
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2095 Session of
1978

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

SENATOR O'PAKE, JUDICIARY, IN SENATE, AS AMENDED, SEPTEMBER
27, 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 Police.

2 "Criminal history record information." Information collected
3 by criminal justice agencies concerning individuals, consisting
4 of identifiable descriptions, dates and notations of arrests,
5 detentions, indictments, informations or other formal charges
6 and any dispositions arising therefrom. The term does not
7 include intelligence information, investigative information or
8 treatment information, including medical and psychological
9 information, or information and records specified in section
10 104.

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

22 "Disposition." Information indicating that criminal
23 proceedings have been concluded, including information
24 disclosing that police have elected not to refer a matter for
25 prosecution, that a prosecuting authority has elected not to
26 commence criminal proceedings or that a grand jury has failed to
27 indict and disclosing the nature of the termination of the
28 proceedings; or information disclosing that proceedings have
29 been indefinitely postponed and also disclosing the reason for
30 such postponement. Dispositions of criminal proceedings in the

1 Commonwealth shall include, but not be limited to, acquittal,
2 acquittal by reason of insanity, pretrial probation or
3 diversion, charge dismissed, guilty plea, nolle prosequi, no
4 information filed, nolo contendere plea, convicted, abatement,
5 discharge under rules of the Pennsylvania Rules of Criminal
6 Procedure, demurrer sustained, pardoned, sentence commuted,
7 mistrial-defendant discharged, discharge from probation or
8 parole or correctional supervision.

9 "Dissemination." The oral or written transmission or
10 disclosure of criminal history record information, ~~including the~~ <—
11 ~~confirmation of its existence or nonexistence,~~ to individuals or
12 agencies other than the criminal justice agency which maintains
13 the information.

14 "Expunge."

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

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

20 "Repository." Any location in which criminal history record
21 information is collected, compiled, maintained and disseminated
22 by a criminal justice agency.

23 "Secondary dissemination." The subsequent transmission or
24 disclosure of criminal history record information received from
25 a repository or confirmation of the existence or nonexistence of
26 criminal history record information received from a repository.

27 Section 103. Applicability.

28 This act shall apply to persons within the Commonwealth and
29 to any agency of the Commonwealth or its political subdivisions
30 which collects, maintains, disseminates or receives criminal

1 history record information.

2 Section 104. Scope.

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

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

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

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

12 (4) Announcements of executive clemency.

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

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

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

30 (e) Nothing in this act shall prohibit a criminal justice

1 agency from disclosing an individual's prior criminal activity
2 to an individual or agency if the information disclosed is based
3 on records set forth in section 104.

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

7 Section 105. Other criminal justice information.

8 Nothing in this act shall be construed to apply to
9 information concerning juveniles, except as provided in section
10 304, unless they have been adjudicated as adults, nor shall it
11 apply to intelligence information, investigative information,
12 treatment information, including medical and psychiatric
13 information, caution indicator information, modus operandi
14 information, wanted persons information, stolen property
15 information, missing persons information, employment history
16 information, personal history information, nor presentence
17 investigation information. Criminal history record information
18 maintained as a part of these records shall not be disseminated
19 unless in compliance with the provisions of this act.

20 SECTION 106. PROHIBITED INFORMATION.

<—

21 THE FOLLOWING KINDS OF INFORMATION SHALL NOT BE COLLECTED IN
22 THE CENTRAL REPOSITORY NOR IN ANY AUTOMATED OR ELECTRONIC
23 CRIMINAL JUSTICE INFORMATION SYSTEM:

24 (1) INTELLIGENCE INFORMATION;

25 (2) INVESTIGATIVE INFORMATION; AND

26 (3) TREATMENT INFORMATION, INCLUDING BUT NOT LIMITED TO
27 MEDICAL OR PSYCHOLOGICAL INFORMATION.

28 CHAPTER 2

29 COMPLETENESS AND ACCURACY

30 Section 201. Duties of criminal justice agencies.

1 It shall be the duty of every criminal justice agency within
2 the Commonwealth to maintain complete and accurate criminal
3 history record information ~~as required by the Privacy and~~ <—
4 ~~Security Council as provided in Chapter 7~~ and to report such
5 information at such times and in such manner as required by the
6 provisions of this or other acts.

