

Hansen
Lamberti
Maddox

SSB-3068

Judiciary
Succeeded By

SENATE/HOUSE FILE (CF) LC 2145
BY (PROPOSED DEPARTMENT OF
PUBLIC SAFETY BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the national crime prevention and privacy
2 compact.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 692B.1 CITATION.

2 This chapter may be cited as the "National Crime Prevention
3 and Privacy Compact Act".

4 Sec. 2. NEW SECTION. 692B.2 CRIME PREVENTION AND PRIVACY
5 COMPACT.

6 The national crime prevention and privacy compact is
7 enacted into law and entered into by this state with any other
8 state or jurisdiction legally joining the compact in the form
9 substantially as follows:

10 ARTICLE I -- DEFINITIONS

11 As used in this compact, unless the context clearly
12 requires otherwise:

13 (1) ATTORNEY GENERAL. The term "attorney general" means
14 the attorney general of the United States.

15 (2) COMPACT OFFICER. The term "compact officer" means

16 (A) with respect to the federal government, an official so
17 designated by the director of the FBI; and

18 (B) with respect to a party state, the chief administrator
19 of the state's criminal history record repository or a
20 designee of the chief administrator who is a regular full-time
21 employee of the repository.

22 (3) COUNCIL. The term "council" means the compact council
23 established under Article VI.

24 (4) CRIMINAL HISTORY RECORDS. The term "criminal history
25 records"

26 (A) means information collected by criminal justice
27 agencies on individuals consisting of identifiable
28 descriptions and notations of arrests, detentions,
29 indictments, or other formal criminal charges, and any
30 disposition arising therefrom, including acquittal,
31 sentencing, correctional supervision, or release; and

32 (B) does not include identification information such as
33 fingerprint records if such information does not indicate
34 involvement of the individual with the criminal justice
35 system.

1 (5) CRIMINAL HISTORY RECORD REPOSITORY. The term
2 "criminal history record repository" means the state agency
3 designated by the governor or other appropriate executive
4 official or the legislature of a state to perform centralized
5 record-keeping functions for criminal history records and
6 services in the state.

7 (6) CRIMINAL JUSTICE. The term "criminal justice"
8 includes activities relating to the detection, apprehension,
9 detention, pretrial release, posttrial release, prosecution,
10 adjudication, correctional supervision, or rehabilitation of
11 accused persons or criminal offenders. The administration of
12 criminal justice includes criminal identification activities
13 and the collection, storage, and dissemination of criminal
14 history records.

15 (7) CRIMINAL JUSTICE AGENCY. The term "criminal justice
16 agency"

17 (A) means

18 (i) courts; and

19 (ii) a governmental agency or any subunit thereof that

20 (I) performs the administration of criminal justice

21 pursuant to a statute or executive order; and

22 (II) allocates a substantial part of its annual budget to
23 the administration of criminal justice; and

24 (B) includes federal and state inspectors general offices.

25 (8) CRIMINAL JUSTICE SERVICES. The term "criminal justice
26 services" means services provided by the FBI to criminal
27 justice agencies in response to a request for information
28 about a particular individual or as an update to information
29 previously provided for criminal justice purposes.

30 (9) CRITERION OFFENSE. The term "criterion offense" means
31 any felony or misdemeanor offense not included on the list of
32 nonserious offenses published periodically by the FBI.

33 (10) DIRECT ACCESS. The term "direct access" means access
34 to the national identification index by computer terminal or
35 other automated means not requiring the assistance of or

1 intervention by any other party or agency.

2 (11) EXECUTIVE ORDER. The term "executive order" means an
3 order of the president of the United States or the chief
4 executive officer of a state that has the force of law and
5 that is promulgated in accordance with applicable law.

6 (12) FBI. The term "FBI" means the federal bureau of
7 investigation.

8 (13) INTERSTATE IDENTIFICATION SYSTEM. The term
9 "interstate identification index system" or "III system"

10 (A) means the cooperative federal-state system for the
11 exchange of criminal history records; and

12 (B) includes the national identification index, the
13 national fingerprint file and, to the extent of their
14 participation in such system, the criminal history record
15 repositories of the states and the FBI.

16 (14) NATIONAL FINGERPRINT FILE. The term "national
17 fingerprint file" means a database of fingerprints, or other
18 uniquely personal identifying information, relating to an
19 arrested or charged individual maintained by the FBI to
20 provide positive identification of record subjects indexed in
21 the III System.

22 (15) NATIONAL IDENTIFICATION INDEX. The term "national
23 identification index" means an index maintained by the FBI
24 consisting of names, identifying numbers, and other
25 descriptive information relating to record subjects about whom
26 there are criminal history records in the III system.

27 (16) NATIONAL INDICES. The term "national indices" means
28 the national identification index and the national fingerprint
29 file.

30 (17) NONPARTY STATE. The term "nonparty state" means a
31 state that has not ratified this compact.

32 (18) NONCRIMINAL JUSTICE PURPOSES. The term "noncriminal
33 justice purposes" means uses of criminal history records for
34 purposes authorized by federal or state law other than
35 purposes relating to criminal justice activities, including

1 employment suitability, licensing determinations, immigration
2 and naturalization matters, and national security clearances.

3 (19) PARTY STATE. The term "party state" means a state
4 that has ratified this compact.

5 (20) POSITIVE IDENTIFICATION. The term "positive
6 identification" means a determination, based upon a comparison
7 of fingerprints or other equally reliable biometric
8 identification techniques, that the subject of a record search
9 is the same person as the subject of a criminal history record
10 or records indexed in the III system. Identifications based
11 solely upon a comparison of subjects' names or other nonunique
12 identification characteristics or numbers, or combinations
13 thereof, shall not constitute positive identification.

14 (21) SEALED RECORD INFORMATION. The term "sealed record
15 information" means

16 (A) with respect to adults, that portion of a record that
17 is

- 18 (i) not available for criminal justice uses;
- 19 (ii) not supported by fingerprints or other accepted means
- 20 of positive identification; or
- 21 (iii) subject to restrictions on dissemination for
- 22 noncriminal justice purposes pursuant to a court order related
- 23 to a particular subject or pursuant to a federal or state
- 24 statute that requires action on a sealing petition filed by a
- 25 particular record subject; and

26 (B) with respect to juveniles, whatever each state
27 determines is a sealed record under its own law and procedure.

28 (22) STATE. The term "state" means any state, territory,
29 or possession of the United States, the District of Columbia,
30 and the Commonwealth of Puerto Rico.

31 ARTICLE II -- PURPOSES

32 The purposes of this compact are to

- 33 (1) provide a legal framework for the establishment of a
- 34 cooperative federal state system for the interstate and
- 35 federal state exchange of criminal history records for

1 noncriminal justice uses;

2 (2) require the FBI to permit use of the national
3 identification index and the national fingerprint file by each
4 party state, and to provide, in a timely fashion, federal and
5 state criminal history records to requesting states, in
6 accordance with the terms of this compact and with rules,
7 procedures, and standards established by the council under
8 Article VI;

9 (3) require party states to provide information and
10 records for the national identification index and the national
11 fingerprint file and to provide criminal history records, in a
12 timely fashion, to criminal history record repositories of
13 other states and the federal government for noncriminal
14 justice purposes, in accordance with the terms of this compact
15 and with rules, procedures, and standards established by the
16 council under Article VI;

17 (4) provide for the establishment of a council to monitor
18 III system operations and to prescribe system rules and
19 procedures for the effective and proper operation of the III
20 system for noncriminal justice purposes; and

21 (5) require the FBI and each party state to adhere to III
22 system standards concerning record dissemination and use,
23 response times, system security, data quality, and other duly
24 established standards, including those that enhance the
25 accuracy and privacy of such records.

