

# Senate Study Bill 2019

## Conference Committee Text

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1 1 Section 1. Section 22.7, subsection 9, Code Supplement  
1 2 1995, is amended to read as follows:  
1 3 9. Criminal identification files of law enforcement  
1 4 agencies. However, records of current and prior arrests and  
1 5 criminal history data shall be public records.  
1 6 Sec. 2. Section 692.2, subsections 1 through 5, Code  
1 7 Supplement 1995, are amended by striking the subsections and  
1 8 inserting in lieu thereof the following:  
1 9 1. The department may provide copies or communicate  
1 10 information from criminal history data to the following:  
1 11 a. Criminal or juvenile justice agencies.  
1 12 b. A person or public or private agency, upon written  
1 13 application on a form approved by the commissioner of public  
1 14 safety and subject to the following restrictions:  
1 15 (1) A request for criminal history data must be submitted  
1 16 in writing by mail. However, the department shall accept a  
1 17 request presented in person if it is from an individual or an  
1 18 individual's attorney and requests the individual's personal  
1 19 criminal history data.  
1 20 (2) The request must identify a specific person by name  
1 21 and date of birth. Fingerprints of the person named may be  
1 22 required.  
1 23 2. Requests for criminal history data from criminal or  
1 24 juvenile justice agencies shall take precedence over all other  
1 25 requests.  
1 26 3. A person who requests criminal history data shall not  
1 27 be liable for damages to the person whose criminal history  
1 28 data is requested for actions the person requesting the  
1 29 information may reasonably take in reliance on the accuracy  
1 30 and completeness of the criminal history data received from  
1 31 the department if all of the following are true:  
1 32 a. The person requesting the criminal history data in good  
1 33 faith believes the criminal history data to be accurate and  
1 34 complete.  
1 35 b. The person requesting the criminal history data has  
2 1 complied with the requirements of this chapter.  
2 2 c. The identifying information submitted to the department  
2 3 by the person requesting the criminal history data is accurate  
2 4 regarding the person whose criminal history data is sought.  
2 5 4. A person other than the department of public safety  
2 6 shall not disseminate criminal history data maintained by the  
2 7 department to persons who are not criminal or juvenile justice  
2 8 agencies.  
2 9 Sec. 3. Section [692.2](#), subsection 6, Code Supplement 1995,  
2 10 is amended to read as follows:  
2 11

~~6.~~

~~5.~~ The department

~~may~~

~~shall~~ charge a fee to any nonlaw-  
2 12 enforcement person or agency to conduct criminal history  
2 13

~~record~~

~~- data checks~~

~~- and otherwise administer this section and~~

~~- 2 14~~

~~- other sections of the Code providing access to criminal~~

~~- 2 15~~

~~- history records~~

~~- The fee shall be set by the commissioner of~~

~~- 2 16~~

~~- public safety equal to the cost incurred not to exceed twenty~~

~~- 2 17~~

~~- dollars for each individual check requested.~~

~~- Notwithstanding~~

~~- 2 18 any other limitation, the department~~

~~- is authorized to~~

~~- may use~~

~~- 2 19 revenues generated from the fee to administer this section and~~

~~- 2 20 other sections of the Code providing access to criminal~~

~~- 2 21 history data and to employ~~

~~- clerical~~

~~- personnel to process~~

~~- 2 22 criminal history data checks~~

~~- for nonlaw enforcement purposes~~

~~- 2 23~~

~~- In cases in which members of the department are~~

~~- 2 24~~

~~- participating in the investigation or arrest, or where~~

~~- 2 25~~

~~- officers of other criminal or juvenile justice agencies~~

~~- 2 26~~

~~- participating in the investigation or arrest consent, the~~

~~- 2 27~~

~~- department may disseminate criminal history data and~~

~~- 2 28~~

~~- intelligence data when the dissemination complies with section~~

~~- 2 29~~

~~- 692.3.~~

~~- 2 30 Sec. 4. Section [692.5](#), unnumbered paragraph 3, Code 1995,~~

~~- 2 31 is amended to read as follows:~~

2 32 Upon the request of the petitioner, the record and evidence  
2 33 in a judicial review proceeding shall be closed to all but the  
2 34 court and its officers, and access thereto shall be refused  
2 35 unless otherwise ordered by the court. The clerk shall  
3 1 maintain a separate docket for such actions.

~~No~~

- A person,  
3 2 other than the petitioner, shall not permit a copy of any of  
3 3 the testimony or pleadings or the substance thereof to be made  
3 4 available to any person other than a party to the action or  
3 5 the party's attorney. Violation

~~of the provisions~~

- of this  
3 6 section shall be a public offense, punishable under section  
3 7 692.7. The provisions of this section shall be the sole right  
3 8 of action against the department, its subdivisions, or  
3 9 employees regarding improper storage or release of criminal  
3 10 history data.

3 11 Sec. 5. Section [692.6](#), Code 1995, is amended to read as  
3 12 follows:

3 13 692.6 CIVIL REMEDY.

3 14 Any person may institute a civil action for damages under  
3 15 chapter 669 or 670 or to restrain the dissemination of the  
3 16 person's

~~criminal history data or~~

- intelligence data in  
3 17 violation of this chapter, and any person, agency, or  
3 18 governmental body proven to have disseminated or to have  
3 19 requested and received

~~criminal history data or~~

- intelligence  
3 20 data in violation of this chapter shall be liable for actual  
3 21 damages and exemplary damages for each violation and shall be  
3 22 liable for court costs, expenses, and reasonable attorneys'  
3 23 fees incurred by the party bringing the action. In no case  
3 24 shall the award for damages be less than one hundred dollars.