7 Section 202. Mandatory fingerprinting.

8 (a) Fingerprints of all persons arrested for a felony,
9 misdemeanor or summary offense which becomes a misdemeanor on a
10 second arrest after conviction of that summary offense, shall be
11 taken by the arresting authority, and within 48 hours of the
12 arrest, shall be forwarded to, and in a manner and such a form
13 as provided by, the central repository.

14 (b) Where private complaints for a felony or misdemeanor
15 result in a conviction or offenses under 18 Pa.C.S. § 3929
16 (relating to retail theft), the issuing authority shall order
17 the defendant to submit for fingerprinting by the municipal
18 police of the jurisdiction in which the offense allegedly was
19 committed or in the absence of a police department the State
20 police. Fingerprints so obtained shall be forwarded immediately
21 to the central repository.

22 (c) The central repository shall transmit the criminal
23 history record information to the criminal justice agency which
24 submitted the fingerprint card.

25 Section 203. Disposition reporting by criminal justice
26 agencies.

27 (a) All criminal justice agencies, including but not limited
28 to, courts, county, regional and State correctional institutions
29 and parole and probation agencies, shall collect and submit
30 reports of dispositions occurring within their respective

1 agencies for criminal history record information, within 90 days
2 of the date of such disposition to the central repository as
3 provided for in this section.

4 (b) Courts shall collect and submit criminal court
5 dispositions as required by the Administrative Office of
6 Pennsylvania Courts.

7 (c) County ~~and~~, regional AND STATE correctional institutions <—
8 shall collect and submit information regarding the admission,
9 release and length of sentence of individuals sentenced to local
10 and county institutions as required by the Bureau of Correction.

11 (d) County probation and parole offices shall collect and
12 submit information relating to the length of time and charges
13 for which an individual is placed under and released from the
14 jurisdiction of such agency as required by the Pennsylvania
15 Board of Probation and Parole.

16 (e) The Administrative Office of Pennsylvania Courts, the
17 Bureau of Correction, the Pennsylvania Board of Probation and
18 Parole and the Pennsylvania Board of Pardons, shall collect and
19 submit to the central repository such information necessary to
20 maintain complete and accurate criminal history record

21 ~~information. Such criminal history record information shall be~~ <—
22 ~~submitted in accordance with the standards for completeness and~~
23 ~~accuracy promulgated by the Privacy and Security Council. Each~~
24 INFORMATION. EACH state agency listed in this subsection shall <—
25 submit to the central repository any reports of dispositions
26 occurring within their respective agencies and such information
27 reported from county and local criminal justice agencies.

28 Section 204. Correction of inaccurate information.

29 Within 15 days of the detection of inaccurate data in a
30 criminal history record, regardless of the manner of discovery,

1 the criminal justice agency which reported the information shall
2 comply with the following procedures to effect correction:

3 (1) Correct its own records.

4 (2) Notify all recipients, including the central
5 repository, of the inaccurate data and the required
6 correction.

7 CHAPTER 3

8 DISSEMINATION OF CRIMINAL HISTORY RECORD INFORMATION

9 Section 301. General regulations.

10 ~~(a) No dissemination of criminal history record information~~ <—
11 ~~is permitted except as provided for by this act or by rule of~~
12 ~~court promulgated by the Supreme Court of Pennsylvania or by~~
13 ~~resolution of either House of the General Assembly. No~~
14 ~~administrative rule or regulation promulgated by any~~
15 ~~Commonwealth agency, referring to or inferring the need for~~
16 ~~criminal history record information, shall be sufficient~~
17 ~~authority for the dissemination of criminal history record~~
18 ~~information.~~

19 (A) THE ATTORNEY GENERAL SHALL ESTABLISH IN ACCORDANCE WITH <—
20 THE PROVISIONS OF THE COMMONWEALTH DOCUMENTS LAW, REGULATIONS
21 CONCERNING THE DISSEMINATION OF CRIMINAL HISTORY RECORD
22 INFORMATION WHICH SHALL DISTINGUISH BETWEEN CONVICTION AND
23 NONCONVICTION DATA. ANY CRIMINAL JUSTICE AGENCY MAY ADOPT ITS
24 OWN RULES OF DISSEMINATION, PROVIDED THEY ARE IN ACCORDANCE WITH
25 THIS ACT, DISTINGUISH BETWEEN CONVICTION AND NONCONVICTION DATA
26 AND ARE MADE PUBLIC IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER
27 8.