26 ARTICLE III -- RESPONSIBILITIES OF COMPACT PARTIES

27 (a) FBI RESPONSIBILITIES. The director of the FBI shall

28 (1) appoint an FBI compact officer who shall

29 (A) administer this compact within the department of
30 justice and among federal agencies and other agencies and
31 organizations that submit search requests to the FBI pursuant
32 to Article V(c);

33 (B) ensure that compact provisions and rules, procedures,
34 and standards prescribed by the council under Article VI are
35 complied with by the department of justice and the federal

1 agencies and other agencies and organizations referred to in
2 Article III(1)(A); and

3 (C) regulate the use of records received by means of the
4 III system from party states when such records are supplied by
5 the FBI directly to other federal agencies;

6 (2) provide to federal agencies and to state criminal
7 history record repositories, criminal history records
8 maintained in its database for the noncriminal justice
9 purposes described in Article IV, including

10 (A) information from nonparty states; and

11 (B) information from party states that is available from
12 the FBI through the III system, but is not available from the
13 party state through the III system;

14 (3) provide a telecommunications network and maintain
15 centralized facilities for the exchange of criminal history
16 records for both criminal justice purposes and the noncriminal
17 justice purposes described in Article IV, and ensure that the
18 exchange of such records for criminal justice purposes has
19 priority over exchange for noncriminal justice purposes; and

20 (4) modify or enter into user agreements with nonparty
21 state criminal history record repositories to require them to
22 establish record request procedures conforming to those
23 prescribed in Article V.

24 (b) STATE RESPONSIBILITIES. Each party state shall

25 (1) appoint a compact officer who shall

26 (A) administer this compact within that state;

27 (B) ensure that compact provisions and rules, procedures,
28 and standards established by the council under Article VI are
29 complied with in the state; and

30 (C) regulate the in-state use of records received by means
31 of the III system from the FBI or from other party states;

32 (2) establish and maintain a criminal history record
33 repository, which shall provide

34 (A) information and records for the national
35 identification index and the national fingerprint file; and

1 (B) the state's III system-indexed criminal history
2 records for noncriminal justice purposes described in Article
3 IV;

4 (3) participate in the national fingerprint file; and

5 (4) provide and maintain telecommunications links and
6 related equipment necessary to support the services set forth
7 in this compact.

8 (c) COMPLIANCE WITH III SYSTEM STANDARDS. In carrying out
9 their responsibilities under this compact, the FBI and each
10 party state shall comply with III system rules, procedures,
11 and standards duly established by the council concerning
12 record dissemination and use, response times, data quality,
13 system security, accuracy, privacy protection, and other
14 aspects of III system operation.

15 (d) MAINTENANCE OF RECORD SERVICES.

16 (1) Use of the III system for noncriminal justice purposes
17 authorized in this compact shall be managed so as not to
18 diminish the level of services provided in support of criminal
19 justice purposes.

20 (2) Administration of compact provisions shall not reduce
21 the level of service available to authorized noncriminal
22 justice users on the effective date of this compact.

23 ARTICLE IV -- AUTHORIZED RECORD DISCLOSURES

24 (a) STATE CRIMINAL HISTORY RECORD REPOSITORIES. To the
25 extent authorized by section 552a of title 5, United States
26 Code (commonly known as the Privacy Act of 1974), the FBI
27 shall provide on request criminal history records (excluding
28 sealed records) to state criminal history record repositories
29 for noncriminal justice purposes allowed by federal statute,
30 federal executive order, or a state statute that has been
31 approved by the attorney general and that authorizes national
32 indices checks.

33 (b) CRIMINAL JUSTICE AGENCIES AND OTHER GOVERNMENTAL OR
34 NONGOVERNMENTAL AGENCIES. The FBI, to the extent authorized
35 by section 552a of title 5, United States Code (commonly known

1 as the Privacy Act of 1974), and state criminal history record
2 repositories shall provide criminal history records (excluding
3 sealed records) to criminal justice agencies and other
4 governmental or nongovernmental agencies for noncriminal
5 justice purposes allowed by federal statute, federal executive
6 order, or a state statute that has been approved by the
7 attorney general, that authorizes national indices checks.

8 (c) PROCEDURES. Any record obtained under this compact
9 may be used only for the official purposes for which the
10 record was requested. Each compact officer shall establish
11 procedures, consistent with this compact and with rules,
12 procedures, and standards established by the council under
13 Article VI, which procedures shall protect the accuracy and
14 privacy of the records, and shall

15 (1) ensure that records obtained under this compact are
16 used only by authorized officials for authorized purposes;

17 (2) require that subsequent record checks are requested to
18 obtain current information whenever a new need arises; and

19 (3) ensure that record entries that may not legally be
20 used for a particular noncriminal justice purpose are deleted
21 from the response and, if no information authorized for
22 release remains, an appropriate "no record" response is
23 communicated to the requesting official.

24 ARTICLE V -- RECORD REQUEST PROCEDURES

25 (a) POSITIVE IDENTIFICATION. Subject fingerprints or
26 other approved forms of positive identification shall be
27 submitted with all requests for criminal history record checks
28 for noncriminal justice purposes.

29 (b) SUBMISSION OF STATE REQUESTS. Each request for a
30 criminal history record check utilizing the national indices
31 made under any approved state statute shall be submitted
32 through that state's criminal history record repository. A
33 state criminal history record repository shall process an
34 interstate request for noncriminal justice purposes through
35 the national indices only if such request is transmitted

1 through another state criminal history record repository or
2 the FBI.

3 (c) SUBMISSION OF FEDERAL REQUESTS. Each request for
4 criminal history record checks utilizing the national indices
5 made under federal authority shall be submitted through the
6 FBI or, if the state criminal history record repository
7 consents to process fingerprint submissions, through the
8 criminal history record repository in the state in which such
9 request originated. Direct access to the national
10 identification index by entities other than the FBI and state
11 criminal history records repositories shall not be permitted
12 for noncriminal justice purposes.

13 (d) FEES. A state criminal history record repository or
14 the FBI

15 (1) may charge a fee, in accordance with applicable law,
16 for handling a request involving fingerprint processing for
17 noncriminal justice purposes; and

18 (2) may not charge a fee for providing criminal history
19 records in response to an electronic request for a record that
20 does not involve a request to process fingerprints.

21 (e) ADDITIONAL SEARCH.

22 (1) If a state criminal history record repository cannot
23 positively identify the subject of a record request made for
24 noncriminal justice purposes, the request, together with
25 fingerprints or other approved identifying information, shall
26 be forwarded to the FBI for a search of the national indices.

27 (2) If, with respect to a request forwarded by a state
28 criminal history record repository under paragraph (1), the
29 FBI positively identifies the subject as having a III system
30 indexed record or records

31 (A) the FBI shall so advise the state criminal history
32 record repository; and

33 (B) the state criminal history record repository shall be
34 entitled to obtain the additional criminal history record
35 information from the FBI or other state criminal history

1 record repositories.

2 ARTICLE VI -- ESTABLISHMENT OF COMPACT COUNCIL

3 (a) ESTABLISHMENT.

4 (1) IN GENERAL. There is established a council to be
5 known as the compact council, which shall have the authority
6 to promulgate rules and procedures governing the use of the
7 III system for noncriminal justice purposes, not to conflict
8 with FBI administration of the III system for criminal justice
9 purposes.

10 (2) ORGANIZATION. The council shall

11 (A) continue in existence as long as this compact remains
12 in effect;

13 (B) be located, for administrative purposes, within the
14 FBI; and

15 (C) be organized and hold its first meeting as soon as
16 practicable after the effective date of this compact.

