

inserted in RCW 41.40.190 which provides to persons who are members of the Retirement System a choice of benefits under either the new formula or the existing retirement formula, but does not provide that choice to persons who may become members of the system in the future. I have determined that it is appropriate to veto from section 6 the item which limits the choice of benefits to present members only in order to extend the choice of benefits to both present and future members of the system equally.

Veto
Message

With the exception of the item deleted in section 6, I have approved the remainder of the bill."

CHAPTER 152

[Engrossed Senate Bill No. 146]

WASHINGTON STATE PATROL--SECTION ON IDENTIFICATION--
ADVISORY COUNCIL ON CRIMINAL JUSTICE SERVICES

AN ACT Relating to state government; creating a section for identification within the Washington state patrol; adding new sections to chapter 43.43 RCW; repealing section 3, chapter 27, Laws of 1967 ex. sess. and RCW 43.43.520; repealing section 8, chapter 63, Laws of 1970 ex. sess. and RCW 43.43.660; repealing section 43.89.020, chapter 8, Laws of 1965, section 3, chapter 60, Laws of 1965 ex. sess. and RCW 43.89.020; repealing sections 1 through 6, chapter 256, Laws of 1969 ex. sess. and RCW 72.50.120 through 72.50.170; making an appropriation; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Section 1. There is hereby established within the Washington state patrol a section on identification hereafter referred to as the section.

In order to aid the administration of justice the section shall install systems for the identification of individuals, including the fingerprint system and such other systems as the chief deems necessary. The section shall keep a complete record and index of all information received in convenient form for consultation and comparison.

The section shall obtain from whatever source available and file for record the fingerprints, palmprints, photographs, or such other identification data as it deems necessary, of persons who have been or shall hereafter be lawfully arrested and charged with, or convicted of any criminal offense. The section may obtain like information concerning persons arrested for or convicted of crimes under the laws of another state or government.

NEW SECTION. Sec. 2. Upon the receipt of identification data from criminal justice agencies within this state, the section shall immediately cause the files to be examined and upon request shall promptly return to the contributor of such data a transcript of the record of previous arrests and dispositions of the persons described in the data submitted.

Upon application, the section shall furnish to criminal justice agencies a transcript of the criminal offender record information available pertaining to any person of whom the section has a record.

For the purposes of sections 1 through 21 of this act the following words and phrases shall have the following meanings:

"Criminal offender record information" includes, and shall be restricted to identifying data and public record information recorded as the result of an arrest or other initiation of criminal proceedings and the consequent proceedings related thereto. "Criminal offender record information" shall not include intelligence, analytical, or investigative reports and files.

"Criminal justice agencies" are those public agencies within or outside the state which perform, as a principal function, activities directly relating to the apprehension, prosecution, adjudication or rehabilitation of criminal offenders.

Applications for information shall be by a data communications network used exclusively by criminal justice agencies or in writing and information applied for shall be used solely in the due administration of the criminal laws or for the purposes enumerated in section 13(3) of this act.

Any person who, in violation of this 1972 act, furnishes to any person or other agency information obtained from the section shall be civilly liable, as provided in RCW 72.50.170.

The section may refuse to furnish any information pertaining to the identification or history of any person or persons of whom it has a record, or other information in its files and records, to any applicant if the chief determines that the applicant has previously misused information furnished to such applicant by the section or the chief believes that the applicant will not use the information requested solely for the purpose of due administration of the criminal laws or for the purposes enumerated in section 13(3) of this act. The applicant may appeal such determination and denial of information to the advisory council created in section 18 of this act and the council may direct that the section furnish such information to the applicant.

NEW SECTION. Sec. 3. Information contained in the files and records of the section relative to the commission of any crime by any person shall be considered privileged and shall not be made public or

disclosed for any personal purpose or in any civil court proceedings except upon a written order of the judge of a court wherein such civil proceedings are had. All information contained in the files of the section relative to criminal records and personal histories of persons arrested for the commission of a crime shall be available to all criminal justice agencies, upon the filing of an application as provided in section 2 of this act.

Although no application for information has been made to the section as provided in section 2 of this act, the section may transmit such information in the chief's discretion, to such agencies as are authorized by section 2 of this act to make application for it.

NEW SECTION. Sec. 4. The section shall, consistent with the procedures set forth in this 1972 act, cooperate with all other criminal justice agencies, within or without the state, in an exchange of information regarding convicted criminals and those suspected of or wanted for the commission of crimes, to the end that proper identification may rapidly be made and the ends of justice served.

