

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

## No. 2095

Session of  
1978INTRODUCED BY MESSRS. BERSON, RHODES, PRATT AND WHITE, MARCH 13,  
1978AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
SEPTEMBER 13, 1978

## 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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1       The General Assembly of the Commonwealth of Pennsylvania  
2 hereby enacts as follows:

3                               CHAPTER 1

4                               GENERAL PROVISIONS

5 Section 101. Short title.

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

8 Section 102. Definitions.

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

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

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

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

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

1 include intelligence information, investigative information or  
2 treatment information, including medical and psychological  
3 information, or information and records specified in section  
4 104.

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

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

1   mistrial-defendant discharged, discharge from probation or  
2   parole or correctional supervision.

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

8       "Expunge."

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

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

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

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

21   Section 103.   Applicability.

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

26   Section 104.   Scope.

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

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

1           (2) Any documents, records or indices prepared or  
2 maintained by or filed in any court of this Commonwealth,  
3 including but not limited to the minor judiciary.

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

6           (4) Announcements of executive clemency.

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

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

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

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

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

1 Section 105. Other criminal justice information.

2 Nothing in this act shall be construed to apply to  
3 information concerning juveniles, EXCEPT AS PROVIDED IN SECTION <—  
4 304, unless they have been adjudicated as adults, nor shall it  
5 apply to intelligence information, investigative information,  
6 treatment information, including medical and psychiatric  
7 information, caution indicator information, modus operandi  
8 information, wanted persons information, stolen property  
9 information, missing persons information, employment history  
10 information, personal history information, nor presentence  
11 investigation information. Criminal history record information  
12 maintained as a part of these records shall not be disseminated  
13 unless in compliance with the provisions of this act.

## 14 CHAPTER 2

### 15 COMPLETENESS AND ACCURACY

16 Section 201. Duties of criminal justice agencies.

17 It shall be the duty of every criminal justice agency within  
18 the Commonwealth to maintain complete and accurate criminal  
19 history record information as required by the Privacy and  
20 Security Council as provided in Chapter 7 and to report such  
21 information at such times and in such manner as required by the  
22 provisions of this or other acts.

23 Section 202. Mandatory fingerprinting.

24 (a) Fingerprints of all persons arrested for a felony,  
25 misdemeanor or summary offense which becomes a misdemeanor on a  
26 second arrest after conviction of that summary offense, shall be  
27 taken by the arresting authority, and within 48 hours of the  
28 arrest, shall be forwarded to, and in a manner and such a form  
29 as provided by, the central repository.

30 (b) Where private complaints for a felony or misdemeanor

1 result in a conviction or offenses under 18 Pa.C.S. § 3929  
2 (relating to retail theft), the issuing authority shall order  
3 the defendant to submit for fingerprinting by the municipal  
4 police of the jurisdiction in which the offense allegedly was  
5 committed or in the absence of a police department the State  
6 police. Fingerprints so obtained shall be forwarded immediately  
7 to the central repository.

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

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

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

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

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

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



1 Board of Probation and Parole.

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

14 Section 204. Correction of inaccurate information.

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

19 (1) Correct its own records.

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

### 23 CHAPTER 3

#### 24 DISSEMINATION OF CRIMINAL HISTORY RECORD INFORMATION

25 Section 301. General regulations.

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

1 Commonwealth agency, referring to or inferring the need for  
2 criminal history record information, shall be sufficient  
3 authority for the dissemination of criminal history record  
4 information.

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

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

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

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

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

1 (g) Repositories shall ensure that criminal history record  
2 information is disseminated only to agencies or individuals  
3 authorized by the provisions of this act to receive such  
4 information.

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

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

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

24 Section 302. Access to criminal history record information.

25 (a) ~~Access~~ EXCEPT AS PROVIDED IN SECTION 302(C), ACCESS to  
26 criminal history record information shall be limited to:

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

30 (2) Auditors working under the direction of the Privacy

1 and Security Council.