3 25 Sec. 6. Section [692.7](#), subsection 1, Code 1995, is amended  
3 26 to read as follows:

3 27 1.

~~Any~~

- A person who willfully requests, obtains, or seeks  
3 28 to obtain criminal history data under false pretenses, or who  
3 29 willfully communicates or seeks to communicate criminal  
3 30 history data to any agency or person except in accordance with  
3 31 this chapter, or

~~any~~

- a person connected with

~~any~~

- a research  
3 32 program authorized pursuant to this chapter who willfully  
3 33 falsifies criminal history data or any records relating  
3 34 thereto, shall, upon conviction, for each such offense be  
3 35 guilty of an aggravated misdemeanor.

~~Any person who~~

-  
4 1

~~knowingly, but without criminal purposes, communicates or~~

4 2

~~seeks to communicate criminal history data except in~~

4 3

~~accordance with this chapter shall be guilty of a simple~~

4 4

~~misdemeanor.~~

4 5 Sec. 7. NEW SECTION. 692.8A REDISSEMINATION OF  
4 6 INTELLIGENCE DATA.

4 7 A criminal or juvenile justice agency, state or federal  
4 8 regulatory agency, or a peace officer shall not disseminate  
4 9 intelligence data, which has been received from the department  
4 10 or bureau or from any other source, outside the agency or the  
4 11 peace officer's agency unless all of the following apply:

4 12 1. The intelligence data is for official purposes in  
4 13 connection with prescribed duties of a criminal or juvenile  
4 14 justice agency.

4 15 2. The agency maintains a list of the persons receiving  
4 16 the intelligence data and the date and purpose of the  
4 17 dissemination.

4 18 3. The request for intelligence data is based upon name,  
4 19 fingerprints, or other individually identified  
4 20 characteristics.

4 21 Sec. 8. Section [692.18](#), unnumbered paragraph 2, Code 1995,  
4 22 is amended to read as follows:

4 23

~~Criminal history data and intelligence~~

~~Intelligence data in~~

4 24 the possession of the department or bureau, or disseminated by  
4 25 the department or bureau, are not public records within the  
4 26 provisions of chapter 22.

4 27 Sec. 9. Section [692.20](#), Code 1995, is amended to read as  
4 28 follows:

4 29 692.20 MOTOR VEHICLE OPERATOR'S RECORD EXEMPT.

4 30 The provisions of

~~sections~~

~~section 692.2~~

~~and 692.3~~

~~shall~~

4 31 not apply to the certifying of an individual's operating  
4 32 record pursuant to section 321A.3.

4 33 Sec. 10. Section [692.3](#), Code Supplement 1995, is repealed.

4 34 EXPLANATION

4 35 This bill provides for public access to criminal history  
5 1 data maintained by the department of public safety. Criminal  
5 2 history data includes arrest, conviction, disposition, and  
5 3 correctional data.

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

5 14 The bill also provides that a person who requests criminal  
5 15 history data is not liable to the person whose data was

5 16 requested for damages if the person is accurately identified  
5 17 to the department, the person requesting the data believes in  
5 18 good faith that the data is accurate and complete, and the  
5 19 person requesting the data complies with the requirements of  
5 20 chapter 692. Only the department of public safety may  
5 21 disseminate criminal history data maintained by the department  
5 22 to persons who are not criminal or juvenile justice agencies  
5 23 or individuals.

5 24 The bill requires the department of public safety to charge  
5 25 a fee to persons other than criminal or juvenile justice  
5 26 agencies. The fee is to offset the costs of administering the  
5 27 dissemination of criminal history data, including staff costs.

5 28 The bill repeals section 692.3 regarding the  
5 29 redissemination of criminal history data by peace officers,  
5 30 criminal or juvenile justice agencies, regulatory agencies, or  
5 31 the departments of human services or public health. The bill  
5 32 provides that criminal intelligence data shall not be  
5 33 redisseminated by peace officers, criminal or juvenile justice  
5 34 agencies, or regulatory agencies unless the data is to be used  
5 35 for official purposes, the agency maintains a list of the  
6 1 persons who receive the data and when and why they get it, and  
6 2 the person whose information is requested is identified by  
6 3 name, fingerprints, or other individually identified  
6 4 characteristics.

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

6 15 BACKGROUND STATEMENT  
6 16 SUBMITTED BY THE AGENCY

6 17 Criminal history data are currently disseminated to a wide  
6 18 variety of agencies through specific statutory authority.  
6 19 Groups not authorized statutory access may petition the  
6 20 commissioner of public safety to receive criminal history  
6 21 information. Requests for access to such information have  
6 22 continued to grow throughout the years for a wide variety of  
6 23 legitimate purposes, including checking prospective employees  
6 24 in youth service agencies, nursing homes, and child care  
6 25 providers.

6 26 This proposal makes criminal history information a public  
6 27 record and permits public access to criminal history data  
6 28 maintained by the division of criminal investigation of the  
6 29 department of public safety.

6 30 LSB 3121DP 76

6 31 mk/cf/24