

Substituted by HF 2448
4-10-96 (p. 1295)

FILED FEB 15 1996

SENATE FILE **2210**
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2019)

WITHDRAWN
4-10-96

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

A BILL FOR

1 An Act relating to public access to criminal history data
2 maintained by the department of public safety.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2210

1 Section 1. Section 22.7, subsection 9, Code Supplement
2 1995, is amended to read as follows:

3 9. Criminal identification files of law enforcement
4 agencies. However, records of current and prior arrests and
5 criminal history data shall be public records.

6 Sec. 2. Section 692.2, subsections 1 through 5, Code
7 Supplement 1995, are amended by striking the subsections and
8 inserting in lieu thereof the following:

9 1. The department may provide copies or communicate
10 information from criminal history data to the following:

11 a. Criminal or juvenile justice agencies.

12 b. A person or public or private agency, upon written
13 application on a form approved by the commissioner of public
14 safety and subject to the following restrictions:

15 (1) A request for criminal history data must be submitted
16 in writing by mail. However, the department shall accept a
17 request presented in person if it is from an individual or an
18 individual's attorney and requests the individual's personal
19 criminal history data.

20 (2) The request must identify a specific person by name
21 and date of birth. Fingerprints of the person named may be
22 required.

23 2. Requests for criminal history data from criminal or
24 juvenile justice agencies shall take precedence over all other
25 requests.

26 3. A person who requests criminal history data shall not
27 be liable for damages to the person whose criminal history
28 data is requested for actions the person requesting the
29 information may reasonably take in reliance on the accuracy
30 and completeness of the criminal history data received from
31 the department if all of the following are true:

32 a. The person requesting the criminal history data in good
33 faith believes the criminal history data to be accurate and
34 complete.

35 b. The person requesting the criminal history data has

1 complied with the requirements of this chapter.

2 c. The identifying information submitted to the department
3 by the person requesting the criminal history data is accurate
4 regarding the person whose criminal history data is sought.

5 4. A person other than the department of public safety
6 shall not disseminate criminal history data maintained by the
7 department to persons who are not criminal or juvenile justice
8 agencies.

9 Sec. 3. Section 692.2, subsection 6, Code Supplement 1995,
10 is amended to read as follows:

11 ~~6. 5.~~ The department ~~may~~ shall charge a fee to any nonlaw-
12 enforcement person or agency to conduct criminal history
13 ~~record~~ data checks ~~and otherwise administer this section and~~
14 ~~other sections of the Code providing access to criminal~~
15 ~~history records. The fee shall be set by the commissioner of~~
16 ~~public safety equal to the cost incurred not to exceed twenty~~
17 ~~dollars for each individual check requested.~~ Notwithstanding
18 any other limitation, the department ~~is authorized to~~ may use
19 revenues generated from the fee to administer this section and
20 other sections of the Code providing access to criminal
21 history data and to employ clerical personnel to process
22 criminal history data checks ~~for nonlaw enforcement purposes.~~

23 ~~In cases in which members of the department are~~
24 ~~participating in the investigation or arrest, or where~~
25 ~~officers of other criminal or juvenile justice agencies~~
26 ~~participating in the investigation or arrest consent, the~~
27 ~~department may disseminate criminal history data and~~
28 ~~intelligence data when the dissemination complies with section~~
29 ~~692.3.~~

30 Sec. 4. Section 692.5, unnumbered paragraph 3, Code 1995,
31 is amended to read as follows:

32 Upon the request of the petitioner, the record and evidence
33 in a judicial review proceeding shall be closed to all but the
34 court and its officers, and access thereto shall be refused
35 unless otherwise ordered by the court. The clerk shall

1 maintain a separate docket for such actions. No A person,
2 other than the petitioner, shall not permit a copy of any of
3 the testimony or pleadings or the substance thereof to be made
4 available to any person other than a party to the action or
5 the party's attorney. Violation ~~of the provisions~~ of this
6 section shall be a public offense, punishable under section
7 692.7. The provisions of this section shall be the sole right
8 of action against the department, its subdivisions, or
9 employees regarding improper storage or release of criminal
10 history data.

11 Sec. 5. Section 692.6, Code 1995, is amended to read as
12 follows:

13 692.6 CIVIL REMEDY.