28 (b) Any criminal justice agency which disseminates criminal
29 history record information must indicate to the recipient that
30 the information disseminated is only that information contained

1 in its own file, the date of the last entry, and that a summary
2 of the Statewide criminal history record information may be
3 obtained from the central repository.

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

7 (d) No duplication of criminal history record information by
8 any agency or individual receiving criminal history record
9 information is permitted.

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

18 (f) Repositories must enter as a permanent part of an
19 individual's criminal history record information file, a listing
20 of all persons and agencies to whom they have disseminated that
21 particular criminal history record information and the date and
22 purpose for which the information was disseminated. Such listing
23 shall be maintained separate from the record itself.

24 ~~(g) Repositories shall ensure that criminal history record~~ <—
25 ~~information is disseminated only to agencies or individuals~~
26 ~~authorized by the provisions of this act to receive such~~
27 ~~information.~~

28 ~~(h) No agency or individual shall confirm or deny in any~~
29 ~~manner the existence or nonexistence of criminal history record~~
30 ~~information to any person or agency not eligible to receive the~~

1 ~~information itself unless such information is obtained from~~
2 ~~records identified in section 104.~~

3 (i) (G) Any noncriminal justice official, agency or <—
4 organization requesting criminal history record information
5 prior to receipt of any such criminal history record
6 information, must sign a contract with the repository from which
7 it is seeking criminal history record information, agreeing to
8 abide by the provisions of this act. Any such noncriminal
9 justice official, agency or organization entering into such a
10 contract with a repository is bound by and subject to the
11 provisions of this act.

12 ~~(j)~~ (H) Except as otherwise provided in this act, no <—
13 criminal history record information acquired from repositories
14 other than the central repository shall be permanently
15 incorporated into the files or records of the criminal justice
16 agency or individual and must be destroyed upon completion of
17 the specific purpose for which such information was received.

18 ~~Section 302. Access to criminal history record information.~~ <—

19 ~~(a) Except as provided in section 302(c), accesss to~~
20 ~~criminal history record information shall be limited to:~~

21 ~~(1) Criminal justice agencies for the purpose of the~~
22 ~~administration of criminal justice and criminal justice~~
23 ~~agency employment.~~

24 ~~(2) Auditors working under the direction of the Privacy~~
25 ~~and Security Council.~~

26 ~~(3) Such other individuals and agencies authorized by~~
27 ~~statute to receive criminal history record information or~~
28 ~~which require criminal history record information to~~
29 ~~implement a statute expressly referring to criminal conduct~~
30 ~~and containing either requirements or exclusions or both~~

1 ~~expressly based upon such criminal conduct.~~

2 ~~(4) Agencies of Federal, State and foreign governments~~
3 ~~authorized by statute to conduct investigations determining~~
4 ~~employment suitability or eligibility for security~~
5 ~~clearances.~~

6 ~~(5) (i) The chief executive of any Federal, State or~~
7 ~~local government or any governmental body of the same~~
8 ~~required to confirm an appointment or nomination for the~~
9 ~~purpose of determining the suitability of a potential~~
10 ~~appointment or nomination of an individual to a~~
11 ~~governmental position.~~

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

20 ~~(iii) The office of the Governor, in order to assist~~
21 ~~the Governor in the exercise of the pardoning power~~
22 ~~provided by Article IV, section 9 of Constitution of~~
23 ~~Pennsylvania.~~

24 ~~(6) Defense counsel, through the court, for the purpose~~
25 ~~of obtaining criminal history record information about a~~
26 ~~client or witness with regard to a case in progress.~~

27 ~~(7) (i) Individuals and agencies for the express~~
28 ~~purpose of research, evaluative or statistical~~
29 ~~activities, or other services required for administration~~
30 ~~of criminal justice pursuant to an agreement with the~~

1 ~~disseminating agency which authorizes access to criminal~~
2 ~~history record information, limits the use of criminal~~
3 ~~history record information to research, evaluative or~~
4 ~~statistical purposes and ensures the confidentiality and~~
5 ~~security of the criminal history record information,~~
6 ~~consistent with this act. Such individuals and agencies~~
7 ~~are bound by and subject to the provisions of this act.~~

