

CHAPTER 293

PEACE OFFICERS MUTUAL ASSISTANCE

S. F. 224

AN ACT relating to the jurisdiction of peace officers.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section seven hundred forty-eight point four (748.4),
 2 Code 1973, is amended to read as follows:
 3 748.4 Duties. It shall be the duty of a peace officer and his deputy,
 4 if any, throughout the county, township, or municipality of which he
 5 is such officer, or to which he is assigned or employed under any mutual
 6 assistance arrangement or intergovernmental agreement, to preserve
 7 the peace, to ferret out crime, to apprehend and arrest all criminals,
 8 and insofar as it is within his power, to secure evidence of all crimes
 9 committed, and present the same to the county attorney, grand jury,
 10 mayor or police courts, and to file informations against all persons
 11 whom he knows, or has reason to believe, to have violated the laws of
 12 the state, and to perform all other duties, civil or criminal, pertaining
 13 to his office or enjoined upon him by law. Nothing herein shall be
 14 deemed to curtail the powers and duties otherwise granted to or im-
 15 posed upon peace officers.

Approved May 15, 1973.

CHAPTER 294

CRIMINAL HISTORY DATA

S. F. 115

AN ACT relating to disclosure of criminal history and intelligence data and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. NEW SECTION. Definitions of words and phrases. As
 2 used in this Act, unless the context otherwise requires:
 3 1. "Department" means the department of public safety.
 4 2. "Bureau" means the department of public safety, division of
 5 criminal investigation and bureau of identification.
 6 3. "Criminal history data" means any or all of the following infor-
 7 mation maintained by the department or bureau in a manual or auto-
 8 mated data storage system and individually identified:
 9 a. Arrest data.
 10 b. Conviction data.
 11 c. Disposition data.
 12 d. Correctional data.
 13 4. "Arrest data" means information pertaining to an arrest for a
 14 public offense and includes the charge, date, time, and place. Arrest
 15 data includes arrest warrants for all public offenses outstanding and
 16 not served and includes the filing of charges, by preliminary informa-
 17 tion when filed by a peace officer or law enforcement officer or indict-

18 ment, the date and place of alleged commission and county of juris-
19 diction.

20 5. "Conviction data" means information that a person was con-
21 victed of or entered a plea of guilty to a public offense and includes
22 the date and location of commission and place and court of conviction.

23 6. "Disposition data" means information pertaining to a recorded
24 court proceeding subsequent and incidental to a public offense arrest
25 and includes dismissal of the charge, suspension or deferral of sen-
26 tence.

27 7. "Correctional data" means information pertaining to the status,
28 location and activities of persons under the supervision of the county
29 sheriff, the division of corrections of the department of social serv-
30 ices, board of parole or any other state or local agency performing
31 the same or similar function, but does not include investigative, socio-
32 logical, psychological, economic or other subjective information main-
33 tained by the division of corrections of the department of social serv-
34 ices or board of parole.

35 8. "Public offense" as used in subsections four (4), five (5), and
36 six (6) of this section does not include nonindictable offenses under
37 either chapter three hundred twenty-one (321) of the Code or local
38 traffic ordinances.

39 9. "Individually identified" means criminal history data which
40 relates to a specific person by one or more of the following means of
41 identification:

- 42 a. Name and alias, if any.
- 43 b. Social security number.
- 44 c. Fingerprints.
- 45 d. Other index cross-referenced to paragraphs a, b, or c.
- 46 e. Other individually identifying characteristics.

47 10. "Criminal justice agency" means any agency or department of
48 any level of government which performs as its principal function the
49 apprehension, prosecution, adjudication, incarceration, or rehabilita-
50 tion of criminal offenders.

51 11. "Intelligence data" means information collected where there
52 are reasonable grounds to suspect involvement or participation in
53 criminal activity by any person.

54 12. "Surveillance data" means information on individuals, pertain-
55 ing to participation in organizations, groups, meetings or assemblies,
56 where there are no reasonable grounds to suspect involvement or par-
57 ticipation in criminal activity by any person.

1 **SEC. 2. NEW SECTION. Dissemination of criminal history data.**

2 The department and bureau may provide copies or communicate infor-
3 mation from criminal history data only to criminal justice agencies,
4 or such other public agencies as are authorized by the confidential
5 records council. The bureau shall maintain a list showing the indi-
6 vidual or agency to whom the data is disseminated and the date of dis-
7 semination.