17 (b) MEMBERSHIP. The council shall be composed of fifteen
18 members, each of whom shall be appointed by the attorney
19 general, as follows:

20 (1) Nine members, each of whom shall serve a two-year
21 term, who shall be selected from among the compact officers of
22 party states based on the recommendation of the compact
23 officers of all party states, except that, in the absence of
24 the requisite number of compact officers available to serve,
25 the chief administrators of the criminal history record
26 repositories of nonparty states shall be eligible to serve on
27 an interim basis.

28 (2) Two at-large members, nominated by the director of the
29 FBI, each of whom shall serve a three-year term, of whom

30 (A) One shall be a representative of the criminal justice
31 agencies of the federal government and may not be an employee
32 of the FBI; and

33 (B) One shall be a representative of the noncriminal
34 justice agencies of the federal government.

35 (3) Two at-large members, nominated by the chairperson of

1 the council, once the chairperson is elected pursuant to
2 Article VI(c), each of whom shall serve a three-year term, of
3 whom

4 (A) One shall be a representative of state or local
5 criminal justice agencies; and

6 (B) One shall be a representative of state or local
7 noncriminal justice agencies.

8 (4) One member, who shall serve a three-year term, and who
9 shall simultaneously be a member of the FBI's advisory policy
10 board on criminal justice information services, nominated by
11 the membership of that policy board.

12 (5) One member, nominated by the director of the FBI, who
13 shall serve a three-year term, and who shall be an employee of
14 the FBI.

15 (c) CHAIRPERSON AND VICE CHAIRPERSON.

16 (1) IN GENERAL. From its membership, the council shall
17 elect a chairperson and a vice chairperson of the council,
18 respectively. Both the chairperson and vice chairperson of
19 the council

20 (A) shall be a compact officer, unless there is no compact
21 officer on the council who is willing to serve, in which case
22 the chairperson may be an at-large member; and

23 (B) shall serve a two-year term and may be reelected to
24 only one additional two-year term.

25 (2) DUTIES OF VICE CHAIRPERSON. The vice chairperson of
26 the council shall serve as the chairperson of the council in
27 the absence of the chairperson.

28 (d) MEETINGS.

29 (1) IN GENERAL. The council shall meet at least once each
30 year at the call of the chairperson. Each meeting of the
31 council shall be open to the public. The council shall
32 provide prior public notice in the federal register of each
33 meeting of the council, including the matters to be addressed
34 at such meeting.

35 (2) QUORUM. A majority of the council or any committee of

1 the council shall constitute a quorum of the council or of
2 such committee, respectively, for the conduct of business. A
3 lesser number may meet to hold hearings, take testimony, or
4 conduct any business not requiring a vote.

5 (e) RULES, PROCEDURES, AND STANDARDS. The council shall
6 make available for public inspection and copying at the
7 council office within the FBI, and shall publish in the
8 federal register, any rules, procedures, or standards
9 established by the council.

10 (f) ASSISTANCE FROM FBI. The council may request from the
11 FBI such reports, studies, statistics, or other information or
12 materials as the council determines to be necessary to enable
13 the council to perform its duties under this compact. The
14 FBI, to the extent authorized by law, may provide such
15 assistance or information upon such a request.

16 (g) COMMITTEES. The chairperson may establish committees
17 as necessary to carry out this compact and may prescribe their
18 membership, responsibilities, and duration.

19 ARTICLE VII -- RATIFICATION OF COMPACT

20 This compact shall take effect upon being entered into by
21 two or more states as between those states and the federal
22 government. Upon subsequent entering into this compact by
23 additional states, it shall become effective among those
24 states and the federal government and each party state that
25 has previously ratified it. When ratified, this compact shall
26 have the full force and effect of law within the ratifying
27 jurisdictions. The form of ratification shall be in
28 accordance with the laws of the executing state.

29 ARTICLE VIII -- MISCELLANEOUS PROVISIONS

30 (a) RELATION OF COMPACT TO CERTAIN FBI ACTIVITIES.

31 Administration of this compact shall not interfere with the
32 management and control of the director of the FBI over the
33 FBI's collection and dissemination of criminal history records
34 and the advisory function of the FBI's advisory policy board
35 chartered under the Federal Advisory Committee Act (5 U.S.C.

1 App.) for all purposes other than noncriminal justice.

2 (b) NO AUTHORITY FOR NONAPPROPRIATED EXPENDITURES.

3 Nothing in this compact shall require the FBI to obligate or
4 expend funds beyond those appropriated to the FBI.

5 (c) RELATING TO PUBLIC LAW 92-544. Nothing in this
6 compact shall diminish or lessen the obligations,
7 responsibilities, and authorities of any state, whether a
8 party state or a nonparty state, or of any criminal history
9 record repository or other subdivision or component thereof,
10 under the Departments of State, Justice, and Commerce, the
11 Judiciary, and Related Agencies Appropriation Act, 1973
12 (Public Law 92-544), or regulations and guidelines promulgated
13 thereunder, including the rules and procedures promulgated by
14 the council under Article VI(a), regarding the use and
15 dissemination of criminal history records and information.

16 ARTICLE IX -- RENUNCIATION

17 (a) IN GENERAL. This compact shall bind each party state
18 until renounced by the party state.

19 (b) EFFECT. Any renunciation of this compact by a party
20 state shall

21 (1) be effected in the same manner by which the party
22 state ratified this compact; and

23 (2) become effective one hundred eighty days after written
24 notice of renunciation is provided by the party state to each
25 other party state and to the federal government.

26 ARTICLE X -- SEVERABILITY

27 The provisions of this compact shall be severable, and if
28 any phrase, clause, sentence, or provision of this compact is
29 declared to be contrary to the constitution of any
30 participating state, or to the Constitution of the United
31 States, or the applicability thereof to any government,
32 agency, person, or circumstance is held invalid, the validity
33 of the remainder of this compact and the applicability thereof
34 to any government, agency, person, or circumstance shall not
35 be affected thereby. If a portion of this compact is held

1 contrary to the constitution of any party state, all other
2 portions of this compact shall remain in full force and effect
3 as to the remaining party states and in full force and effect
4 as to the party state affected, as to all other provisions.

5 ARTICLE XI -- ADJUDICATION OF DISPUTES

6 (a) IN GENERAL. The council shall

7 (1) have initial authority to make determinations with
8 respect to any dispute regarding

9 (A) interpretation of this compact;

10 (B) any rule or standard established by the council
11 pursuant to Article V; and

12 (C) any dispute or controversy between any parties
13 to this compact; and

14 (2) hold a hearing concerning any dispute described in
15 paragraph (1) at a regularly scheduled meeting of the council
16 and only render a decision based upon a majority vote of the
17 members of the council. Such decision shall be published
18 pursuant to the requirements of Article VI(e).

19 (b) DUTIES OF FBI. The FBI shall exercise immediate and
20 necessary action to preserve the integrity of the III system,
21 maintain system policy and standards, protect the accuracy and
22 privacy of records, and to prevent abuses, until the council
23 holds a hearing on such matters.

24 (c) RIGHT OF APPEAL. The FBI or a party state may appeal
25 any decision of the council to the attorney general, and
26 thereafter may file suit in the appropriate district court of
27 the United States, which shall have original jurisdiction of
28 all cases or controversies arising under this compact. Any
29 suit arising under this compact and initiated in a state court
30 shall be removed to the appropriate district court of the
31 United States in the manner provided by section 1446 of title
32 28, United States Code, or other statutory authority.

33 Sec. 3. NEW SECTION. 692B.3 DUTY OF COMMISSIONER.

34 The commissioner of public safety shall be responsible to
35 implement and administer this compact.

EXPLANATION

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This bill enacts the crime prevention and privacy compact Act of 1998.