NEW SECTION. Sec. 5. At the request of any criminal justice agency within this state, the section may assist such agency in the establishment of local identification and records systems.

NEW SECTION. Sec. 6. Any copy of a criminal offender record, photograph, fingerprint, or other paper or document in the files of the section, certified by the chief or his designee to be a true and complete copy of the original or of information on file with the section, shall be admissible in evidence in any court of this state pursuant to the provisions of RCW 5.44.040.

NEW SECTION. Sec. 7. (1) When any person, having no prior criminal record, whose fingerprints and/or other identifying data were submitted to and filed at the section, shall be found not guilty of the offense for which the fingerprints and/or other identifying data were sent to the section, or be released without a conviction being obtained, his fingerprints and/or other identifying data and all copies thereof on file at the section shall be destroyed by the section, provided such person requests said destruction after the finding of not guilty or after the release. The section shall, upon destruction of the record pursuant to this section, notify said person of the destruction.

(2) Any individual shall have the right to inspect criminal offender record information on file with the section which refers to him. If an individual believes such information to be inaccurate or incomplete, he may request the section to purge, modify or supplement it and to advise such persons or agencies who have received his record and whom the individual designates to modify it accordingly.

Should the section decline to so act, or should the individual believe the section's decision to be otherwise unsatisfactory, the individual may appeal such decision to the superior court in the county in which he is resident, or the county from which the disputed record emanated or Thurston county. The court shall in such case conduct a de novo hearing, and may order such relief as it finds to be just and equitable.

(3) The section may prescribe reasonable hours and a place for inspection, and may impose such additional restrictions, including fingerprinting, as are reasonably necessary both to assure the record's security and to verify the identities of those who seek to inspect them: PROVIDED, That the section may charge a reasonable fee for fingerprinting.

NEW SECTION. Sec. 8. (1) It shall be the duty of the sheriff or director of public safety of every county, and the chief of police of every city or town, and of every chief officer of other law enforcement agencies duly operating within this state, to cause the photographing and fingerprinting of all persons lawfully arrested for the commission of any criminal offense constituting a felony or gross misdemeanor: PROVIDED, That an exception may be made when the arrest is for a violation punishable as a gross misdemeanor and the arrested person is not taken into custody.

(2) It shall be the right, but not the duty, of the sheriff or director of public safety of every county, and the chief of police of every city or town, and every chief officer of other law enforcement agencies operating within this state to photograph and record the fingerprints of all persons lawfully arrested.

(3) Such sheriffs, directors of public safety, chiefs of police, and other chief law enforcement officers, may record, in addition to photographs and fingerprints, the palmprints, soleprints, toeprints, or any other identification data of all persons lawfully arrested for the commission of any criminal offense, when in the discretion of such law enforcement officers it is necessary for proper identification of the arrested person or the investigation of the crime with which he is charged.

NEW SECTION. Sec. 9. Except as provided in section 12 of this act relating to the fingerprinting of juveniles:

(1) It shall be the duty of the sheriff or director of public safety of every county, and the chief of police of every city or town, and of every chief officer of other law enforcement agencies duly operating within this state to furnish within seventy-two hours from the time of arrest to the section the required sets of fingerprints together with other identifying data as may be prescribed by the chief, of any person lawfully arrested, fingerprinted, and photographed pursuant to section 8 of this act.

(2) Law enforcement agencies may retain and file copies of the fingerprints, photographs, and other identifying data and information obtained pursuant to section 8 of this act. Said records shall remain in the possession of the law enforcement agency as part of the identification record and are not returnable to the subjects thereof.

NEW SECTION. Sec. 10. (1) It shall be the duty of the sheriff or director of public safety of every county, of the chief of police of each city or town, or of every chief officer of other law enforcement agencies operating within this state, to record the fingerprints of all persons held in or remanded to their custody when convicted of any crime as provided for in section 8 for which the penalty of imprisonment might be imposed and to disseminate and file such fingerprints in the same manner as those recorded upon arrest pursuant to sections 8 and 9 of this act.