8 Authorized agencies and criminal justice agencies shall request and
9 may receive criminal history data only when:

10 1. The data is for official purposes in connection with prescribed
11 duties, and

12 2. The request for data is based upon name, fingerprints, or other
13 individual identifying characteristics.

14 The provisions of this section and section three (3) of this Act
 15 which relate to the requiring of an individually* identified request
 16 prior to the dissemination or redissemination of criminal history data
 17 shall not apply to the furnishing of criminal history data to the fed-
 18 eral bureau of investigation or to the dissemination or redissemina-
 19 tion of information that an arrest warrant has been or will be issued,
 20 and other relevant information including but not limited to, the
 21 offense and the date and place of alleged commission, individually
 22 identifying characteristics of the person to be arrested, and the court
 23 or jurisdiction issuing the warrant.

1 **SEC. 3. NEW SECTION. Redissemination.** A peace officer, crimi-
 2 nal justice agency, or state or federal regulatory agency shall not
 3 redisseminate criminal history data, within or without the agency,
 4 received from the department or bureau, unless:

5 1. The data is for official purposes in connection with prescribed
 6 duties of a criminal justice agency, and

7 2. The agency maintains a list of the persons receiving the data
 8 and the date and purpose of the dissemination, and

9 3. The request for data is based upon name, fingerprints, or other
 10 individual identification characteristics.

11 A peace officer, criminal justice agency, or state or federal regula-
 12 tory agency shall not redisseminate intelligence data, within or with-
 13 out the agency, received from the department or bureau or from any
 14 other source, except as provided in subsections one (1) and two (2)
 15 of this section.

1 **SEC. 4. NEW SECTION. Statistics.** The department, bureau, or a
 2 criminal justice agency may compile and disseminate criminal history
 3 data in the form of statistical reports derived from such information
 4 or as the basis of further study provided individual identities are not
 5 ascertainable.

6 The bureau may with the approval of the commissioner of public
 7 safety disseminate criminal history data to persons conducting bona
 8 fide research, provided the data is not individually identified.

1 **SEC. 5. NEW SECTION. Right of notice, access and challenge.**
 2 Any person or his attorney with written authorization and finger-
 3 print identification shall have the right to examine criminal history
 4 data filed with the bureau that refers to the person. The bureau may
 5 prescribe reasonable hours and places of examination.

6 Any person who files with the bureau a written statement to the
 7 effect that a statement contained in the criminal history data that
 8 refers to him is nonfactual, or information not authorized by law to
 9 be kept, and requests a correction or elimination of that information
 10 that refers to him shall be notified within twenty days by the bureau,
 11 in writing, of the bureau's decision or order regarding the correction
 12 or elimination. The bureau's decision or order or failure to allow
 13 examination may be appealed to the district court of Polk county by
 14 the person requesting said examination, correction or elimination.
 15 Immediately upon such appeal the court shall order the bureau to
 16 file with the court a certified copy of the criminal history data and in
 17 no other situation shall the bureau furnish an individual or his attor-

*According to enrolled Act.

18 ney with a certified copy, except as provided by this Act.
19 Upon the request of the appellant, the record and evidence in such
20 cases shall be closed to all but the court and its officers, and access
21 thereto shall be refused unless otherwise ordered by the court. The
22 clerk shall maintain a separate docket for such actions. No person,
23 other than the appellant shall permit a copy of any of the testimony
24 or pleadings or the substance thereof to be made available to any per-
25 son other than a party to the action or his attorney. Violation of the
26 provisions of this section shall be a public offense, punishable under
27 section seven (7) of this Act.

28 Whenever the bureau corrects or eliminates data as requested or as
29 ordered by the court, the bureau shall advise all agencies or individ-
30 uals who have received the incorrect information to correct their files.
31 Upon application to the district court and service of notice on the com-
32 missioner of public safety, any individual may request and obtain a
33 list of all persons and agencies who received criminal history data
34 referring to him, unless good cause be shown why the individual should
35 not receive said list.