14 Any person may institute a civil action for damages under
15 chapter 669 or 670 or to restrain the dissemination of the
16 person's ~~criminal-history-data-or~~ intelligence data in
17 violation of this chapter, and any person, agency, or
18 governmental body proven to have disseminated or to have
19 requested and received ~~criminal-history-data-or~~ intelligence
20 data in violation of this chapter shall be liable for actual
21 damages and exemplary damages for each violation and shall be
22 liable for court costs, expenses, and reasonable attorneys'
23 fees incurred by the party bringing the action. In no case
24 shall the award for damages be less than one hundred dollars.

25 Sec. 6. Section 692.7, subsection 1, Code 1995, is amended
26 to read as follows:

27 1. Any A person who willfully requests, obtains, or seeks
28 to obtain criminal history data under false pretenses, or who
29 willfully communicates or seeks to communicate criminal
30 history data to any agency or person except in accordance with
31 this chapter, or any a person connected with any a research
32 program authorized pursuant to this chapter who willfully
33 falsifies criminal history data or any records relating
34 thereto, shall, upon conviction, for each such offense be
35 guilty of an aggravated misdemeanor. ~~Any-person-who~~

1 knowingly, but without criminal purposes, communicates or
2 seeks to communicate criminal history data except in
3 accordance with this chapter shall be guilty of a simple
4 misdemeanor.

5 Sec. 7. NEW SECTION. 692.8A REDISSEMINATION OF
6 INTELLIGENCE DATA.

7 A criminal or juvenile justice agency, state or federal
8 regulatory agency, or a peace officer shall not disseminate
9 intelligence data, which has been received from the department
10 or bureau or from any other source, outside the agency or the
11 peace officer's agency unless all of the following apply:

12 1. The intelligence data is for official purposes in
13 connection with prescribed duties of a criminal or juvenile
14 justice agency.

15 2. The agency maintains a list of the persons receiving
16 the intelligence data and the date and purpose of the
17 dissemination.

18 3. The request for intelligence data is based upon name,
19 fingerprints, or other individually identified
20 characteristics.

21 Sec. 8. Section 692.18, unnumbered paragraph 2, Code 1995,
22 is amended to read as follows:

23 ~~Criminal history data and intelligence~~ Intelligence data in
24 the possession of the department or bureau, or disseminated by
25 the department or bureau, are not public records within the
26 provisions of chapter 22.

27 Sec. 9. Section 692.20, Code 1995, is amended to read as
28 follows:

29 692.20 MOTOR VEHICLE OPERATOR'S RECORD EXEMPT.

30 The provisions of ~~sections~~ section 692.2 and ~~692.3~~ shall
31 not apply to the certifying of an individual's operating
32 record pursuant to section 321A.3.

33 Sec. 10. Section 692.3, Code Supplement 1995, is repealed.

34 EXPLANATION

35 This bill provides for public access to criminal history

1 data maintained by the department of public safety. Criminal
2 history data includes arrest, conviction, disposition, and
3 correctional data.

4 The bill authorizes any person to request the criminal
5 history data of another person by mail. The request must
6 contain the name and birthdate of the individual whose
7 criminal history data is requested. In-person requests are
8 prohibited except that an individual or the individual's
9 attorney may request the individual's own criminal history
10 data in person. Requests for criminal history data by law
11 enforcement agencies have priority over other requests under
12 the bill. The bill adds language in chapter 22 which makes
13 criminal history data a public record.

14 The bill also provides that a person who requests criminal
15 history data is not liable to the person whose data was
16 requested for damages if the person is accurately identified
17 to the department, the person requesting the data believes in
18 good faith that the data is accurate and complete, and the
19 person requesting the data complies with the requirements of
20 chapter 692. Only the department of public safety may
21 disseminate criminal history data maintained by the department
22 to persons who are not criminal or juvenile justice agencies
23 or individuals.

24 The bill requires the department of public safety to charge
25 a fee to persons other than criminal or juvenile justice
26 agencies. The fee is to offset the costs of administering the
27 dissemination of criminal history data, including staff costs.

