

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 439

Session of  
1981

INTRODUCED BY ZEMPRELLI, FEBRUARY 24, 1981

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF  
REPRESENTATIVES, AS AMENDED, FEBRUARY 23, 1982

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, ~~redefining "criminal justice agency"~~ <—  
3 ~~to include the United States Office of Personnel Management.~~  
4 FURTHER PROVIDING FOR CRIMINAL HISTORY RECORD INFORMATION. <—

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 ~~Section 1. The definition of "criminal justice agency" in~~ <—  
8 ~~section 9102 of Title 18, act of November 25, 1970 (P.L.707,~~  
9 ~~No.230), known as the Pennsylvania Consolidated Statutes, is~~  
10 ~~amended to read:~~

11 SECTION 1. THE DEFINITIONS OF "CRIMINAL JUSTICE AGENCY" AND <—  
12 "INTELLIGENCE INFORMATION" IN SECTION 9102, SECTION 9106,  
13 SUBSECTIONS (A) AND (B) OF SECTION 9121, SUBSECTION (A) OF  
14 SECTION 9123 AND SECTIONS 9131, 9161 AND 9181 OF TITLE 18, ACT  
15 OF NOVEMBER 25, 1970 (P.L.707, NO.230), KNOWN AS THE  
16 PENNSYLVANIA CONSOLIDATED STATUTES, ARE AMENDED TO READ:  
17 § 9102. Definitions.

1 The following words and phrases when used in this chapter  
2 shall have the meanings given to them in this section unless the  
3 context clearly indicates otherwise:

4 \* \* \*

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 and  
16 the United States Office of Personnel Management but with  
17 respect to the latter office the access shall be consistent with  
18 applicable Federal statutes or executive orders governing the  
19 responsibilities and duties of such office.

20 \* \* \*

21 "INTELLIGENCE INFORMATION." INFORMATION CONCERNING THE  
22 HABITS, PRACTICES, CHARACTERISTICS, [HISTORY,] POSSESSIONS,  
23 ASSOCIATIONS OR FINANCIAL STATUS OF ANY INDIVIDUAL.

24 \* \* \*

25 § 9106. PROHIBITED INFORMATION.

26 [INTELLIGENCE INFORMATION, INVESTIGATIVE INFORMATION AND  
27 TREATMENT INFORMATION SHALL NOT BE COLLECTED IN THE CENTRAL  
28 REPOSITORY NOR IN ANY AUTOMATED OR ELECTRONIC CRIMINAL JUSTICE  
29 INFORMATION SYSTEM. THIS PROHIBITION SHALL NOT PRECLUDE THE  
30 COLLECTION IN THE CENTRAL REPOSITORY OR IN ANY AUTOMATED OR

<—

1 ELECTRONIC CRIMINAL JUSTICE INFORMATION SYSTEM OF NAMES, WORDS,  
2 NUMBERS, PHRASES OR OTHER SIMILAR INDEX KEYS TO SERVE AS INDICES  
3 TO INVESTIGATIVE REPORTS.] INTELLIGENCE INFORMATION,  
4 INVESTIGATIVE INFORMATION AND TREATMENT INFORMATION SHALL NOT BE  
5 COLLECTED IN THE CENTRAL REPOSITORY. INTELLIGENCE INFORMATION  
6 AND INVESTIGATIVE INFORMATION MAY BE COLLECTED BY CRIMINAL  
7 JUSTICE AGENCIES IN ANY AUTOMATED OR COMPUTERIZED ELECTRONIC  
8 SYSTEM WHICH DOES NOT INCLUDE INFORMATION INDICATING THE  
9 IDENTITY OF ANY INDIVIDUAL. CRIMINAL JUSTICE AGENCIES COLLECTING  
10 INTELLIGENCE OR INVESTIGATIVE INFORMATION WITHIN SUCH A SYSTEM  
11 SHALL BE REQUIRED TO MAINTAIN IDENTIFYING INDEXES OUTSIDE OF  
12 SUCH A SYSTEM, WHICH INDEXES SHALL ONLY BE AVAILABLE TO CRIMINAL  
13 JUSTICE AGENCIES. NOTHING IN THIS SECTION SHALL PREVENT THE  
14 STORAGE OF IDENTIFYING INFORMATION WITHIN AN AUTOMATED OR  
15 COMPUTERIZED ELECTRONIC SYSTEM FOR THE PURPOSE OF IDENTIFYING  
16 INDIVIDUALS FOR WHOM AN ARREST WARRANT OR BENCH WARRANT HAS BEEN  
17 ISSUED AND IS YET UNSERVED.

18 § 9121. GENERAL REGULATIONS.