The bill organizes an electronic information sharing system between the federal government and states for the purposes of exchanging criminal history records, excluding sealed records, for purposes such as background checks for governmental licensing or employment, immigration matters, and national security clearances. The bill requires that any record obtained under this bill may only be used for the purpose for which the record was requested.

Under the bill, the FBI, this state, and other states that are party to the compact, agree to maintain their own criminal history database which includes arrest and disposition records, and make such records available to the federal government or other states for background checks for noncriminal purposes.

The bill requires the states to provide information and records for the national identification index and the national fingerprint file. The bill provides that a compact council appointed by the attorney general of the United States shall have the authority to adopt rules and procedures to administer the use of the national identification system, which includes the national fingerprint file.

The bill provides that the commissioner of public safety shall implement and administer the sharing of criminal history records.

H 2/29/00
H - 3/9/00
H. 362/00
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Calendar

SENATE FILE 2145
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3068)

Passed Senate, Date ^(p. 418) 2/28/00 Passed House, Date ^(P. 1031) 3-28-00
Vote: Ayes 46 Nays 0 Vote: Ayes 96 Nays 0
Approved 4-7-00

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SF 2145

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31 sentencing, correctional supervision, or release; and

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3 designated by the governor or other appropriate executive
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28 about a particular individual or as an update to information
29 previously provided for criminal justice purposes.

30 (9) CRITERION OFFENSE. The term "criterion offense" means
31 any felony or misdemeanor offense not included on the list of
32 nonserious offenses published periodically by the FBI.

33 (10) DIRECT ACCESS. The term "direct access" means access
34 to the national identification index by computer terminal or
35 other automated means not requiring the assistance of or

1 intervention by any other party or agency.

2 (11) EXECUTIVE ORDER. The term "executive order" means an
3 order of the president of the United States or the chief
4 executive officer of a state that has the force of law and
5 that is promulgated in accordance with applicable law.

6 (12) FBI. The term "FBI" means the federal bureau of
7 investigation.

8 (13) INTERSTATE IDENTIFICATION SYSTEM. The term
9 "interstate identification index system" or "III system"

10 (A) means the cooperative federal-state system for the
11 exchange of criminal history records; and

12 (B) includes the national identification index, the
13 national fingerprint file and, to the extent of their
14 participation in such system, the criminal history record
15 repositories of the states and the FBI.

16 (14) NATIONAL FINGERPRINT FILE. The term "national
17 fingerprint file" means a database of fingerprints, or other
18 uniquely personal identifying information, relating to an
19 arrested or charged individual maintained by the FBI to
20 provide positive identification of record subjects indexed in
21 the III System.

22 (15) NATIONAL IDENTIFICATION INDEX. The term "national
23 identification index" means an index maintained by the FBI
24 consisting of names, identifying numbers, and other
25 descriptive information relating to record subjects about whom
26 there are criminal history records in the III system.

27 (16) NATIONAL INDICES. The term "national indices" means
28 the national identification index and the national fingerprint
29 file.

30 (17) NONPARTY STATE. The term "nonparty state" means a
31 state that has not ratified this compact.

32 (18) NONCRIMINAL JUSTICE PURPOSES. The term "noncriminal
33 justice purposes" means uses of criminal history records for
34 purposes authorized by federal or state law other than
35 purposes relating to criminal justice activities, including

1 employment suitability, licensing determinations, immigration
2 and naturalization matters, and national security clearances.

3 (19) PARTY STATE. The term "party state" means a state
4 that has ratified this compact.

5 (20) POSITIVE IDENTIFICATION. The term "positive
6 identification" means a determination, based upon a comparison
7 of fingerprints or other equally reliable biometric
8 identification techniques, that the subject of a record search
9 is the same person as the subject of a criminal history record
10 or records indexed in the III system. Identifications based
11 solely upon a comparison of subjects' names or other nonunique
12 identification characteristics or numbers, or combinations
13 thereof, shall not constitute positive identification.

14 (21) SEALED RECORD INFORMATION. The term "sealed record
15 information" means

16 (A) with respect to adults, that portion of a record that
17 is

18 (i) not available for criminal justice uses;

19 (ii) not supported by fingerprints or other accepted means
20 of positive identification; or

21 (iii) subject to restrictions on dissemination for
22 noncriminal justice purposes pursuant to a court order related
23 to a particular subject or pursuant to a federal or state
24 statute that requires action on a sealing petition filed by a
25 particular record subject; and

26 (B) with respect to juveniles, whatever each state
27 determines is a sealed record under its own law and procedure.

28 (22) STATE. The term "state" means any state, territory,
29 or possession of the United States, the District of Columbia,
30 and the Commonwealth of Puerto Rico.

31 ARTICLE II -- PURPOSES

32 The purposes of this compact are to

33 (1) provide a legal framework for the establishment of a
34 cooperative federal-state system for the interstate and
35 federal-state exchange of criminal history records for

1 noncriminal justice uses;

2 (2) require the FBI to permit use of the national
3 identification index and the national fingerprint file by each
4 party state, and to provide, in a timely fashion, federal and
5 state criminal history records to requesting states, in
6 accordance with the terms of this compact and with rules,
7 procedures, and standards established by the council under
8 Article VI;

9 (3) require party states to provide information and
10 records for the national identification index and the national
11 fingerprint file and to provide criminal history records, in a
12 timely fashion, to criminal history record repositories of
13 other states and the federal government for noncriminal
14 justice purposes, in accordance with the terms of this compact
15 and with rules, procedures, and standards established by the
16 council under Article VI;

17 (4) provide for the establishment of a council to monitor
18 III system operations and to prescribe system rules and
19 procedures for the effective and proper operation of the III
20 system for noncriminal justice purposes; and

21 (5) require the FBI and each party state to adhere to III
22 system standards concerning record dissemination and use,
23 response times, system security, data quality, and other duly
24 established standards, including those that enhance the
25 accuracy and privacy of such records.

26 ARTICLE III -- RESPONSIBILITIES OF COMPACT PARTIES

27 (a) FBI RESPONSIBILITIES. The director of the FBI shall

28 (1) appoint an FBI compact officer who shall

29 (A) administer this compact within the department of
30 justice and among federal agencies and other agencies and
31 organizations that submit search requests to the FBI pursuant
32 to Article V(c);

33 (B) ensure that compact provisions and rules, procedures,
34 and standards prescribed by the council under Article VI are
35 complied with by the department of justice and the federal

1 agencies and other agencies and organizations referred to in
2 Article III(1)(A); and

3 (C) regulate the use of records received by means of the
4 III system from party states when such records are supplied by
5 the FBI directly to other federal agencies;

6 (2) provide to federal agencies and to state criminal
7 history record repositories, criminal history records
8 maintained in its database for the noncriminal justice
9 purposes described in Article IV, including

10 (A) information from nonparty states; and

11 (B) information from party states that is available from
12 the FBI through the III system, but is not available from the
13 party state through the III system;

14 (3) provide a telecommunications network and maintain
15 centralized facilities for the exchange of criminal history
16 records for both criminal justice purposes and the noncriminal
17 justice purposes described in Article IV, and ensure that the
18 exchange of such records for criminal justice purposes has
19 priority over exchange for noncriminal justice purposes; and

20 (4) modify or enter into user agreements with nonparty
21 state criminal history record repositories to require them to
22 establish record request procedures conforming to those
23 prescribed in Article V.