28 The bill repeals section 692.3 regarding the
29 redissemination of criminal history data by peace officers,
30 criminal or juvenile justice agencies, regulatory agencies, or
31 the departments of human services or public health. The bill
32 provides that criminal intelligence data shall not be
33 redisseminated by peace officers, criminal or juvenile justice
34 agencies, or regulatory agencies unless the data is to be used
35 for official purposes, the agency maintains a list of the

1 persons who receive the data and when and why they get it, and
2 the person whose information is requested is identified by
3 name, fingerprints, or other individually identified
4 characteristics.

5 The bill provides that no action for damages or relief may
6 be maintained against the department of public safety or its
7 employees regarding inaccurate criminal history data or
8 improper dissemination of the data. The bill also provides
9 that a civil cause of action may only be maintained by a
10 person to restrain the release of or for damages due to the
11 release of intelligence data regarding the person. Further,
12 the bill eliminates the simple misdemeanor penalty for a
13 person who communicates criminal history data without criminal
14 intent.

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SENATE FILE 2210

S-5147

- 1 Amend Senate File 2210 as follows:
- 2 1. Page 3, by striking lines 11 through 24.
- 3 2. By renumbering as necessary.

By TOM VILSACK

S-5147 FILED FEBRUARY 28, 1996

SENATE FILE 2210

S-5290

- 1 Amend Senate File 2210 as follows:
- 2 1. Page 1, by inserting after line 22 the
- 3 following:
- 4 "(3) Criminal history data that does not contain
- 5 any disposition data after eighteen months from the
- 6 date of arrest may only be disseminated by the
- 7 department to criminal or juvenile justice agencies,
- 8 to the person who is the subject of the criminal
- 9 history data or the person's attorney, or to a person
- 10 requesting the criminal history data with a signed
- 11 release from the person who is the subject of the
- 12 criminal history data authorizing the requesting
- 13 person access to criminal history data."

By ANDY MCKEAN

S-5290 FILED MARCH 12, 1996

SENATE FILE 2210

S-5473

- 1 Amend Senate File 2210 as follows:
- 2 1. Page 1, by inserting after line 22 the
- 3 following:
- 4 "The department shall not release criminal history
- 5 data regarding a person who has successfully completed
- 6 probation following a deferred judgment, except to an
- 7 individual requesting the individual's own criminal
- 8 history data."

By RANDAL J. GIANNETTO

S-5473 FILED MARCH 21, 1996

SENATE FILE 2210

S-5536

1 Amend Senate File 2210 as follows:

2 1. Page 1, by inserting after line 22 the
3 following:

4 "(3) Criminal history data that does not contain
5 any disposition data after eighteen months from the
6 date of arrest may only be disseminated by the
7 department to criminal or juvenile justice agencies,
8 to the person who is the subject of the criminal
9 history data or the person's attorney, or to a person
10 requesting the criminal history data with a signed
11 release from the person who is the subject of the
12 criminal history data authorizing the requesting
13 person access to criminal history data."

14 2. Page 2, line 29, by inserting after the figure
15 "692:3:" the following: "However, the fee for
16 conducting a criminal history data check for a person
17 seeking release of a certified copy of the person's
18 own criminal history data to a potential employer, if
19 that employer requests the release in writing, shall
20 not be paid by the person but shall be paid by the
21 employer."

Adopted 4-10-96 By ANDY MCKEAN
(P. 1295)

S-5536 FILED MARCH 26, 1996

Mc Kean
Redfern
Giannetto
Halvarson
Hammond

Succeeded By
SF/HF 2210

SSB-2019
Judiciary

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC SAFETY BILL)

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

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21 and date of birth. Fingerprints of the person named may be
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24 juvenile justice agencies shall take precedence over all other
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30 and completeness of the criminal history data received from
31 the department if all of the following are true:

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33 faith believes the criminal history data to be accurate and
34 complete.

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1 complied with the requirements of this chapter.

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3 by the person requesting the criminal history data is accurate
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19 revenues generated from the fee to administer this section and
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18 governmental body proven to have disseminated or to have
19 requested and received ~~criminal-history-data-or~~ intelligence
20 data in violation of this chapter shall be liable for actual
21 damages and exemplary damages for each violation and shall be
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29 willfully communicates or seeks to communicate criminal
30 history data to any agency or person except in accordance with
31 this chapter, or any a person connected with any a research
32 program authorized pursuant to this chapter who willfully
33 falsifies criminal history data or any records relating
34 thereto, shall, upon conviction, for each such offense be
35 guilty of an aggravated misdemeanor. ~~Any-person-who~~

1 knowingly, but without criminal purposes, communicates or
2 seeks to communicate criminal history data except in
3 accordance with this chapter shall be guilty of a simple
4 misdemeanor.