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

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

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

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

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

30 (6) Defense counsel, through the court, for the purpose

1 of obtaining criminal history record information about a  
2 client or witness with regard to a case in progress.

3 (7) (i) Individuals and agencies for the express  
4 purpose of research, evaluative or statistical  
5 activities, or other services required for administration  
6 of criminal justice pursuant to an agreement with the  
7 disseminating agency which authorizes access to criminal  
8 history record information, limits the use of criminal  
9 history record information to research, evaluative or  
10 statistical purposes and ensures the confidentiality and  
11 security of the criminal history record information,  
12 consistent with this act. Such individuals and agencies  
13 are bound by and subject to the 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 (12) EMPLOYERS FOR THE PURPOSE OF DETERMINING THE <—  
10 EMPLOYMENT SUITABILITY OF ANY PROSPECTIVE EMPLOYEE; PROVIDED  
11 SUCH EMPLOYER PAY A FEE ESTABLISHED BY THE COMMISSIONER OF  
12 THE PENNSYLVANIA STATE POLICE AND PROVIDED THAT ACCESS SHALL  
13 NOT BE GIVEN TO ANY EMPLOYER UNLESS THE PROSPECTIVE EMPLOYEE  
14 SHALL HAVE GIVEN WRITTEN CONSENT TO THE INQUIRY.

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

28 (b) Fingerprint identification of the individual about whom  
29 information is requested shall be required under paragraphs (3),  
30 (5)(i) and (10) of subsection (a).

1 (C) ANY MEMBER OF THE WORKING PRESS SHALL, UPON WRITTEN  
2 REQUEST, HAVE ACCESS TO CONVICTION DATA CONTAINED IN CRIMINAL  
3 HISTORY RECORD INFORMATION FROM THE CENTRAL REPOSITORY. EACH  
4 REQUEST FOR THE CRIMINAL HISTORY RECORD INFORMATION OF AN  
5 INDIVIDUAL SHALL BE A SEPARATE INQUIRY. THE CENTRAL REPOSITORY  
6 MAY IMPOSE A FEE TO COVER THE COST OF COMPLYING WITH THE REQUEST  
7 FOR INFORMATION FROM NONCRIMINAL AGENCIES UPON APPROVAL OF THE  
8 FEE BY THE PRIVACY AND SECURITY COUNCIL.

9 Section 303. Expungement.

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

12 (1) no disposition has been received or, upon request  
13 for criminal history record information, no disposition has  
14 been recorded in the repository within 18 months after the  
15 date of arrest and the court of proper jurisdiction certifies  
16 to the director of the repository that no disposition is  
17 available and no action is pending. Expungement shall not  
18 occur until the certification from the court is received and  
19 the director of the repository authorizes such expungement;  
20 or

21 (2) a court order requires that such nonconviction data  
22 be expunged.

23 (b) Criminal history record information may be expunged  
24 when:

25 (1) an individual who is the subject of the information  
26 reaches 70 years of age and has been free of arrest or  
27 prosecution for ten years following final release from  
28 confinement or supervision; or

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

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

4 (d) Notice of expungement shall promptly be submitted to the  
5 central respository which shall notify all criminal justice  
6 agencies which have received the criminal history record  
7 information to be expunged.

8 (e) Public records listed in section 104 shall not be  
9 expunged.

10 SECTION 304. JUVENILE RECORDS. <—

11 (A) NOTWITHSTANDING THE PROVISIONS OF SECTION 105 AND EXCEPT  
12 UPON CAUSE SHOWN, EXPUNGEMENT OF RECORDS OF JUVENILE DELINQUENCY  
13 CASES WHEREVER KEPT OR RETAINED SHALL OCCUR WHEN THE COURT UPON  
14 ITS MOTION OR UPON THE MOTION OF A CHILD OR THE PARENTS OR  
15 GUARDIAN FINDS:

16 (1) A COMPLAINT IS FILED WHICH IS NOT SUBSTANTIATED OR  
17 THE PETITION WHICH IS FILED AS A RESULT OF A COMPLAINT IS  
18 DISMISSED BY THE COURT;