1 **SEC. 6. NEW SECTION. Civil remedy.** Any person may institute
2 a civil action for damages under chapters twenty-five A (25A) or six
3 hundred thirteen A (613A) of the Code or to restrain the dissemina-
4 tion of his criminal history data or intelligence data in violation of
5 this Act, and any person, agency or governmental body proven to
6 have disseminated or to have requested and received criminal history
7 data or intelligence data in violation of this Act shall be liable for
8 actual damages and exemplary damages for each violation and shall
9 be liable for court costs, expenses, and reasonable attorneys' fees in-
10 curred by the party bringing the action. In no case shall the award
11 for damages be less than one hundred dollars.

1 **SEC. 7. NEW SECTION. Criminal penalties.**
2 1. Any person who willfully requests, obtains, or seeks to obtain
3 criminal history data under false pretenses, or who willfully communi-
4 cates or seeks to communicate criminal history data to any agency
5 or person except in accordance with this Act, or any person con-
6 nected with any research program authorized pursuant to this Act
7 who willfully falsifies criminal history data or any records relating
8 thereto, shall, upon conviction, for each such offense be punished by
9 a fine of not more than one thousand dollars or by imprisonment in
10 the state penitentiary for not more than two years, or by both fine
11 and imprisonment. Any person who knowingly, but without crimi-
12 nal purposes, communicates or seeks to communicate criminal history
13 data except in accordance with this Act shall for each such offense be
14 fined not more than one hundred dollars or be imprisoned not more
15 than ten days.

16 2. Any person who willfully requests, obtains, or seeks to obtain
17 intelligence data under false pretenses, or who willfully communicates
18 or seeks to communicate intelligence data to any agency or person
19 except in accordance with this Act, shall for each such offense be pun-
20 ished by a fine of not more than five thousand dollars or by imprison-
21 ment in the state penitentiary for not more than three years, or by
22 both fine and imprisonment. Any person who knowingly, but without
23 criminal purposes, communicates or seeks to communicate intelli-
24 gence data except in accordance with this Act shall for each such

25 offense be fined not more than five hundred dollars or be imprisoned
26 not more than six months, or both.

27 3. If the person convicted under this section is a peace officer, the
28 conviction shall be grounds for discharge or suspension from duty
29 without pay and if the person convicted is a public official or public
30 employee, the conviction shall be grounds for removal from office.

31 4. Any reasonable grounds for belief that a public employee has
32 violated any provision of this Act shall be grounds for immediate
33 removal from all access to criminal history data and intelligence data.

1 SEC. 8. NEW SECTION. **Intelligence data.** Intelligence data con-
2 tained in the files of the department of public safety or a criminal
3 justice agency shall not be placed within a computer data storage sys-
4 tem.

5 Intelligence data in the files of the department may be disseminated
6 only to a peace officer, criminal justice agency, or state or federal reg-
7 ulatory agency, and only if the department is satisfied that the need
8 to know and the intended use are reasonable. Whenever intelligence
9 data relating to a defendant for the purpose of sentencing has been
10 provided a court, the court shall inform the defendant or his attorney
11 that it is in possession of such data and shall, upon request of the de-
12 fendant or his attorney, permit examination of such data.

13 If the defendant disputes the accuracy of the intelligence data, he
14 shall do so by filing an affidavit stating the substance of the disputed
15 data and wherein it is inaccurate. If the court finds reasonable doubt
16 as to the accuracy of such information, it may require a hearing and
17 the examination of witnesses relating thereto on or before the time
18 set for sentencing.

1 SEC. 9. NEW SECTION. No surveillance data shall be placed in
2 files or manual or automated data storage systems by the department
3 or bureau or by any peace officer or criminal justice agency. Viola-
4 tion of the provisions of this section shall be a public offense punish-
5 able under section seven (7) of this Act.

1 SEC. 10. NEW SECTION. **Rules.** The department shall adopt rules
2 and regulations designed to assure the security and confidentiality of
3 all criminal history data and intelligence data systems.

1 SEC. 11. NEW SECTION. **Education program.** The department
2 shall require an educational program for its employees and the em-
3 ployees of criminal justice agencies on the proper use and control of
4 criminal history data and intelligence data.