(2) Every time the secretary authorizes a furlough as provided for in RCW 72.66.020 the department of social and health services shall notify, forty-eight hours prior to the beginning of such furlough, the section that the named prisoner has been granted a furlough, the place to which furloughed, and the dates and times during which the prisoner will be on furlough status. In the case of an emergency furlough the forty-eight hour time period shall not be required but notification shall be made as promptly as possible and before the prisoner is released on furlough. Upon receipt of furlough information pursuant to the provisions of this subsection the section shall notify the sheriff or director of public safety of the county to which the prisoner is being furloughed, the nearest attachment of the Washington State Patrol in the county wherein the furloughed prisoner shall be residing and such other criminal justice agencies as the section may determine should be so notified.

(3) Disposition of the charge for which the arrest was made shall be reported to the section at whatever stage in the proceedings a final disposition occurs by the arresting law enforcement agency, county prosecutor, city attorney, or court having jurisdiction over the offense: PROVIDED, That the chief shall promulgate rules pursuant to chapter 34.04 RCW to carry out the provisions of this subsection.

(4) Whenever a person serving a sentence for a term of confinement in a state correctional facility for convicted felons, pursuant to court commitment, is released on an order of the state board of prison terms and paroles, or is discharged from custody on expiration of sentence, the department of social and health services shall promptly notify the section that the named person has been released or discharged, the place to which such person has been released or discharged, and the conditions of his release or discharge, and shall additionally notify the section of change in

residence or conditions of release or discharge of persons on active parole supervision, and shall notify the section when persons are discharged from active parole supervision.

No city, town, county, or local law enforcement authority or other agency thereof may require that a convicted felon entering, sojourning, visiting, in transit, or residing in such city, town, county, or local area report or make himself known as a convicted felon or make application for and/or carry on his person a felon identification card or other registration document. Nothing herein shall, however, be construed to prevent any local law enforcement authority from recording the residency and other information concerning any convicted felon or other person convicted of a criminal offense when such information is obtained from a source other than from such requirement which source may include any officer or other agency or subdivision of the state.

NEW SECTION. Sec. 11. In exercising their duties and authority under sections 8 and 9 of this act, the sheriffs, directors of public safety, chiefs of police, and other chief law enforcement officers, may consistent with constitutional and legal requirements, use such reasonable force as is necessary to compel an unwilling person to submit to being photographed, or fingerprinted, or to submit to any other identification procedure, except interrogation, which will result in obtaining physical evidence serving to identify such person. No one having the custody of any person subject to the identification procedures provided for in this act, and no one acting in his aid or under his direction, and no one concerned in such publication as is provided for in section 9 of this act, shall incur any liability, civil or criminal, for anything lawfully done in the exercise of the provisions of this act.

NEW SECTION. Sec. 12. (1) The recording of fingerprints, photographs and other identification data of any person under the age of eighteen shall be accomplished pursuant to Title 13 RCW as now or hereafter revised or supplemented.

(2) For the purpose of this act, any person eighteen years or older shall be considered an adult when charged with the commission of any criminal offense, and his records shall not be subject to the restrictions in subsection (1) of this section.

NEW SECTION. Sec. 13. (1) Whenever a resident of this state appears before any law enforcement agency and requests an impression of his fingerprints to be made, such agency may comply with his request and make the required copies of the impressions on forms marked "Personal Identification". The required copies shall be forwarded to the section and marked "for personal identification only".

(2) The section shall accept and file such fingerprints

submitted voluntarily by such resident, for the purpose of securing a more certain and easy identification in case of death, injury, loss of memory, or other similar circumstances. Upon the request of such person, the section shall return his identification data.

(3) Whenever any person is an applicant for appointment to any position or is an applicant for employment or is an applicant for a license to be issued by any governmental agency, and the law or a regulation of such governmental agency requires that the applicant be of good moral character or not have been convicted of a crime, or is an applicant for appointment to or employment with a criminal justice agency, the applicant may request any law enforcement agency to make an impression of his fingerprints to be submitted to the section. The law enforcement agency may comply with such request and make copies of the impressions on forms marked "applicant", and submit such copies to the section.

The section shall accept such fingerprints and shall cause its files to be examined and shall promptly send to the appointing authority, employer, or licensing authority indicated on the form of application, a transcript of the record of previous crimes committed by the person described on the data submitted, or if there is no record of his commission of any crimes, a statement to that effect.

Any law enforcement agency may charge a fee not to exceed five dollars for the purpose of taking fingerprint impressions or searching its files of identification for noncriminal purposes.

NEW SECTION. Sec. 14. The principal officers of the jails, correctional institutions, state mental institutions and all places of detention to which a person is committed under RCW 10.76 or RCW 71.06 for treatment or under a sentence of imprisonment for any crime as provided for in section 8 shall within seventy-two hours, report to the section, any inter-institutional transfer, release or change of release status of any person held in custody pursuant to the rules promulgated by the chief.