19 (2) THREE YEARS HAVE ELAPSED SINCE THE FINAL DISCHARGE  
20 OF THE PERSON FROM COMMITMENT, PLACEMENT, PROBATION OR ANY  
21 OTHER DISPOSITION AND REFERRAL AND SINCE SUCH FINAL  
22 DISCHARGE, THE PERSON HAS NOT BEEN CONVICTED OF A FELONY,  
23 MISDEMEANOR OR ADJUDICATED DELINQUENT AND NO PROCEEDING IS  
24 PENDING SEEKING SUCH CONVICTION OR ADJUDICATION; OR

25 (3) THE INDIVIDUAL IS 21 YEARS OF AGE OR OLDER AND A  
26 COURT ORDERS THE EXPUNGEMENT.

27 (B) THE COURT SHALL GIVE NOTICE OF THE APPLICATIONS FOR THE  
28 EXPUNGEMENT OF JUVENILE RECORDS TO THE PROSECUTING ATTORNEY.

29 (C) ALL RECORDS OF CHILDREN ALLEGED TO BE OR ADJUDICATED  
30 DEPENDENT, MAY BE EXPUNGED UPON COURT ORDER AFTER THE CHILD IS



1 21 YEARS OF AGE OR OLDER.

2 CHAPTER 4

3 SECURITY

4 Section 401. Security requirements for repositories.

5 Every criminal justice agency collecting, storing or  
6 disseminating criminal history record information shall ensure  
7 the confidentiality and security of criminal history record  
8 information by providing that wherever such information is  
9 maintained, a criminal justice agency must:

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

13 (2) Select, supervise and train all personnel authorized  
14 to have access to criminal history record information.

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

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

28 CHAPTER 5

29 AUDIT

30 Section 501. Annual audit of repositories.

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

5 (b) Persons conducting the audit shall be provided access to  
6 all records, reports and listings required to conduct an audit  
7 of criminal history record information, and all persons with  
8 access to such information or authorized to receive such  
9 information shall cooperate with and provide information  
10 requested by the auditing team.

11 (c) The auditing team shall prepare a report of deficiencies  
12 and recommendations for the correction of such deficiencies.  
13 Upon the completion of every audit, the audited agency shall  
14 carry out the recommendations within a reasonable period of time  
15 unless the audit report is appealed to the Privacy and Security  
16 Council and the appeal is upheld.

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

19 Section 502. Quality control.

20 Each repository shall establish effective procedures, in  
21 compliance with rules and regulations promulgated by the Privacy  
22 and Security Council, for the completeness and accuracy of  
23 criminal history record information.

24 CHAPTER 6

25 INDIVIDUAL RIGHT OF ACCESS AND REVIEW

26 Section 601. Right to access and review.

27 (a) Any individual or his legal representative has the right  
28 to review, challenge, correct and appeal the accuracy and  
29 completeness of his criminal history record information.

30 (b) Persons incarcerated in correctional facilities and

1 institutions may authorize a correctional employee to obtain a  
2 copy of their criminal history record information for the  
3 purpose of review, challenge and appeal.

4 Section 602. Procedure.

5 (a) The Privacy and Security Council shall promulgate rules  
6 and regulations to implement this section and shall establish  
7 reasonable fees.

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

16 (c) The individual may challenge the accuracy of his or her  
17 criminal history record information by specifying which portion  
18 of the record is incorrect and what the correct version should  
19 be. Failure to challenge any portion of the record in existence  
20 at that time will place the burden of proving the inaccuracy of  
21 any part subsequently challenged upon the individual.

22 Information subsequently added to such record shall also be  
23 subject to review, challenge, correction or appeal.

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

28 (1) The criminal history record information is  
29 corrected.

30 (2) A certified and corrected copy of the criminal

1 history record information is provided to the individual.

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

5 (4) The individual is supplied with the names of those  
6 noncriminal justice agencies and individuals which have  
7 received erroneous criminal history record information.