24 (b) STATE RESPONSIBILITIES. Each party state shall

25 (1) appoint a compact officer who shall

26 (A) administer this compact within that state;

27 (B) ensure that compact provisions and rules, procedures,
28 and standards established by the council under Article VI are
29 complied with in the state; and

30 (C) regulate the in-state use of records received by means
31 of the III system from the FBI or from other party states;

32 (2) establish and maintain a criminal history record
33 repository, which shall provide

34 (A) information and records for the national

35 identification index and the national fingerprint file; and

1 (B) the state's III system-indexed criminal history
2 records for noncriminal justice purposes described in Article
3 IV;

4 (3) participate in the national fingerprint file; and

5 (4) provide and maintain telecommunications links and
6 related equipment necessary to support the services set forth
7 in this compact.

8 (c) COMPLIANCE WITH III SYSTEM STANDARDS. In carrying out
9 their responsibilities under this compact, the FBI and each
10 party state shall comply with III system rules, procedures,
11 and standards duly established by the council concerning
12 record dissemination and use, response times, data quality,
13 system security, accuracy, privacy protection, and other
14 aspects of III system operation.

15 (d) MAINTENANCE OF RECORD SERVICES.

16 (1) Use of the III system for noncriminal justice purposes
17 authorized in this compact shall be managed so as not to
18 diminish the level of services provided in support of criminal
19 justice purposes.

20 (2) Administration of compact provisions shall not reduce
21 the level of service available to authorized noncriminal
22 justice users on the effective date of this compact.

23 ARTICLE IV -- AUTHORIZED RECORD DISCLOSURES

24 (a) STATE CRIMINAL HISTORY RECORD REPOSITORIES. To the
25 extent authorized by section 552a of title 5, United States
26 Code (commonly known as the Privacy Act of 1974), the FBI
27 shall provide on request criminal history records (excluding
28 sealed records) to state criminal history record repositories
29 for noncriminal justice purposes allowed by federal statute,
30 federal executive order, or a state statute that has been
31 approved by the attorney general and that authorizes national
32 indices checks.

33 (b) CRIMINAL JUSTICE AGENCIES AND OTHER GOVERNMENTAL OR
34 NONGOVERNMENTAL AGENCIES. The FBI, to the extent authorized
35 by section 552a of title 5, United States Code (commonly known

1 as the Privacy Act of 1974), and state criminal history record
2 repositories shall provide criminal history records (excluding
3 sealed records) to criminal justice agencies and other
4 governmental or nongovernmental agencies for noncriminal
5 justice purposes allowed by federal statute, federal executive
6 order, or a state statute that has been approved by the
7 attorney general, that authorizes national indices checks.

8 (c) PROCEDURES. Any record obtained under this compact
9 may be used only for the official purposes for which the
10 record was requested. Each compact officer shall establish
11 procedures, consistent with this compact and with rules,
12 procedures, and standards established by the council under
13 Article VI, which procedures shall protect the accuracy and
14 privacy of the records, and shall

- 15 (1) ensure that records obtained under this compact are
- 16 used only by authorized officials for authorized purposes;
- 17 (2) require that subsequent record checks are requested to
- 18 obtain current information whenever a new need arises; and
- 19 (3) ensure that record entries that may not legally be
- 20 used for a particular noncriminal justice purpose are deleted
- 21 from the response and, if no information authorized for
- 22 release remains, an appropriate "no record" response is
- 23 communicated to the requesting official.

24 ARTICLE V -- RECORD REQUEST PROCEDURES

25 (a) POSITIVE IDENTIFICATION. Subject fingerprints or
26 other approved forms of positive identification shall be
27 submitted with all requests for criminal history record checks
28 for noncriminal justice purposes.

29 (b) SUBMISSION OF STATE REQUESTS. Each request for a
30 criminal history record check utilizing the national indices
31 made under any approved state statute shall be submitted
32 through that state's criminal history record repository. A
33 state criminal history record repository shall process an
34 interstate request for noncriminal justice purposes through
35 the national indices only if such request is transmitted

1 through another state criminal history record repository or
2 the FBI.

3 (c) SUBMISSION OF FEDERAL REQUESTS. Each request for
4 criminal history record checks utilizing the national indices
5 made under federal authority shall be submitted through the
6 FBI or, if the state criminal history record repository
7 consents to process fingerprint submissions, through the
8 criminal history record repository in the state in which such
9 request originated. Direct access to the national
10 identification index by entities other than the FBI and state
11 criminal history records repositories shall not be permitted
12 for noncriminal justice purposes.

13 (d) FEES. A state criminal history record repository or
14 the FBI

15 (1) may charge a fee, in accordance with applicable law,
16 for handling a request involving fingerprint processing for
17 noncriminal justice purposes; and

18 (2) may not charge a fee for providing criminal history
19 records in response to an electronic request for a record that
20 does not involve a request to process fingerprints.

21 (e) ADDITIONAL SEARCH.

22 (1) If a state criminal history record repository cannot
23 positively identify the subject of a record request made for
24 noncriminal justice purposes, the request, together with
25 fingerprints or other approved identifying information, shall
26 be forwarded to the FBI for a search of the national indices.

27 (2) If, with respect to a request forwarded by a state
28 criminal history record repository under paragraph (1), the
29 FBI positively identifies the subject as having a III system
30 indexed record or records

31 (A) the FBI shall so advise the state criminal history
32 record repository; and

33 (B) the state criminal history record repository shall be
34 entitled to obtain the additional criminal history record
35 information from the FBI or other state criminal history

1 record repositories.

2 ARTICLE VI -- ESTABLISHMENT OF COMPACT COUNCIL

3 (a) ESTABLISHMENT.

4 (1) IN GENERAL. There is established a council to be
5 known as the compact council, which shall have the authority
6 to promulgate rules and procedures governing the use of the
7 III system for noncriminal justice purposes, not to conflict
8 with FBI administration of the III system for criminal justice
9 purposes.

10 (2) ORGANIZATION. The council shall

11 (A) continue in existence as long as this compact remains
12 in effect;

13 (B) be located, for administrative purposes, within the
14 FBI; and

15 (C) be organized and hold its first meeting as soon as
16 practicable after the effective date of this compact.

17 (b) MEMBERSHIP. The council shall be composed of fifteen
18 members, each of whom shall be appointed by the attorney
19 general, as follows:

20 (1) Nine members, each of whom shall serve a two-year
21 term, who shall be selected from among the compact officers of
22 party states based on the recommendation of the compact
23 officers of all party states, except that, in the absence of
24 the requisite number of compact officers available to serve,
25 the chief administrators of the criminal history record
26 repositories of nonparty states shall be eligible to serve on
27 an interim basis.

28 (2) Two at-large members, nominated by the director of the
29 FBI, each of whom shall serve a three-year term, of whom

30 (A) One shall be a representative of the criminal justice
31 agencies of the federal government and may not be an employee
32 of the FBI; and

33 (B) One shall be a representative of the noncriminal
34 justice agencies of the federal government.

35 (3) Two at-large members, nominated by the chairperson of

1 the council, once the chairperson is elected pursuant to
2 Article VI(c), each of whom shall serve a three-year term, of
3 whom

4 (A) One shall be a representative of state or local
5 criminal justice agencies; and

6 (B) One shall be a representative of state or local
7 noncriminal justice agencies.

8 (4) One member, who shall serve a three-year term, and who
9 shall simultaneously be a member of the FBI's advisory policy
10 board on criminal justice information services, nominated by
11 the membership of that policy board.

12 (5) One member, nominated by the director of the FBI, who
13 shall serve a three-year term, and who shall be an employee of
14 the FBI.

15 (c) CHAIRPERSON AND VICE CHAIRPERSON.