8 ~~(ii) Requests by any noncriminal justice agency,~~
9 ~~individual or organization for criminal history record~~
10 ~~information for research or statistical purposes,~~
11 ~~requiring the identity of persons about whom such records~~
12 ~~are maintained, must be approved by the Privacy and~~
13 ~~Security Council. Any individual or agency requesting~~
14 ~~criminal history record information for research or~~
15 ~~statistical purposes must submit a research proposal to~~
16 ~~the Privacy and Security Council.~~

17 ~~(8) Officials of correctional facilities or~~
18 ~~institutions, with the consent of the individual about whom~~
19 ~~information is sought, may disseminate criminal history~~
20 ~~record information to prospective employers or other~~
21 ~~individuals, when such information is helpful in obtaining~~
22 ~~employment or rehabilitating the individual about whom the~~
23 ~~information relates.~~

24 ~~(9) Any individual, upon request and proper verification~~
25 ~~of identity, for the purpose of reviewing his own criminal~~
26 ~~history record information, according to the procedure set~~
27 ~~forth in Chapter 6.~~

28 ~~(10) Agencies authorized to issue visas or grant~~
29 ~~citizenship.~~

30 ~~(11) Individuals and agencies authorized by a court~~

1 ~~order to receive criminal history record information relating~~
2 ~~to a case in progress.~~

3 ~~(12) Employers for the purpose of determining the~~
4 ~~employment suitability of any prospective employee; provided~~
5 ~~such employer pay a fee established by the Commissioner of~~
6 ~~the Pennsylvania State Police and provided that access shall~~
7 ~~not be given to any employer unless the prospective employee~~
8 ~~shall have given written consent to the inquiry.~~

9 ~~(13) 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~~
13 ~~the 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~~
16 ~~of 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~~
19 ~~which they have legal authority or jurisdiction, including~~
20 ~~services performed under contract or other written agreement~~
21 ~~by any such agency, institution or individual.~~

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

25 ~~(c) Any member of the working press shall, upon written~~
26 ~~request, have access to conviction data contained in criminal~~
27 ~~history record information from the central repository. Each~~
28 ~~request for the criminal history record information of an~~
29 ~~individual shall be a separate inquiry. The central repository~~
30 ~~may impose a fee to cover the cost of complying with the request~~

1 ~~for information from noncriminal agencies upon approval of the~~
2 ~~fee by the Privacy and Security Council.~~

3 Section ~~303~~ 302. Expungement. <—

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

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

15 (2) a court order requires that such nonconviction data
16 be expunged.

17 (b) Criminal history record information may be expunged
18 when:

19 (1) an individual who is the subject of the information
20 reaches 70 years of age and has been free of arrest or
21 prosecution for ten years following final release from
22 confinement or supervision; or

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

25 ~~(c) Requests for criminal history record information which~~ <—
26 ~~has been expunged must be answered only with a statement that no~~
27 ~~such information exists.~~

28 (C) NOTWITHSTANDING, ANY OTHER PROVISION OF THIS ACT, THE <—
29 PROSECUTING ATTORNEY AND THE CENTRAL REPOSITORY SHALL, AND THE
30 COURT MAY, MAINTAIN A LIST OF THE NAMES AND OTHER CRIMINAL

1 HISTORY RECORD INFORMATION OF PERSONS WHOSE RECORDS ARE REQUIRED
2 BY LAW TO BE EXPUNGED, WHERE THE INDIVIDUAL HAS SUCCESSFULLY
3 COMPLETED THE CONDITIONS OF ANY PRE-TRIAL OR POST-TRIAL
4 DIVERSION OR PROBATION PROGRAM. SUCH INFORMATION SHALL BE USED
5 SOLELY FOR THE PURPOSE OF DETERMINING SUBSEQUENT ELIGIBILITY FOR
6 SUCH PROGRAMS. CRIMINAL HISTORY RECORD INFORMATION MAY BE
7 EXPUNGED AS PROVIDED IN SECTION 302(B)(1) AND (2). SUCH
8 INFORMATION SHALL BE MADE AVAILABLE TO ANY COURT UPON REQUEST.

9 (d) Notice of expungement shall promptly be submitted to the
10 central respository which shall notify all criminal justice
11 agencies which have received the criminal history record
12 information to be expunged.

13 (e) Public records listed in section 104 shall not be
14 expunged.