1 SEC. 12. NEW SECTION. **Data processing.** Nothing in this Act
2 shall preclude the use of the equipment and hardware of the data
3 processing service center provided for in section nineteen B point
4 three (19B.3), subsection five (5), of the Code for the storage and
5 retrieval of criminal history data. Files shall be stored on the com-
6 puter in such a manner as the files cannot be modified, destroyed,
7 accessed, changed or overlaid* in any fashion by noncriminal justice
8 agency terminals or personnel. That portion of any computer, elec-
9 tronic switch or manual terminal having access to criminal history
10 data stored in the state computer must be under the management con-
11 trol of a criminal justice agency.

*According to enrolled Act.

1 **SEC. 13. NEW SECTION. Review.** The department shall initiate
2 periodic review procedures designed to determine compliance with the
3 provisions of this Act within the department and by criminal justice
4 agencies and to determine that data furnished to them is factual and
5 accurate.

1 **SEC. 14. NEW SECTION. Systems for the exchange of criminal**
2 **history data.** The department shall regulate the participation by all
3 state and local agencies in any system for the exchange of criminal
4 history data, and shall be responsible for assuring the consistency of
5 such participation with the terms and purposes of this Act.
6 Direct access to such systems shall be limited to such criminal jus-
7 tice agencies as are expressly designated for that purpose by the
8 department. The department shall, with respect to telecommunica-
9 tions terminals employed in the dissemination of criminal history
10 data, insure that security is provided over an entire terminal or that
11 portion actually authorized access to criminal history data.

1 **SEC. 15. NEW SECTION. Reports to department.** When it comes
2 to the attention of a sheriff, police department, or other law enforce-
3 ment agency that a public offense has been committed in its jurisdic-
4 tion, it shall be the duty of the law enforcement agency to report
5 information concerning such crimes to the bureau on a form to be
6 furnished by the bureau not more than thirty-five days from the time
7 the crime first comes to the attention of such law enforcement agency.
8 These reports shall be used to generate crime statistics. The bureau
9 shall submit statistics to the governor, legislature and crime commis-
10 sion on a quarterly and yearly basis.

11 When a sheriff, police department or other law enforcement agency
12 makes an arrest which is reported to the bureau, the arresting law
13 enforcement agency and any other law enforcement agency which
14 obtains custody of the arrested person shall furnish a disposition re-
15 port to the bureau whenever the arrested person is transferred to the
16 custody of another law enforcement agency or is released without
17 having a complaint or information filed with any court.

18 Whenever a criminal complaint or information is filed in any court,
19 the clerk shall furnish a disposition report of such case.

20 The disposition report, whether by a law enforcement agency or
21 court, shall be sent to the bureau within thirty days after disposition
22 on a form provided by the bureau.

1 **SEC. 16. NEW SECTION. Review and removal.** At least every
2 year the bureau shall review and determine current status of all Iowa
3 arrests reported after the effective date of this Act which are at least
4 one year old with no disposition data. Any Iowa arrest recorded
5 within a computer data storage system which has no disposition data
6 after five years shall be removed unless there is an outstanding arrest
7 warrant or detainer on such charge.

1 **SEC. 17. NEW SECTION. Exclusions.** Criminal history data in a
2 computer data storage system does not include:

3 1. Arrest or disposition data after the person has been acquitted
4 or the charges dismissed.

1 SEC. 18. NEW SECTION. Public records. Nothing in this Act
2 shall prohibit the public from examining and copying the public rec-
3 ords of any public body or agency as authorized by chapter sixty-eight
4 A (68A) of the Code.

5 Criminal history data and intelligence data in the possession of the
6 department or bureau, or disseminated by the department or bureau,
7 are not public records within the provisions of chapter sixty-eight A
8 (68A) of the Code.

1 SEC. 19. NEW SECTION. There is hereby created a confidential
2 records council consisting of nine regular members. Two members
3 shall be appointed from the house of representatives by the speaker
4 of the house, no more than one of whom shall be from the same party.
5 Two members shall be appointed from the senate by the lieutenant
6 governor, no more than one of whom shall be from the same party.
7 The other members of the council shall be: a judge of the district
8 court appointed by the chief justice of the supreme court, one local
9 law enforcement official, appointed by the governor; the commissioner
10 of public safety or his designee; and two private citizens not con-
11 nected with law enforcement, appointed by the governor. The coun-
12 cil shall select its own chairman. The members shall serve at the
13 pleasure of those by whom their appointments are made.