16 (1) IN GENERAL. From its membership, the council shall
17 elect a chairperson and a vice chairperson of the council,
18 respectively. Both the chairperson and vice chairperson of
19 the council

20 (A) shall be a compact officer, unless there is no compact
21 officer on the council who is willing to serve, in which case
22 the chairperson may be an at-large member; and

23 (B) shall serve a two-year term and may be reelected to
24 only one additional two-year term.

25 (2) DUTIES OF VICE CHAIRPERSON. The vice chairperson of
26 the council shall serve as the chairperson of the council in
27 the absence of the chairperson.

28 (d) MEETINGS.

29 (1) IN GENERAL. The council shall meet at least once each
30 year at the call of the chairperson. Each meeting of the
31 council shall be open to the public. The council shall
32 provide prior public notice in the federal register of each
33 meeting of the council, including the matters to be addressed
34 at such meeting.

35 (2) QUORUM. A majority of the council or any committee of

1 the council shall constitute a quorum of the council or of
2 such committee, respectively, for the conduct of business. A
3 lesser number may meet to hold hearings, take testimony, or
4 conduct any business not requiring a vote.

5 (e) RULES, PROCEDURES, AND STANDARDS. The council shall
6 make available for public inspection and copying at the
7 council office within the FBI, and shall publish in the
8 federal register, any rules, procedures, or standards
9 established by the council.

10 (f) ASSISTANCE FROM FBI. The council may request from the
11 FBI such reports, studies, statistics, or other information or
12 materials as the council determines to be necessary to enable
13 the council to perform its duties under this compact. The
14 FBI, to the extent authorized by law, may provide such
15 assistance or information upon such a request.

16 (g) COMMITTEES. The chairperson may establish committees
17 as necessary to carry out this compact and may prescribe their
18 membership, responsibilities, and duration.

19 ARTICLE VII -- RATIFICATION OF COMPACT

20 This compact shall take effect upon being entered into by
21 two or more states as between those states and the federal
22 government. Upon subsequent entering into this compact by
23 additional states, it shall become effective among those
24 states and the federal government and each party state that
25 has previously ratified it. When ratified, this compact shall
26 have the full force and effect of law within the ratifying
27 jurisdictions. The form of ratification shall be in
28 accordance with the laws of the executing state.

29 ARTICLE VIII -- MISCELLANEOUS PROVISIONS

30 (a) RELATION OF COMPACT TO CERTAIN FBI ACTIVITIES.

31 Administration of this compact shall not interfere with the
32 management and control of the director of the FBI over the
33 FBI's collection and dissemination of criminal history records
34 and the advisory function of the FBI's advisory policy board
35 chartered under the Federal Advisory Committee Act (5 U.S.C.

1 App.) for all purposes other than noncriminal justice.

2 (b) NO AUTHORITY FOR NONAPPROPRIATED EXPENDITURES.

3 Nothing in this compact shall require the FBI to obligate or
4 expend funds beyond those appropriated to the FBI.

5 (c) RELATING TO PUBLIC LAW 92-544. Nothing in this
6 compact shall diminish or lessen the obligations,
7 responsibilities, and authorities of any state, whether a
8 party state or a nonparty state, or of any criminal history
9 record repository or other subdivision or component thereof,
10 under the Departments of State, Justice, and Commerce, the
11 Judiciary, and Related Agencies Appropriation Act, 1973
12 (Public Law 92-544), or regulations and guidelines promulgated
13 thereunder, including the rules and procedures promulgated by
14 the council under Article VI(a), regarding the use and
15 dissemination of criminal history records and information.

16 ARTICLE IX -- RENUNCIATION

17 (a) IN GENERAL. This compact shall bind each party state
18 until renounced by the party state.

19 (b) EFFECT. Any renunciation of this compact by a party
20 state shall

21 (1) be effected in the same manner by which the party
22 state ratified this compact; and

23 (2) become effective one hundred eighty days after written
24 notice of renunciation is provided by the party state to each
25 other party state and to the federal government.

26 ARTICLE X -- SEVERABILITY

27 The provisions of this compact shall be severable, and if
28 any phrase, clause, sentence, or provision of this compact is
29 declared to be contrary to the constitution of any
30 participating state, or to the Constitution of the United
31 States, or the applicability thereof to any government,
32 agency, person, or circumstance is held invalid, the validity
33 of the remainder of this compact and the applicability thereof
34 to any government, agency, person, or circumstance shall not
35 be affected thereby. If a portion of this compact is held

1 contrary to the constitution of any party state, all other
2 portions of this compact shall remain in full force and effect
3 as to the remaining party states and in full force and effect
4 as to the party state affected, as to all other provisions.

5 ARTICLE XI -- ADJUDICATION OF DISPUTES

6 (a) IN GENERAL. The council shall

7 (1) have initial authority to make determinations with
8 respect to any dispute regarding

9 (A) interpretation of this compact;

10 (B) any rule or standard established by the council
11 pursuant to Article V; and

12 (C) any dispute or controversy between any parties
13 to this compact; and

14 (2) hold a hearing concerning any dispute described in
15 paragraph (1) at a regularly scheduled meeting of the council
16 and only render a decision based upon a majority vote of the
17 members of the council. Such decision shall be published
18 pursuant to the requirements of Article VI(e).

19 (b) DUTIES OF FBI. The FBI shall exercise immediate and
20 necessary action to preserve the integrity of the III system,
21 maintain system policy and standards, protect the accuracy and
22 privacy of records, and to prevent abuses, until the council
23 holds a hearing on such matters.

24 (c) RIGHT OF APPEAL. The FBI or a party state may appeal
25 any decision of the council to the attorney general, and
26 thereafter may file suit in the appropriate district court of
27 the United States, which shall have original jurisdiction of
28 all cases or controversies arising under this compact. Any
29 suit arising under this compact and initiated in a state court
30 shall be removed to the appropriate district court of the
31 United States in the manner provided by section 1446 of title
32 28, United States Code, or other statutory authority.

33 Sec. 3. NEW SECTION. 692B.3 DUTY OF COMMISSIONER.

34 The commissioner of public safety shall be responsible to
35 implement and administer this compact.

EXPLANATION

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This bill enacts the crime prevention and privacy compact Act of 1998.

The bill organizes an electronic information sharing system between the federal government and states for the purposes of exchanging criminal history records, excluding sealed records, for purposes such as background checks for governmental licensing or employment, immigration matters, and national security clearances. The bill requires that any record obtained under this bill may only be used for the purpose for which the record was requested.

Under the bill, the FBI, this state, and other states that are party to the compact, agree to maintain their own criminal history database which includes arrest and disposition records, and make such records available to the federal government or other states for background checks for noncriminal purposes.

The bill requires the states to provide information and records for the national identification index and the national fingerprint file. The bill provides that a compact council appointed by the attorney general of the United States shall have the authority to adopt rules and procedures to administer the use of the national identification system, which includes the national fingerprint file.

The bill provides that the commissioner of public safety shall implement and administer the sharing of criminal history records.

SENATE FILE 2145

AN ACT

RELATING TO THE NATIONAL CRIME PREVENTION AND PRIVACY COMPACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 692B.1 CITATION.

This chapter may be cited as the "National Crime Prevention and Privacy Compact Act".

Sec. 2. NEW SECTION. 692B.2 CRIME PREVENTION AND PRIVACY COMPACT.

The national crime prevention and privacy compact is enacted into law and entered into by this state with any other state or jurisdiction legally joining the compact in the form substantially as follows:

ARTICLE I -- DEFINITIONS

As used in this compact, unless the context clearly requires otherwise:

- (1) ATTORNEY GENERAL. The term "attorney general" means the attorney general of the United States.
- (2) COMPACT OFFICER. The term "compact officer" means
 - (A) with respect to the federal government, an official so designated by the director of the FBI; and
 - (B) with respect to a party state, the chief administrator of the state's criminal history record repository or a designee of the chief administrator who is a regular full-time employee of the repository.
- (3) COUNCIL. The term "council" means the compact council established under Article VI.
- (4) CRIMINAL HISTORY RECORDS. The term "criminal history records"
 - (A) means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions,

indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release; and

(B) does not include identification information such as fingerprint records if such information does not indicate involvement of the individual with the criminal justice system.