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6 INTELLIGENCE DATA.

7 A criminal or juvenile justice agency, state or federal
8 regulatory agency, or a peace officer shall not disseminate
9 intelligence data, which has been received from the department
10 or bureau or from any other source, outside the agency or the
11 peace officer's agency unless all of the following apply:

12 1. The intelligence data is for official purposes in
13 connection with prescribed duties of a criminal or juvenile
14 justice agency.

15 2. The agency maintains a list of the persons receiving
16 the intelligence data and the date and purpose of the
17 dissemination.

18 3. The request for intelligence data is based upon name,
19 fingerprints, or other individually identified
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25 the department or bureau, are not public records within the
26 provisions of chapter 22.

27 Sec. 9. Section 692.20, Code 1995, is amended to read as
28 follows:

29 692.20 MOTOR VEHICLE OPERATOR'S RECORD EXEMPT.

30 The provisions of ~~sections~~ section 692.2 and 692.3 shall
31 not apply to the certifying of an individual's operating
32 record pursuant to section 321A.3.

33 Sec. 10. Section 692.3, Code Supplement 1995, is repealed.

34 EXPLANATION

35 This bill provides for public access to criminal history

1 data maintained by the department of public safety. Criminal
2 history data includes arrest, conviction, disposition, and
3 correctional data.

4 The bill authorizes any person to request the criminal
5 history data of another person by mail. The request must
6 contain the name and birthdate of the individual whose
7 criminal history data is requested. In-person requests are
8 prohibited except that an individual or the individual's
9 attorney may request the individual's own criminal history
10 data in person. Requests for criminal history data by law
11 enforcement agencies have priority over other requests under
12 the bill. The bill adds language in chapter 22 which makes
13 criminal history data a public record.

14 The bill also provides that a person who requests criminal
15 history data is not liable to the person whose data was
16 requested for damages if the person is accurately identified
17 to the department, the person requesting the data believes in
18 good faith that the data is accurate and complete, and the
19 person requesting the data complies with the requirements of
20 chapter 692. Only the department of public safety may
21 disseminate criminal history data maintained by the department
22 to persons who are not criminal or juvenile justice agencies
23 or individuals.

24 The bill requires the department of public safety to charge
25 a fee to persons other than criminal or juvenile justice
26 agencies. The fee is to offset the costs of administering the
27 dissemination of criminal history data, including staff costs.

28 The bill repeals section 692.3 regarding the
29 redissemination of criminal history data by peace officers,
30 criminal or juvenile justice agencies, regulatory agencies, or
31 the departments of human services or public health. The bill
32 provides that criminal intelligence data shall not be
33 redisseminated by peace officers, criminal or juvenile justice
34 agencies, or regulatory agencies unless the data is to be used
35 for official purposes, the agency maintains a list of the

1 persons who receive the data and when and why they get it, and
2 the person whose information is requested is identified by
3 name, fingerprints, or other individually identified
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5 The bill provides that no action for damages or relief may
6 be maintained against the department of public safety or its
7 employees regarding inaccurate criminal history data or
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9 that a civil cause of action may only be maintained by a
10 person to restrain the release of or for damages due to the
11 release of intelligence data regarding the person. Further,
12 the bill eliminates the simple misdemeanor penalty for a
13 person who communicates criminal history data without criminal
14 intent.

15 BACKGROUND STATEMENT

16 SUBMITTED BY THE AGENCY

17 Criminal history data are currently disseminated to a wide
18 variety of agencies through specific statutory authority.
19 Groups not authorized statutory access may petition the
20 commissioner of public safety to receive criminal history
21 information. Requests for access to such information have
22 continued to grow throughout the years for a wide variety of
23 legitimate purposes, including checking prospective employees
24 in youth service agencies, nursing homes, and child care
25 providers.

26 This proposal makes criminal history information a public
27 record and permits public access to criminal history data
28 maintained by the division of criminal investigation of the
29 department of public safety.

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