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

12 (2) The Privacy and Security Council shall have the  
13 authority to conduct administrative appeal hearings in  
14 accordance with the "Administrative Agency Law."

15 (3) The decision of the Privacy and Security Council may  
16 be appealed to the Commonwealth Court by an aggrieved  
17 individual.

18 Section 603. Individual rights on access and review.

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

## 24 CHAPTER 7

### 25 PRIVACY AND SECURITY COUNCIL

26 Section 701. Privacy and Security Council.

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

30 (b) The Privacy and Security Council shall consist of the

1 Attorney General, the Commissioner of the Pennsylvania State  
2 Police, the State Court Administrator, the President pro tempore  
3 of the Senate shall appoint one member, and the Speaker of the  
4 House shall appoint one member, a local chief of police and one  
5 private citizen to be appointed by the Governor.

6 (c) Each member shall be eligible for reappointment and the  
7 Governor shall fill vacancies by appointing a person to fill the  
8 unexpired term.

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

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

17 Section 702. Duties of Privacy and Security Council.

18 The Privacy and Security Council shall have the power and  
19 authority to:

20 (1) Establish rules and regulations for criminal history  
21 record information with respect to security, completeness,  
22 accuracy, individual access and review, quality control and  
23 audits of repositories.

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

29 (3) Conduct hearings to further the purposes of this  
30 act.

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

(5) Issue subpoenas over the signature of the chairman, after approved by a majority of the members of the council, to require the attendance of witnesses and the production of records and papers pertaining to any investigation or inquiry concerning matters relating to this act. The fees for such witnesses for travel and attendance shall be the same as for witnesses appearing in the courts and shall be paid from appropriations made to the council.

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

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

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

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

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

## CHAPTER 8

## PUBLIC NOTICE

Section 801. Requirements of repositories relating to public notice.

## Repositories maintaining criminal history record information

1 shall inform the public and post in a public place, notice of  
2 the existence, purpose, use and accessibility of the criminal  
3 history record information they maintain and the requirements of  
4 the repository for identification on individual access and  
5 review.

## 6 CHAPTER 9

### 7 SANCTIONS

8 Section 901. General administrative sanctions.

9 Any person, including any agency or organization, who  
10 violates the provisions of this act or any regulations or rules  
11 promulgated under it may:

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

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

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

22 Section 902. Criminal penalties.

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

25 (1) knowingly requests, obtains or seeks to obtain  
26 criminal history record information in violation of this act;  
27 or

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

1 Section 903. Civil actions.

2 (a) The Privacy and Security Council, through the Attorney  
3 General, or any other individual or agency may institute an  
4 action in a court of proper jurisdiction against any person,  
5 agency or organization to enjoin any criminal justice agency,  
6 noncriminal justice agency, organization or individual violating  
7 the provisions of this act or to compel such agency,  
8 organization or person to comply with the provisions of this  
9 act.

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

15 (2) A person found, by the court, to have been aggrieved  
16 by a violation of this act or the rules or regulations  
17 promulgated hereunder, shall be entitled to actual and real  
18 damages of not less than \$100 for each violation and to  
19 reasonable costs of litigation and attorney's fees. Exemplary  
20 and punitive damages of not less than \$1,000 nor more than  
21 \$10,000 shall be imposed for any violation of this act, or  
22 the rules or regulations adopted hereunder, found to be  
23 willful.

24 CHAPTER 10

25 EFFECTIVE DATE AND REPEALER

26 Section 1001. Repealer.

27 All acts and parts of acts are repealed insofar as they are  
28 inconsistent herewith.

29 Section 1002. Effective date.

30 (a) This act shall take effect in 90 days except Chapter 7



1 and section 202 which shall take effect on July 1, 1979.

2 (b) Required expungement provision in section 303 (a)(1) is  
3 not applicable to criminal proceedings initiated or completed  
4 prior to the effective date of this act unless requested by the  
5 individual as provided in Chapter 6.