19 (A) DISSEMINATION TO CRIMINAL JUSTICE AGENCIES.--CRIMINAL  
20 HISTORY RECORD INFORMATION MAINTAINED BY ANY CRIMINAL JUSTICE  
21 AGENCY SHALL BE DISSEMINATED WITHOUT CHARGE TO ANY CRIMINAL  
22 JUSTICE AGENCY OR [A] TO ANY NONCRIMINAL JUSTICE AGENCY THAT IS  
23 PROVIDING A SERVICE FOR WHICH A CRIMINAL JUSTICE AGENCY IS  
24 RESPONSIBLE.

25 (B) DISSEMINATION TO NONCRIMINAL JUSTICE AGENCIES AND  
26 INDIVIDUALS.--CRIMINAL HISTORY RECORD INFORMATION SHALL [ONLY]  
27 BE DISSEMINATED BY A [LAW ENFORCEMENT AGENCY] STATE OR LOCAL  
28 POLICE DEPARTMENT TO ANY INDIVIDUAL OR NONCRIMINAL JUSTICE  
29 AGENCY [OTHER THAN A CRIMINAL JUSTICE AGENCY] ONLY UPON REQUEST:

30 (1) A FEE MAY BE CHARGED BY A [LAW ENFORCEMENT AGENCY]

1     STATE OR LOCAL POLICE DEPARTMENT FOR EACH REQUEST FOR [THE]  
2     CRIMINAL HISTORY RECORD INFORMATION BY AN INDIVIDUAL OR  
3     NONCRIMINAL JUSTICE AGENCY [OTHER THAN A CRIMINAL JUSTICE  
4     AGENCY].

5           (2)   BEFORE A [LAW ENFORCEMENT AGENCY] STATE OR LOCAL  
6     POLICE DEPARTMENT DISSEMINATES CRIMINAL HISTORY RECORD  
7     INFORMATION TO AN INDIVIDUAL OR NONCRIMINAL JUSTICE AGENCY  
8     [OTHER THAN A CRIMINAL JUSTICE AGENCY], IT SHALL EXTRACT FROM  
9     THE RECORD ALL NOTATIONS OF ARRESTS, INDICTMENTS OR OTHER  
10    INFORMATION RELATING TO THE INITIATION OF CRIMINAL  
11    PROCEEDINGS WHERE: [THERE IS A DISPOSITION OF ACQUITTAL,  
12    CHARGES ARE DISMISSED OR WITHDRAWN, A NOLLE PROSEQUI IS  
13    ENTERED, THE PROCEEDINGS ARE INDEFINITELY POSTPONED OR THE  
14    INDIVIDUAL IS OTHERWISE NOT FOUND GUILTY OF COMMITTING AN  
15    ALLEGED CRIMINAL ACT WHERE THREE YEARS HAVE ELAPSED FROM THE  
16    TIME OF ARREST AND NO PROCEEDINGS ARE PENDING SEEKING  
17    CONVICTION OR WHERE THE CONVICTION HAS OCCURRED.]

18           (I)   THREE YEARS HAVE ELAPSED FROM THE DATE OF  
19     ARREST;

20           (II)   NO CONVICTION HAS OCCURRED; AND

21           (III)   NO PROCEEDINGS ARE PENDING SEEKING A  
22     CONVICTION.

23     \* \* \*

24    § 9123.   JUVENILE RECORDS.

25           (A)   EXPUNGEMENT OF JUVENILE RECORDS.--NOTWITHSTANDING THE  
26    PROVISIONS OF SECTION 9105 (RELATING TO OTHER CRIMINAL JUSTICE  
27    INFORMATION) AND EXCEPT UPON CAUSE SHOWN, EXPUNGEMENT OF RECORDS  
28    OF JUVENILE DELINQUENCY CASES WHEREVER KEPT OR RETAINED SHALL  
29    OCCUR AFTER TEN DAYS NOTICE TO THE DISTRICT ATTORNEY, WHENEVER  
30    THE COURT UPON ITS MOTION OR UPON THE MOTION OF A CHILD OR THE

PARENTS OR GUARDIAN FINDS:

(1) A COMPLAINT IS FILED WHICH IS NOT SUBSTANTIATED OR THE PETITION WHICH IS FILED AS A RESULT OF A COMPLAINT IS DISMISSED BY THE COURT OTHER THAN AS A RESULT OF [AN INFORMAL ADJUSTMENT] A CONSENT DECREE;

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

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

\* \* \*

§ 9131. SECURITY REQUIREMENTS FOR REPOSITORIES.

EVERY CRIMINAL JUSTICE AGENCY COLLECTING, STORING OR DISSEMINATING CRIMINAL HISTORY RECORD INFORMATION SHALL ENSURE THE CONFIDENTIALITY AND SECURITY OF CRIMINAL HISTORY RECORD INFORMATION BY PROVIDING THAT WHEREVER SUCH INFORMATION IS MAINTAINED, A CRIMINAL JUSTICE AGENCY MUST:

(1) INSTITUTE PROCEDURES TO REASONABLY PROTECT ANY REPOSITORY FROM THEFT, FIRE, SABOTAGE, FLOOD, WIND OR OTHER NATURAL OR MAN-MADE DISASTERS.