The principal officers of all state mental institutions to which a person has been committed under RCW 10.76 or RCW 71.06 shall keep a record of the photographs, description, fingerprints, and other identification data as may be obtainable from the appropriate criminal justice agency.

NEW SECTION. Sec. 15. It shall be the duty of the sheriff or director of public safety of every county, or the chief of police of every city or town, or the chief officer of other law enforcement agencies operating within this state, coroners or medical examiners, to record whenever possible the fingerprints and such other identification data as may be useful to establish identity, of all unidentified dead bodies found within their respective jurisdictions, and to furnish to the section all data so obtained. The section

shall search its files and otherwise make a reasonable effort to determine the identity of the deceased and notify the contributing agency of the finding.

In all cases where there is found to exist a criminal record for the deceased, the section shall notify the federal bureau of investigation and each criminal justice agency, within or outside the state in whose jurisdiction the decedent has been arrested, of the date and place of death of decedent.

NEW SECTION. Sec. 16. The legislative authority of any county, city or town may authorize its sheriff, director of public safety or chief of police to enter into any contract with another public agency which is necessary to carry out the provisions of this act.

NEW SECTION. Sec. 17. All fingerprint cards, photographs, file cabinets, equipment, and other records collected and filed by the bureau of criminal identification, and now in the department of social and health services shall be transferred to the Washington state patrol for use by the section on identification created by this act.

NEW SECTION. Sec. 18. The legislature finds that there is a need for the Washington state patrol to establish a program which will consolidate existing programs of criminal justice services within its jurisdiction so that such services may be more effectively utilized by the criminal justice agencies of this state. The chief, with the advice of the state advisory council on criminal justice services created in section 19 of this act, shall establish such a program which shall include but not be limited to the identification section, all auxiliary systems including the Washington crime information center and the teletypewriter communications network, the drug control assistance unit, and any other services the chief deems necessary which are not directly related to traffic control.

NEW SECTION. Sec. 19. There is hereby created the Washington state advisory council on criminal justice services. The advisory council shall consist of eleven members, nine to be appointed by the governor. The chief of the Washington state patrol shall be a member and shall act as chairman and the secretary of the department of social and health services or his designee shall be an ex officio member.

- V-
- (1) One member shall be a sheriff or director of public safety.
 - (2) One member shall be a chief of police.
 - (3) One member shall be an active law enforcement officer other than a sheriff, director of public safety, or chief.
 - (4) One member shall be a member of the Washington association of prosecuting attorneys.

(5) One member shall be the special agent in charge of the Seattle division of the federal bureau of investigation or his duly authorized representative.

(6) One member shall be an elected legislative official or mayor of a city.

(7) One member shall be an elected legislative official of a county.

(8) One member shall be a superior court judge.

(9) One member shall be a district court judge.

The members of the initial council shall be appointed within thirty days of the effective date of this act. Of the members of the initial council, three shall be appointed for terms ending June 30, 1976, three shall be appointed for terms ending June 30, 1975 and three shall be appointed for terms ending June 30, 1973. Thereafter, each member of the council shall be appointed for a term of four years. Vacancies shall be filled within ninety days for the remainder of the unexpired term by appointment of the governor in the same manner as the original appointments. Each member of the council shall continue in office until his successor is appointed.

NEW SECTION. Sec. 20. The council shall meet not less than quarterly at a date and place of its choice, and at such other times as shall be designated by the chairman or upon the written request of a majority of the council.

NEW SECTION. Sec. 21. The advisory council shall review the provisions of sections 1 through 18 of this act and the administration thereof and shall consult with and advise the chief of the state patrol on matters pertaining to the policies of criminal justice services program.

The council shall appoint technical advisory committees comprised of members of criminal justice agencies having demonstrated technical expertise in the various fields of specialty within the program.

NEW SECTION. Sec. 22. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 23. Any person who wilfully requests, obtains or seeks to obtain criminal offender record information under false pretenses, or who wilfully communicates or seeks to communicate criminal offender record information to any agency or person except in accordance with this act, or any member, officer, employee or agent of the section, the council or any participating agency, who wilfully falsifies criminal offender record information, or any records relating thereto, shall for each such offense be fined not more than five thousand dollars, or imprisoned not more than one year

or both.