15 (F) NO EXPUNGEMENT SHALL BE MADE WITHOUT TEN DAYS PRIOR <—
16 NOTICE TO THE DISTRICT ATTORNEY OF THE COUNTY WHERE THE ORIGINAL
17 CHARGES WERE FILED.

18 Section ~~304~~ 303. Juvenile records. <—

19 (a) Notwithstanding the provisions of section 105 and except
20 upon cause shown, expungement of records of juvenile delinquency
21 cases wherever kept or retained shall occur AFTER TEN DAYS <—
22 NOTICE TO THE DISTRICT ATTORNEY. When the court upon its motion
23 or upon the motion of a child or the parents or guardian finds:

24 (1) a complaint is filed which is not substantiated or
25 the petition which is filed as a result of a complaint is
26 dismissed by the court;

27 (2) three years have elapsed since the final discharge
28 of the person from commitment, placement, probation or any
29 other disposition and referral and since such final
30 discharge, the person has not been convicted of a felony,

1 REGISTRATION OR PERMIT FOR THE FOLLOWING CAUSES:

2 (1) WHERE THE APPLICANT HAS BEEN CONVICTED OF A FELONY.

3 (2) WHERE THE APPLICANT HAS BEEN CONVICTED OF A
4 MISDEMEANOR WHICH RELATES TO THE TRADE, OCCUPATION OR
5 PROFESSION FOR WHICH THE LICENSE, CERTIFICATE, REGISTRATION
6 OR PERMIT IS SOUGHT.

7 (D) THE BOARD, COMMISSION OR DEPARTMENT SHALL NOTIFY THE
8 INDIVIDUAL IN WRITING OF THE REASONS FOR A DECISION WHICH
9 PROHIBITS THE APPLICANT FROM PRACTICING THE TRADE, OCCUPATION OR
10 PROFESSION IF SUCH DECISION IS BASED IN WHOLE OR PART ON
11 CONVICTION OF ANY CRIME.

12 SECTION 305. USE OF RECORDS FOR EMPLOYMENT.

13 (A) WHENEVER AN EMPLOYER IS IN RECEIPT OF INFORMATION WHICH
14 IS PART OF AN EMPLOYMENT APPLICANT'S CRIMINAL HISTORY RECORD
15 INFORMATION FILE, IT MAY USE THAT INFORMATION FOR THE PURPOSE OF
16 DECIDING WHETHER OR NOT TO HIRE THE APPLICANT, ONLY IN
17 ACCORDANCE WITH THIS SECTION.

18 (B) CONVICTIONS FOR FELONIES, AS WELL AS MISDEMEANOR
19 CONVICTIONS AND ARRESTS FOR OFFENSES, WHICH RELATE TO THE
20 APPLICANT'S SUITABILITY FOR EMPLOYMENT IN THE POSITION FOR WHICH
21 HE HAS APPLIED MAY BE CONSIDERED BY THE EMPLOYER. MISDEMEANOR
22 CONVICTIONS AND ARRESTS FOR OFFENSES WHICH DO NOT RELATE TO THE
23 APPLICANT'S SUITABILITY FOR EMPLOYMENT IN THE POSITION FOR WHICH
24 HE HAS APPLIED SHALL NOT BE CONSIDERED BY THE EMPLOYER.

25 (C) THE EMPLOYER SHALL NOTIFY IN WRITING THE APPLICANT IF
26 THE DECISION NOT TO HIRE THE APPLICANT IS BASED IN WHOLE OR IN
27 PART ON CRIMINAL HISTORY RECORD INFORMATION.

28 CHAPTER 4

29 SECURITY

30 Section 401. Security requirements for repositories.

1 Every criminal justice agency collecting, storing or
2 disseminating criminal history record information shall ensure
3 the confidentiality and security of criminal history record
4 information by providing that wherever such information is
5 maintained, a criminal justice agency must:

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

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

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

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

24 CHAPTER 5

25 AUDIT

26 Section 501. Annual audit of repositories.

27 ~~(a) The Privacy and Security Council shall establish an~~ <—
28 ~~auditing team to~~ (A) THE ATTORNEY GENERAL SHALL conduct annual <—
29 audits of the central repository and of a representative sample
30 of all repositories to ensure that the provisions of this act

1 are upheld.