14 The council shall meet at least annually and at any other time upon
15 the call of the governor, the chairman of the council, or any three of its
16 members. Each council member shall be entitled to reimbursement
17 for actual and necessary expenses incurred in the performance of
18 official duties from funds appropriated to the department of public
19 safety.

20 The council shall have the following responsibilities and duties:

21 1. Shall periodically monitor the operation of governmental infor-
22 mation systems which deal with the collection, storage, use and dis-
23 semination of criminal history or intelligence data.

24 2. Shall review the implementation and effectiveness of legislation
25 and administrative rules and regulations concerning such systems.

26 3. May recommend changes in said rules and regulations and legis-
27 lation to the legislature and the appropriate administrative officials.

28 4. May require such reports from state agencies as may be neces-
29 sary to perform its duties.

30 5. May receive and review complaints from the public concerning
31 the operation of such systems.

32 6. May conduct such inquiries and investigations as it finds appro-
33 priate to achieve the purposes of this Act. Each criminal justice
34 agency in this state and each state and local agency otherwise author-
35 ized access to criminal history data is authorized and directed to fur-
36 nish to the council, upon its request, such statistical data, reports, and
37 other information in its possession as the council deems necessary to
38 carry out its functions under this Act. However, the council and its
39 members, in such capacity, shall not have access to criminal history
40 data or intelligence data unless it is data from which individual identi-
41 ties are not ascertainable or data which has been masked so that indi-
42 vidual identities are not ascertainable. However, the council may
43 examine data from which the identity of an individual is ascertain-
44 able if requested in writing by that individual or his attorney with

45 written authorization and fingerprint identification.
 46 7. Shall annually approve rules and regulations adopted in accord-
 47 ance with section ten (10) of this Act and rules and regulations to
 48 assure the accuracy, completeness and proper purging of criminal his-
 49 tory data.

50 8. Shall approve all agreements, arrangements and systems for the
 51 interstate transmission and exchange of criminal history data.

1 SEC. 20. NEW SECTION. The provisions of sections two (2) and
 2 three (3) of this Act shall not apply to the certifying of an individ-
 3 ual's operating record pursuant to section three hundred twenty-one
 4 A point three (321A.3) of the Code.

Approved July 21, 1973.

This Act was passed by the G. A. before July 1, 1973.

CHAPTER 295

CRIMINAL DEFERRED JUDGMENTS OR SUSPENDED SENTENCES

S. F. 26

AN ACT relating to sentencing in criminal cases; relating to probation and the conditions thereof; providing a procedure for restitution as a condition of probation; providing a procedure for deferring judgment in particular cases; relating to the conditions of parole; and providing procedures necessary thereto.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. NEW SECTION. **Deferred judgment or suspended sen-**
 2 **tence—probation.** The trial court may, upon a plea of guilty, ver-
 3 dict of guilty, or a special verdict upon which a judgment of convic-
 4 tion may be rendered, exercise either of the options contained in sub-
 5 sections one (1) and two (2) of this section. However, this section
 6 shall not apply to the crimes of treason, murder, or violation of section
 7 two hundred four point four hundred one (204.401), subsection one
 8 (1) or two (2) of the Code, to which section two hundred four point
 9 four hundred nine (204.409), subsection two (2) of the Code is not
 10 applicable and which is not proved to be an accommodation offense
 11 under section two hundred four point four hundred ten (204.410) of
 12 the Code.

13 1. With the consent of the defendant, the court may defer judg-
 14 ment and place the defendant on probation upon such terms and con-
 15 ditions as it may require. Upon fulfillment of the terms of probation
 16 the defendant shall be discharged without entry of judgment. Upon
 17 violation of the terms, the court may enter an adjudication of guilt
 18 and proceed as otherwise provided.

19 However, this subsection shall not be available if any of the follow-
 20 ing is true:

21 a. The defendant attempted to kill anyone during the commission of
 22 the offense.

23 b. The defendant purposefully inflicted or attempted to inflict a
 24 serious injury upon anyone during the commission of the offense.
 25 "Serious injury" means death, permanent disability or disfigurement,
 26 protracted loss or impairment of the function of any body member or