(5) CRIMINAL HISTORY RECORD REPOSITORY. The term "criminal history record repository" means the state agency designated by the governor or other appropriate executive official or the legislature of a state to perform centralized record-keeping functions for criminal history records and services in the state.

(6) CRIMINAL JUSTICE. The term "criminal justice" includes activities relating to the 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 records.

- (7) CRIMINAL JUSTICE AGENCY. The term "criminal justice agency"
 - (A) means
 - (i) courts; and
 - (ii) a governmental agency or any subunit thereof that
 - (I) performs the administration of criminal justice pursuant to a statute or executive order; and
 - (II) allocates a substantial part of its annual budget to the administration of criminal justice; and
 - (B) includes federal and state inspectors general offices.
- (8) CRIMINAL JUSTICE SERVICES. The term "criminal justice services" means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.

SF 2145

(9) CRITERION OFFENSE. The term "criterion offense" means any felony or misdemeanor offense not included on the list of nonserious offenses published periodically by the FBI.

(10) DIRECT ACCESS. The term "direct access" means access to the national identification index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.

(11) EXECUTIVE ORDER. The term "executive order" means an order of the president of the United States or the chief executive officer of a state that has the force of law and that is promulgated in accordance with applicable law.

(12) FBI. The term "FBI" means the federal bureau of investigation.

(13) INTERSTATE IDENTIFICATION SYSTEM. The term "interstate identification index system" or "III system"

(A) means the cooperative federal-state system for the exchange of criminal history records; and

(B) includes the national identification index, the national fingerprint file and, to the extent of their participation in such system, the criminal history record repositories of the states and the FBI.

(14) NATIONAL FINGERPRINT FILE. The term "national fingerprint file" means a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III System.

(15) NATIONAL IDENTIFICATION INDEX. The term "national identification index" means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III system.

(16) NATIONAL INDICES. The term "national indices" means the national identification index and the national fingerprint file.

(17) NONPARTY STATE. The term "nonparty state" means a state that has not ratified this compact.

(18) NONCRIMINAL JUSTICE PURPOSES. The term "noncriminal justice purposes" means uses of criminal history records for purposes authorized by federal or state law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.

(19) PARTY STATE. The term "party state" means a state that has ratified this compact.

(20) POSITIVE IDENTIFICATION. The term "positive identification" means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III system. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification.

(21) SEALED RECORD INFORMATION. The term "sealed record information" means

(A) with respect to adults, that portion of a record that is

(i) not available for criminal justice uses;

(ii) not supported by fingerprints or other accepted means of positive identification; or

(iii) subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a federal or state statute that requires action on a sealing petition filed by a particular record subject; and

(B) with respect to juveniles, whatever each state determines is a sealed record under its own law and procedure.

(22) STATE. The term "state" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

ARTICLE II -- PURPOSES

The purposes of this compact are to

- (1) provide a legal framework for the establishment of a cooperative federal-state system for the interstate and federal-state exchange of criminal history records for noncriminal justice uses;
- (2) require the FBI to permit use of the national identification index and the national fingerprint file by each party state, and to provide, in a timely fashion, federal and state criminal history records to requesting states, in accordance with the terms of this compact and with rules, procedures, and standards established by the council under Article VI;
- (3) require party states to provide information and records for the national identification index and the national fingerprint file and to provide criminal history records, in a timely fashion, to criminal history record repositories of other states and the federal government for noncriminal justice purposes, in accordance with the terms of this compact and with rules, procedures, and standards established by the council under Article VI;
- (4) provide for the establishment of a council to monitor III system operations and to prescribe system rules and procedures for the effective and proper operation of the III system for noncriminal justice purposes; and
- (5) require the FBI and each party state to adhere to III system standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

ARTICLE III -- RESPONSIBILITIES OF COMPACT PARTIES

- (a) FBI RESPONSIBILITIES. The director of the FBI shall
 - (1) appoint an FBI compact officer who shall
 - (A) administer this compact within the department of justice and among federal agencies and other agencies and

organizations that submit search requests to the FBI pursuant to Article V(c);

(B) ensure that compact provisions and rules, procedures, and standards prescribed by the council under Article VI are complied with by the department of justice and the federal agencies and other agencies and organizations referred to in Article III(1)(A); and

(C) regulate the use of records received by means of the III system from party states when such records are supplied by the FBI directly to other federal agencies;

(2) provide to federal agencies and to state criminal history record repositories, criminal history records maintained in its database for the noncriminal justice purposes described in Article IV, including

(A) information from nonparty states; and

(B) information from party states that is available from the FBI through the III system, but is not available from the party state through the III system;

(3) provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in Article IV, and ensure that the exchange of such records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and

(4) modify or enter into user agreements with nonparty state criminal history record repositories to require them to establish record request procedures conforming to those prescribed in Article V.

(b) STATE RESPONSIBILITIES. Each party state shall

(1) appoint a compact officer who shall

(A) administer this compact within that state;

(B) ensure that compact provisions and rules, procedures, and standards established by the council under Article VI are complied with in the state; and

(C) regulate the in-state use of records received by means of the III system from the FBI or from other party states;

(2) establish and maintain a criminal history record repository, which shall provide

(A) information and records for the national identification index and the national fingerprint file; and

(B) the state's III system-indexed criminal history records for noncriminal justice purposes described in Article IV;

(3) participate in the national fingerprint file; and

(4) provide and maintain telecommunications links and related equipment necessary to support the services set forth in this compact.

(c) COMPLIANCE WITH III SYSTEM STANDARDS. In carrying out their responsibilities under this compact, the FBI and each party state shall comply with III system rules, procedures, and standards duly established by the council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III system operation.

(d) MAINTENANCE OF RECORD SERVICES.

(1) Use of the III system for noncriminal justice purposes authorized in this compact shall be managed so as not to diminish the level of services provided in support of criminal justice purposes.

(2) Administration of compact provisions shall not reduce the level of service available to authorized noncriminal justice users on the effective date of this compact.

ARTICLE IV -- AUTHORIZED RECORD DISCLOSURES

(a) STATE CRIMINAL HISTORY RECORD REPOSITORIES. To the extent authorized by section 552a of title 5, United States Code (commonly known as the Privacy Act of 1974), the FBI shall provide on request criminal history records (excluding sealed records) to state criminal history record repositories for noncriminal justice purposes allowed by federal statute,

federal executive order, or a state statute that has been approved by the attorney general and that authorizes national indices checks.

(b) CRIMINAL JUSTICE AGENCIES AND OTHER GOVERNMENTAL OR NONGOVERNMENTAL AGENCIES. The FBI, to the extent authorized by section 552a of title 5, United States Code (commonly known as the Privacy Act of 1974), and state criminal history record repositories shall provide criminal history records (excluding sealed records) to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the attorney general, that authorizes national indices checks.

(c) PROCEDURES. Any record obtained under this compact may be used only for the official purposes for which the record was requested. Each compact officer shall establish procedures, consistent with this compact and with rules, procedures, and standards established by the council under Article VI, which procedures shall protect the accuracy and privacy of the records, and shall

(1) ensure that records obtained under this compact are used only by authorized officials for authorized purposes;

(2) require that subsequent record checks are requested to obtain current information whenever a new need arises; and

(3) ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate "no record" response is communicated to the requesting official.

