

Senate Study Bill 3025 - Introduced

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

A BILL FOR

1 An Act relating to persons examining and obtaining their own
2 criminal history data.

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

1 Section 1. Section 692.5, Code 2016, is amended to read as
2 follows:

3 **692.5 Right of notice, access and challenge.**

4 1. Any person or the person's attorney shall have the right
5 to examine and obtain a copy of criminal history data filed
6 with the department that refers to the person. The person
7 or person's attorney ~~shall present or mail to the department~~
8 ~~written authorization and~~ may provide the person's fingerprint
9 identification to the department on a form and in a manner
10 prescribed by the department. The department shall not copy
11 the fingerprint identification and shall return or destroy the
12 identification after the copy of the criminal history data is
13 made. The department may prescribe reasonable hours and places
14 of examination.

15 2. Any A person who files with the division a written
16 statement to the effect that ~~a statement~~ information contained
17 in the criminal history data ~~that refers to the person~~ is
18 nonfactual, or that information contained in the criminal
19 history data is not authorized by law to be kept, and requests
20 a correction or elimination of ~~that~~ the information that refers
21 to ~~that~~ the person shall be notified within twenty days by
22 the division, in writing, of the division's decision or order
23 regarding the correction or elimination. Judicial review of
24 the actions of the division may be sought in accordance with
25 the terms of the Iowa administrative procedure Act, chapter
26 17A. Immediately upon the filing of the petition for judicial
27 review the court shall order the division to file with the
28 court a certified copy of the criminal history data and in no
29 other situation shall the division furnish an individual or the
30 individual's attorney with a certified copy, except as provided
31 by this chapter.

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

1 shall maintain a separate docket for such actions. 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 **this section** shall be a
6 public offense, punishable under **section 692.7**. The provisions
7 of **this section** shall be the sole right of action against the
8 department, its subdivisions, or employees regarding improper
9 storage or release of criminal history data.

10 4. Whenever the division corrects or eliminates criminal
11 history data as requested or as ordered by the court, the
12 division shall advise ~~all agencies or individuals who have~~
13 ~~received the incorrect information~~ the federal bureau of
14 investigation, if applicable, to correct ~~their~~ its files. ~~Upon~~
15 ~~application to the district court and service of notice on the~~
16 ~~commissioner of public safety, any individual may request and~~
17 ~~obtain a list of all persons and agencies who received criminal~~
18 ~~history data referring to the individual, unless good cause be~~
19 ~~shown why the individual should not receive the list.~~

20 EXPLANATION

21 The inclusion of this explanation does not constitute agreement with
22 the explanation's substance by the members of the general assembly.

23 This bill relates to a person examining and obtaining
24 criminal history data of the person.

25 The bill specifies that a person or the person's attorney may
26 request the criminal history data of the person by providing
27 the fingerprints of the person to the department of public
28 safety on a form and in a manner prescribed by the department.
29 The bill strikes a provision requiring a person or the person's
30 attorney to present or mail written authorization and the
31 fingerprints of the person in order to examine and obtain the
32 criminal history data of the person.

33 The bill substitutes the term "information" for the term
34 "statement" when specifying that nonfactual information may be
35 contained in the criminal history data.

1 The bill requires the division of criminal investigation of
2 the department of public safety to advise the federal bureau
3 of investigation to correct the criminal history data files of
4 the bureau, if the division of criminal investigation corrects
5 or eliminates criminal history data as requested or ordered
6 by the court. Under current law, if the division of criminal
7 investigation corrects or eliminates criminal history data as
8 requested or ordered by the court, the division of criminal
9 investigation must advise all agencies or individuals who have
10 received the incorrect information to correct the criminal
11 history data files.

12 The bill also strikes a provision that specifies that
13 an individual may request and obtain a list of all persons
14 and agencies who received the criminal history data of the
15 individual unless good cause is shown that the individual
16 should not receive the list.