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

8 (c) The ~~auditing team shall prepare~~ AUDIT SHALL CONTAIN a <—
9 report of deficiencies and recommendations for the correction of
10 such deficiencies. Upon the completion of every audit, the
11 audited agency shall carry out the recommendations within a
12 reasonable period of time unless the audit report is appealed to
13 the ~~Privacy and Security Council~~ ATTORNEY GENERAL and the appeal <—
14 is upheld.

15 (d) The ~~Privacy and Security Council~~ ATTORNEY GENERAL shall <—
16 have the power to modify the corrective measures ~~ordered by the~~ <—
17 ~~auditing team~~ RECOMMENDED BY THE AUDIT. <—

18 Section 502. Quality control.

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

23 CHAPTER 6

24 INDIVIDUAL RIGHT OF ACCESS AND REVIEW

25 Section 601. Right to access and review.

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

29 (b) Persons incarcerated in correctional facilities and
30 institutions may authorize a correctional employee to obtain a

1 copy of their criminal history record information for the
2 purpose of review, challenge and appeal.

3 Section 602. Procedure.

4 (a) The ~~Privacy and Security Council~~ ATTORNEY GENERAL IN <—
5 COOPERATION WITH APPROPRIATE CRIMINAL JUSTICE AGENCIES shall
6 promulgate rules and regulations to implement this section and
7 shall establish 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~~ ATTORNEY GENERAL within 30 days of <—
11 notification of the decision by the criminal justice agency.

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

15 (3) The decision of the ~~Privacy and Security Council~~ <—
16 ATTORNEY GENERAL may be appealed to the Commonwealth Court by <—
17 an aggrieved 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~~

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

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

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

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

~~Section 702. Duties of Privacy and Security Council.~~

RESPONSIBILITY OF ATTORNEY GENERAL

SECTION 701. DUTIES OF THE ATTORNEY GENERAL.

~~The Privacy and Security Council~~ ATTORNEY GENERAL shall have the power and authority to:

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

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

1 ~~(3) Conduct hearings to further the purposes of this~~ <—
2 ~~act.~~

3 ~~(4)~~ (3) Make investigations concerning all matters
4 touching the administration and enforcement of this act and
5 the rules and regulations promulgated thereunder.

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

14 ~~(6) Institute, through the office of the Attorney~~
15 ~~General,~~ (4) INSTITUTE civil and criminal proceedings for <—
16 violations of this act and the rules and regulations adopted
17 thereunder.

18 ~~(7)~~ (5) Conduct annual audits of the central repository <—
19 and of a representative sample of all repositories within the
20 Commonwealth, collecting, compiling, maintaining and
21 disseminating criminal history record information.

22 ~~(8)~~ (6) Appoint such employees and agents as it may deem <—
23 necessary.

24 ~~(9) Define which noncriminal justice agencies may have~~ <—
25 ~~access to criminal history record information as provided in~~
26 ~~section 302.~~

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

29 CHAPTER 8

30 PUBLIC NOTICE

1 Section 801. Requirements of repositories relating to public
2 notice.

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

9 CHAPTER 9

10 SANCTIONS

11 Section 901. General administrative sanctions.

12 Any person, including any agency or organization, who
13 violates the provisions of this act or any regulations or rules
14 promulgated under it may:

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

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

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

25 Section 902. Criminal penalties.

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

28 (1) knowingly requests, obtains or seeks to obtain
29 criminal history record information in violation of this act;
30 or

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

4 Section 903. Civil actions.

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

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

18 (2) A person found, by the court, to have been aggrieved
19 by a violation of this act or the rules or regulations
20 promulgated hereunder, shall be entitled to actual and real
21 damages of not less than \$100 for each violation and to
22 reasonable costs of litigation and attorney's fees. Exemplary
23 and punitive damages of not less than \$1,000 nor more than
24 \$10,000 shall be imposed for any violation of this act, or
25 the rules or regulations adopted hereunder, found to be
26 willful.

27 CHAPTER 10

28 EFFECTIVE DATE AND REPEALER

29 Section 1001. Repealer.

30 All acts and parts of acts are repealed insofar as they are

1 inconsistent herewith.

2 Section 1002. Effective date.

3 (a) This act shall take effect in 90 days ~~except Chapter 7~~ <—
4 and section 202 which shall take effect on July 1, 1979.

5 (b) Required expungement provision in section ~~303~~ 302 (a)(1) <—
6 is not applicable to criminal proceedings initiated or completed
7 prior to the effective date of this act unless requested by the
8 individual as provided in Chapter 6.