ARTICLE V -- RECORD REQUEST PROCEDURES

(a) POSITIVE IDENTIFICATION. Subject fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history record checks for noncriminal justice purposes.

(b) SUBMISSION OF STATE REQUESTS. Each request for a criminal history record check utilizing the national indices made under any approved state statute shall be submitted through that state's criminal history record repository. A state criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if such request is transmitted through another state criminal history record repository or the FBI.

(c) SUBMISSION OF FEDERAL REQUESTS. Each request for criminal history record checks utilizing the national indices made under federal authority shall be submitted through the FBI or, if the state criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the state in which such request originated. Direct access to the national identification index by entities other than the FBI and state criminal history records repositories shall not be permitted for noncriminal justice purposes.

(d) FEES. A state criminal history record repository or the FBI

(1) may charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and

(2) may not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

(e) ADDITIONAL SEARCH.

(1) If a state criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, shall be forwarded to the FBI for a search of the national indices.

(2) If, with respect to a request forwarded by a state criminal history record repository under paragraph (1), the

FBI positively identifies the subject as having a III system indexed record or records

(A) the FBI shall so advise the state criminal history record repository; and

(B) the state criminal history record repository shall be entitled to obtain the additional criminal history record information from the FBI or other state criminal history record repositories.

ARTICLE VI -- ESTABLISHMENT OF COMPACT COUNCIL

(a) ESTABLISHMENT.

(1) IN GENERAL. There is established a council to be known as the compact council, which shall have the authority to promulgate rules and procedures governing the use of the III system for noncriminal justice purposes, not to conflict with FBI administration of the III system for criminal justice purposes.

(2) ORGANIZATION. The council shall

(A) continue in existence as long as this compact remains in effect;

(B) be located, for administrative purposes, within the FBI; and

(C) be organized and hold its first meeting as soon as practicable after the effective date of this compact.

(b) MEMBERSHIP. The council shall be composed of fifteen members, each of whom shall be appointed by the attorney general, as follows:

(1) Nine members, each of whom shall serve a two-year term, who shall be selected from among the compact officers of party states based on the recommendation of the compact officers of all party states, except that, in the absence of the requisite number of compact officers available to serve, the chief administrators of the criminal history record repositories of nonparty states shall be eligible to serve on an interim basis.

(2) Two at-large members, nominated by the director of the FBI, each of whom shall serve a three-year term, of whom

(A) One shall be a representative of the criminal justice agencies of the federal government and may not be an employee of the FBI; and

(3) One shall be a representative of the noncriminal justice agencies of the federal government.

(3) Two at-large members, nominated by the chairperson of the council, once the chairperson is elected pursuant to Article VI(c), each of whom shall serve a three-year term, of whom

(A) One shall be a representative of state or local criminal justice agencies; and

(B) One shall be a representative of state or local noncriminal justice agencies.

(4) One member, who shall serve a three-year term, and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board.

(5) One member, nominated by the director of the FBI, who shall serve a three-year term, and who shall be an employee of the FBI.

(c) CHAIRPERSON AND VICE CHAIRPERSON.

(1) IN GENERAL. From its membership, the council shall elect a chairperson and a vice chairperson of the council, respectively. Both the chairperson and vice chairperson of the council

(A) shall be a compact officer, unless there is no compact officer on the council who is willing to serve, in which case the chairperson may be an at-large member; and

(B) shall serve a two-year term and may be reelected to only one additional two-year term.

(2) DUTIES OF VICE CHAIRPERSON. The vice chairperson of the council shall serve as the chairperson of the council in the absence of the chairperson.

(d) MEETINGS.

(1) IN GENERAL. The council shall meet at least once each year at the call of the chairperson. Each meeting of the council shall be open to the public. The council shall provide prior public notice in the federal register of each meeting of the council, including the matters to be addressed at such meeting.

(2) QUORUM. A majority of the council or any committee of the council shall constitute a quorum of the council or of such committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

(e) RULES, PROCEDURES, AND STANDARDS. The council shall make available for public inspection and copying at the council office within the FBI, and shall publish in the federal register, any rules, procedures, or standards established by the council.

(f) ASSISTANCE FROM FBI. The council may request from the FBI such reports, studies, statistics, or other information or materials as the council determines to be necessary to enable the council to perform its duties under this compact. The FBI, to the extent authorized by law, may provide such assistance or information upon such a request.

(g) COMMITTEES. The chairperson may establish committees as necessary to carry out this compact and may prescribe their membership, responsibilities, and duration.

ARTICLE VII -- RATIFICATION OF COMPACT

This compact shall take effect upon being entered into by two or more states as between those states and the federal government. Upon subsequent entering into this compact by additional states, it shall become effective among those states and the federal government and each party state that has previously ratified it. When ratified, this compact shall have the full force and effect of law within the ratifying jurisdictions. The form of ratification shall be in accordance with the laws of the executing state.

ARTICLE VIII -- MISCELLANEOUS PROVISIONS

(a) RELATION OF COMPACT TO CERTAIN FBI ACTIVITIES.

Administration of this compact shall not interfere with the management and control of the director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes other than noncriminal justice.

(b) NO AUTHORITY FOR NONAPPROPRIATED EXPENDITURES.

Nothing in this compact shall require the FBI to obligate or expend funds beyond those appropriated to the FBI.

(c) RELATING TO PUBLIC LAW 92-544. Nothing in this compact shall diminish or lessen the obligations, responsibilities, and authorities of any state, whether a party state or a nonparty state, or of any criminal history record repository or other subdivision or component thereof, under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544), or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the council under Article VI(a), regarding the use and dissemination of criminal history records and information.

ARTICLE IX -- RENUNCIATION

(a) IN GENERAL. This compact shall bind each party state until renounced by the party state.

(b) EFFECT. Any renunciation of this compact by a party state shall

(1) be effected in the same manner by which the party state ratified this compact; and

(2) become effective one hundred eighty days after written notice of renunciation is provided by the party state to each other party state and to the federal government.

ARTICLE X -- SEVERABILITY

The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any

participating state, or to the Constitution of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If a portion of this compact is held contrary to the constitution of any party state, all other portions of this compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected, as to all other provisions.

ARTICLE XI -- ADJUDICATION OF DISPUTES

(a) IN GENERAL. The council shall

(1) have initial authority to make determinations with respect to any dispute regarding

(A) interpretation of this compact;

(B) any rule or standard established by the council pursuant to Article V; and

(C) any dispute or controversy between any parties to this compact; and

(2) hold a hearing concerning any dispute described in paragraph (1) at a regularly scheduled meeting of the council and only render a decision based upon a majority vote of the members of the council. Such decision shall be published pursuant to the requirements of Article VI(e).

(b) DUTIES OF FBI. The FBI shall exercise immediate and necessary action to preserve the integrity of the III system, maintain system policy and standards, protect the accuracy and privacy of records, and to prevent abuses, until the council holds a hearing on such matters.

(c) RIGHT OF APPEAL. The FBI or a party state may appeal any decision of the council to the attorney general, and thereafter may file suit in the appropriate district court of the United States, which shall have original jurisdiction of all cases or controversies arising under this compact. Any suit arising under this compact and initiated in a state court

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shall be removed to the appropriate district court of the United States in the manner provided by section 1446 of title 28, United States Code, or other statutory authority.

Sec. 3. NEW SECTION. 692B.3 DUTY OF COMMISSIONER.

The commissioner of public safety shall be responsible to implement and administer this compact.

MARY E. KRAMER
President of the Senate

BRENT SIEGRIST
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2145, Seventy-eighth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved 4/7, 2000

THOMAS J. VILSACK
Governor