(2) SELECT, SUPERVISE AND TRAIN ALL PERSONNEL AUTHORIZED TO HAVE ACCESS TO CRIMINAL HISTORY RECORD INFORMATION.

(3) ENSURE THAT, WHERE COMPUTERIZED DATA PROCESSING IS EMPLOYED, THE EQUIPMENT UTILIZED FOR MAINTAINING CRIMINAL HISTORY RECORD INFORMATION IS SOLELY DEDICATED TO PURPOSES RELATED TO THE ADMINISTRATION OF CRIMINAL JUSTICE, OR, IF THE EQUIPMENT IS NOT USED SOLELY FOR THE ADMINISTRATION OF

1 CRIMINAL JUSTICE, THE CRIMINAL JUSTICE AGENCY SHALL BE  
2 ACCORDED EQUAL MANAGEMENT PARTICIPATION IN COMPUTER  
3 OPERATIONS USED TO MAINTAIN THE CRIMINAL HISTORY RECORD  
4 INFORMATION.

5 [(4) PROVIDE THAT CRIMINAL HISTORY RECORD INFORMATION  
6 MAINTAINED IN A REPOSITORY IS DISSEMINATED UPON PROPER  
7 VALIDATION ONLY TO THOSE INDIVIDUALS AND AGENCIES AUTHORIZED  
8 TO RECEIVE THE INFORMATION BY THE PROVISIONS OF THIS  
9 CHAPTER.]

10 § 9161. DUTIES OF THE ATTORNEY GENERAL.

11 THE ATTORNEY GENERAL SHALL HAVE THE POWER AND AUTHORITY TO:

12 (1) ESTABLISH RULES AND REGULATIONS FOR CRIMINAL HISTORY  
13 RECORD INFORMATION WITH RESPECT TO SECURITY, COMPLETENESS,  
14 ACCURACY, INDIVIDUAL ACCESS AND REVIEW, QUALITY CONTROL AND  
15 AUDITS OF REPOSITORIES.

16 (2) ESTABLISH [A UNIFORM SCHEDULE OF REASONABLE FEES]  
17 THE MAXIMUM FEES WHICH MAY BE CHARGED FOR THE COSTS OF  
18 REPRODUCING CRIMINAL HISTORY RECORD INFORMATION FOR  
19 INDIVIDUAL ACCESS AND REVIEW [AND] FOR RESEARCH OR  
20 STATISTICAL PURPOSES AND FOR ACCESS BY NONCRIMINAL JUSTICE  
21 AGENCIES AND INDIVIDUALS.

22 (3) MAKE INVESTIGATIONS CONCERNING ALL MATTERS TOUCHING  
23 THE ADMINISTRATION AND ENFORCEMENT OF THIS CHAPTER AND THE  
24 RULES AND REGULATIONS PROMULGATED THEREUNDER.

25 (4) INSTITUTE CIVIL [AND CRIMINAL] PROCEEDINGS FOR  
26 VIOLATIONS OF THIS CHAPTER AND THE RULES AND REGULATIONS  
27 ADOPTED THEREUNDER.

28 (5) CONDUCT ANNUAL AUDITS OF THE CENTRAL REPOSITORY AND  
29 OF A REPRESENTATIVE SAMPLE OF ALL REPOSITORIES WITHIN THE  
30 COMMONWEALTH, COLLECTING, COMPILING, MAINTAINING AND

1 DISSEMINATING CRIMINAL HISTORY RECORD INFORMATION.

2 (6) APPOINT SUCH EMPLOYEES AND AGENTS AS IT MAY DEEM  
3 NECESSARY.

4 § 9181. GENERAL ADMINISTRATIVE SANCTIONS.

5 ANY PERSON, INCLUDING ANY AGENCY OR ORGANIZATION, WHO  
6 VIOLATES THE PROVISIONS OF THIS CHAPTER OR ANY REGULATIONS OR  
7 RULES PROMULGATED UNDER IT MAY:

8 (1) BE DENIED ACCESS TO SPECIFIED CRIMINAL HISTORY  
9 RECORD INFORMATION FOR SUCH PERIOD OF TIME AS THE ATTORNEY  
10 GENERAL DEEMS APPROPRIATE.

11 (2) BE SUBJECT TO CIVIL [OR CRIMINAL] PENALTIES OR OTHER  
12 REMEDIES AS PROVIDED FOR IN THIS CHAPTER.

13 (3) IN THE CASE OF AN EMPLOYEE OF ANY AGENCY WHO  
14 VIOLATES ANY PROVISION OF THIS CHAPTER, 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 2. This act shall take effect immediately.