

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 101

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO CRIMINAL HISTORY RECORDS AND CRIME INFORMATION; AMENDING SECTION 67-3001, IDAHO CODE, TO DEFINE A TERM AND TO REVISE A DEFINITION; AND AMENDING SECTION 67-3008, IDAHO CODE, TO REQUIRE THAT THE BUREAU OF CRIMINAL IDENTIFICATION IN THE IDAHO STATE POLICE RETAIN CERTAIN PRINTS AND TO PROVIDE THAT REQUESTS FOR EXPUNGEMENT OF CERTAIN PRINT RECORDS BE MADE IN ACCORDANCE WITH BUREAU RULES AND ONLY BE GRANTED UNDER CERTAIN CONDITIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 67-3001, Idaho Code, be, and the same is hereby amended to read as follows:

67-3001. DEFINITIONS. As used in this chapter:

(1) "Administration of criminal justice" means performance of any of the following activities: detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage and dissemination of criminal history record information.

(2) "Bureau" means the bureau of criminal identification in the Idaho state police.

(3) "Court" means any court created by the constitution and laws of the state of Idaho; and clerks of the district court.

(4) "Criminal history records" means physical and automated information on individuals collected and maintained by the Idaho state police as a result of arrest or the initiation of a criminal proceeding by felony summons or information. A criminal history record includes, as defined by department rule, any or all of the following information relating to each event that is subject to fingerprinting under section 67-3004, Idaho Code:

- (a) Information relating to offenders;
- (b) Information relating to arrests;
- (c) Information relating to prosecutions;
- (d) Information relating to the disposition of cases by courts;
- (e) Information relating to sentencing;
- (f) Information relating to probation and parole status; and
- (g) Information relating to offenders received by a correctional agency, facility or other institution.

The term shall not include statistical or analytical records, reports in which individuals are not identified and from which their identities are not ascertainable, criminal intelligence information or criminal investigative information, and source information or records maintained by and held at another criminal justice agency or the court.

(5) "Criminal justice agency" means a governmental agency or subdivision of a government entity that performs the administration of criminal justice pursuant to a statute, and that allocates a substantial portion of its budget to the administration of criminal justice.

(6) "Department" means the Idaho state police.

(7) "Director" means the director of the Idaho state police.

(8) "Disposition" means the formal or informal conclusion of a criminal proceeding at whatever stage it occurs in the criminal justice system.

(9) "Fingerprints" means the fingerprint impressions submitted to and compiled by the bureau, in a manual or automated form, pursuant to section 67-3004, Idaho Code.

(10) "Pecuniary benefit" means any benefit to a person or member of his household in the form of money, property or commercial interests, the primary significance of which is economic gain.

(11) "Rap back" means a program that allows authorized agencies to receive notification of subsequent criminal activity reported on individuals holding positions of trust.

(12) "Retainable offense" means:

(a) A felony; or

(b) A ~~serious~~ misdemeanor as defined by rule adopted under section 67-3003(2), Idaho Code.

(123) "Subject of record" means the person who is or may be the primary subject of a record of criminal justice information or any representative of the person designated by power of attorney or notarized authorization.

(134) "Working day" means each day except Saturday, Sunday, or a legal state holiday.

SECTION 2. That Section 67-3008, Idaho Code, be, and the same is hereby amended to read as follows:

67-3008. RELEASE OF CRIMINAL HISTORY RECORD INFORMATION. (1) All units of state, city and local governments, as well as any agency of the state created by the legislature which require by statute, rule, or local or county ordinance, fingerprinting of applicants or licensees, are authorized to submit fingerprints to the bureau for examination and further submission, if necessary, to the federal bureau of investigation. The bureau shall be the state's sole source of fingerprint submissions for criminal justice and applicant or licensing purposes to the federal bureau of investigation. The bureau shall retain such prints for use in rap back and for criminal justice and humanitarian purposes. Requests for expungement of such print records shall be made in accordance with the bureau's administrative rules and shall only be granted under conditions provided in section 67-3004(10), Idaho Code.

(2) The department shall provide copies of or communicate information from criminal history records to the following:

(a) Criminal justice agencies and the court;

(b) A person or public or private agency, upon written application on a form approved by the director and provided by the department, subject to the following restrictions:

(i) A request for criminal history records must be submitted in writing or as provided by rule. However, the department shall ac-

cept a request presented in person by the subject of the record;  
and

(ii) The request must identify a specific person by name and date of birth. Fingerprints of the person named may be required to establish positive identification; and

(iii) Responding to the request does not interfere with the secure and orderly conduct of the department and would not substantially prejudice or prevent the carrying out of the functions of the department; and

(iv) A record of an arrest that does not contain a disposition after twelve (12) months from the date of arrest may only be disseminated by the department to criminal justice agencies, to the subject of the record, or to a person requesting the criminal history information with a signed release from the subject of the record; and

(v) Any release of criminal history data by the department shall prominently display the statement: "AN ARREST WITHOUT DISPOSITION IS NOT AN INDICATION OF GUILT."

(3) Judicial review of the department's denial of a request for records shall be in accordance with the provisions of section 9-343, Idaho Code.

(4) A request for a criminal history record by a criminal justice agency or a court shall take precedence over all other requests. The department shall adopt rules to set forth the manner by which criminal justice agencies and courts without direct access to the public safety and security information system established by section 19-5202, Idaho Code, may request Idaho criminal history record information.

(5) Unless otherwise provided by law, access authorized under this section to criminal history records does not create a duty upon a person, employer, private agency, or public agency to examine the criminal history record of an applicant, employee or volunteer.

(6) A person or private agency, or public agency, other than the department, shall not disseminate criminal history record information obtained from the department to a person or agency that is not a criminal justice agency or a court without a signed release of the subject of record or unless otherwise provided by law.

(7) Direct access to criminal history record information is regulated by chapter 52, title 19, Idaho Code, and the rules adopted pursuant to that chapter.