointment and the  
3 Governor shall fill vacancies by appointing a person to fill the  
4 unexpired term.

5 (d) The council shall elect one member of the Privacy and  
6 Security Council as chairperson thereof, to serve as such at the  
7 pleasure of the Governor.

8 (e) Members of the Privacy and Security Council shall  
9 receive no compensation but shall be entitled to receive  
10 reimbursement for travel and other necessary expenses incurred  
11 in the performance of their duties as members of the Privacy and  
12 Security Council.

13 Section 702. Duties of Privacy and Security Council.

14 The Privacy and Security Council shall have the power and  
15 authority to:

16 (1) Establish rules and regulations for criminal history  
17 record information with respect to security, completeness,  
18 accuracy, individual access and review, quality control and  
19 audits of repositories.

20 (2) Establish a uniform schedule of reasonable fees for  
21 the costs of reproducing criminal history record information  
22 for individual access and review and for research or  
23 statistical purposes and access by noncriminal justice  
24 agencies.

25 (3) Conduct hearings to further the purposes of this  
26 act.

27 (4) Make investigations concerning all matters touching  
28 the administration and enforcement of this act and the rules  
29 and regulations promulgated thereunder.

30 (5) Issue subpoenas over the signature of the chairman,

1 after approved by a majority of the members of the council,  
2 to require the attendance of witnesses and the production of  
3 records and papers pertaining to any investigation or inquiry  
4 concerning matters relating to this act. The fees for such  
5 witnesses for travel and attendance shall be the same as for  
6 witnesses appearing in the courts and shall be paid from  
7 appropriations made to the council.

8 (6) Institute, through the office of the Attorney  
9 General, civil and criminal proceedings for violations of  
10 this act and the rules and regulations adopted thereunder.

11 (7) Conduct annual audits of the central repository and  
12 of a representative sample of all repositories within the  
13 Commonwealth, collecting, compiling, maintaining and  
14 disseminating criminal history record information.

15 (8) Appoint such employees and agents as it may deem  
16 necessary.

17 (9) Define which noncriminal justice agencies may have  
18 access to criminal history record information as provided in  
19 section 302.

20 (10) Carry out all other powers, duties and  
21 responsibilities given to it by this act.

## 22 CHAPTER 8

### 23 PUBLIC NOTICE

24 Section 801. Requirements of repositories relating to public  
25 notice.

26 Repositories maintaining criminal history record information  
27 shall inform the public and post in a public place, notice of  
28 the existence, purpose, use and accessibility of the criminal  
29 history record information they maintain and the requirements of  
30 the repository for identification on individual access and

1 review.

2 CHAPTER 9

3 SANCTIONS

4 Section 901. General administrative sanctions.

5 Any person, including any agency or organization, who  
6 violates the provisions of this act or any regulations or rules  
7 promulgated under it may:

8 (1) Be denied access to specified criminal history  
9 record information for such period of time as the Privacy and  
10 Security Council deems appropriate.

11 (2) Be subject to civil or criminal penalties or other  
12 remedies as provided for in this act.

13 (3) In the case of an employee of any agency who  
14 violates any provision of this act may be administratively  
15 disciplined by discharge, suspension, reduction in grade,  
16 transfer or other formal disciplinary action as the agency  
17 deems appropriate.

18 Section 902. Criminal penalties.

19 A person employed by a government agency commits a misdemeanor  
20 of the third degree, if such person:

21 (1) ~~knowingly~~ KNOWINGLY requests, obtains or seeks to  
22 obtain criminal history record information in violation of  
23 this act; or

24 (2) disseminates, maintains or uses criminal history  
25 record information knowing such dissemination, maintenance or  
26 use to be in violation of this act.

27 Section 903. Civil actions.

28 (a) The Privacy and Security Council, through the Attorney  
29 General, or any other individual or agency may institute an  
30 action in a court of proper jurisdiction against any person,

1 agency or organization to enjoin any criminal justice agency,  
2 noncriminal justice agency, organization or individual violating  
3 the provisions of this act or to compel such agency,  
4 organization or person to comply with the provisions of this  
5 act.

6 (b) (1) Any person aggrieved by a violation of the  
7 provisions of this act or of the rules and regulations  
8 promulgated hereunder, shall have the substantive right to  
9 bring an action for damages by reason of such violation in a  
10 court of competent jurisdiction.

11 (2) A person found, by the court, to have been aggrieved  
12 by a violation of this act or the rules or regulations  
13 promulgated hereunder, shall be entitled to actual and real  
14 damages of not less than \$100 for each violation and to  
15 reasonable costs of litigation and attorney's fees. Exemplary  
16 and punitive damages of not less than \$1,000 nor more than  
17 \$10,000 shall be imposed for any violation of this act, or  
18 the rules or regulations adopted hereunder, found to be  
19 willful.

## 20 CHAPTER 10

### 21 EFFECTIVE DATE AND REPEALER

22 Section 1001. Repealer.

23 All acts and parts of acts are repealed insofar as they are  
24 inconsistent herewith.

25 Section 1002. Effective date.

26 (a) This act shall take effect in 90 days except Chapter 7  
27 and section 202 which shall take effect on July 1, 1979.

28 (b) Required expungement provision in section 303 (a)(1) is  
29 not applicable to criminal proceedings initiated or completed  
30 prior to the effective date of this act unless requested by the

1 individual as provided in Chapter 6.