NEW SECTION. Sec. 24. The following acts or parts of acts are repealed:

(1) Section 3, chapter 27, Laws of 1967 ex. sess. and RCW 43.43.520;

(2) Section 8, chapter 63, Laws of 1970 ex. sess. and RCW 43.43.660;

(3) Section 43.89.020, chapter 8, Laws of 1965, section 3, chapter 60, Laws of 1965 ex. sess. and RCW 43.89.020; and

(4) Sections 1 through 6, chapter 256, Laws of 1969 ex. sess. and RCW 72.50.120 through 72.50.170.

NEW SECTION. Sec. 25. State records shall be destroyed in a manner to be prescribed by the chief.

NEW SECTION. Sec. 26. Sections 1 through 21 of this act shall be added to chapter 43.43 RCW.

NEW SECTION. Sec. 27. There is hereby appropriated to the Washington State Patrol from the general fund for the biennium ending June 30, 1973, the sum of ten thousand dollars, or so much thereof as shall be necessary to carry out the provisions of this 1972 amendatory act.

NEW SECTION. Sec. 28. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 18, 1972.

Passed the House February 17, 1972.

Approved by the Governor February 25, 1972 with the exception of an item in section 19 which is vetoed.

Filed in Office of Secretary of State February 28, 1972.

Note: Governor's explanation of partial veto is as follows:

"...The passage of Senate Bill 146 provides the opportunity for a substantial improvement in the system of criminal justice in the State of Washington. The creation of a section on criminal identification in the State Patrol will provide major assistance to state and local law enforcement and the entire court system.

Veto
Message

Section 19 of the bill creates the Washington State Advisory Council on Criminal Justice Services. The Advisory Council is to consist of eleven members, nine to be appointed by the Governor, plus the Chief of the Washington State Patrol who shall be the Chairman and the Secretary of the

Department of Social and Health Services or his designee. The nine persons appointed by the Governor are defined by quite precise categories in the bill. While membership reflecting the interests described in section 19 is generally desirable, it is excessively restrictive to mandate in every instance the categories of persons who must be included on the Council. Accordingly, I have vetoed that item from section 19 which requires that specific categories of persons be appointed to the Advisory Council.

Veto
Message

With the exception of this one item in section 19, I have approved the remainder of the bill."

CHAPTER 153

[Substitute House Bill No. 29]

OUTDOOR RECREATION--ALL-TERRAIN VEHICLES

AN ACT Relating to outdoor recreation; amending section 2, chapter 216, Laws of 1967 as amended by section 2, chapter 24, Laws of 1969 ex. sess. and RCW 4.24.210; amending section 8, chapter 76, Laws of 1970 ex. sess. as amended by section 2, chapter 47, Laws of 1971 ex. sess. and RCW 67.32.080; amending section 6, chapter 47, Laws of 1971 ex. sess. and RCW 46.09.010; amending section 7, chapter 47, Laws of 1971 ex. sess. and RCW 46.09.020; amending section 8, chapter 47, Laws of 1971 ex. sess. and RCW 46.09.030; amending section 9, chapter 47, Laws of 1971 ex. sess. and RCW 46.09.040; amending section 10, chapter 47, Laws of 1971 ex. sess. and RCW 46.09.050; amending section 11, chapter 47, Laws of 1971 ex. sess. and RCW 46.09.060; amending section 12, chapter 47, Laws of 1971 ex. sess. and RCW 46.09.070; amending section 13, chapter 47, Laws of 1971 ex. sess. and RCW 46.09.080; amending section 14, chapter 47, Laws of 1971 ex. sess. and RCW 46.09.090; amending section 16, chapter 47, Laws of 1971 ex. sess. and RCW 46.09.110; amending section 17, chapter 47, Laws of 1971 ex. sess. and RCW 46.09.120; amending section 20, chapter 47, Laws of 1971 ex. sess. and RCW 46.09.150; amending section 21, chapter 47, Laws of 1971 ex. sess. and RCW 46.09.160; amending section 22, chapter 47, Laws of 1971 ex. sess. and RCW 46.09.170; amending section 24, chapter 47, Laws of 1971 ex. sess. and RCW 46.09.190; amending section 4, chapter 29, Laws of 1971 ex. sess. and RCW 46.10.040; amending section 7, chapter 29, Laws of 1971 ex. sess. and RCW 46.10.070; amending section 8, chapter 29, Laws of 1971 ex. sess. and RCW