

established by the commissioner on the basis of the National Association of Insurance Commissioner's recommended salary schedule for zone examiners, or the salary schedule established by the state personnel board, whichever is higher. Domestic title insurer shall pay the examination expense and costs to the commissioner as itemized and billed by him.

The commissioner or his examiners shall not receive or accept any additional emolument on account of any examination.

Passed the House March 21, 1979.

Passed the Senate April 11, 1979.

Approved by the Governor April 23, 1979.

Filed in Office of Secretary of State April 23, 1979.

CHAPTER 36

[House Bill No. 571]

CRIMINAL HISTORY RECORD INFORMATION—DISSEMINATION, DISCLOSURE

AN ACT Relating to the privacy of criminal records; amending section 3, chapter 314, Laws of 1977 ex. sess. and RCW 10.97.030; amending section 4, chapter 314, Laws of 1977 ex. sess. and RCW 10.97.040; amending section 8, chapter 314, Laws of 1977 ex. sess. and RCW 10.97.080; amending section 9, chapter 314, Laws of 1977 ex. sess. and RCW 10.97.090; amending section 11, chapter 314, Laws of 1977 ex. sess. and RCW 10.97.110; repealing and reenacting section 3, chapter 152, Laws of 1972 ex. sess. as amended by section 1, chapter 30, Laws of 1977 ex. sess. and by section 15, chapter 314, Laws of 1977 ex. sess. and RCW 43.43.710; and adding a new section to chapter 314, Laws of 1977 ex. sess. and to chapter 10.97 RCW.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 3, chapter 314, Laws of 1977 ex. sess. and RCW 10.97.030 are each amended to read as follows:

For purposes of this chapter, the definitions of terms in this section shall apply.

(1) "Criminal history record information" means information contained in records collected by criminal justice agencies, other than courts, on individuals, other than juveniles, consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, including sentences, correctional supervision, and release. The term includes information contained in records maintained by or obtained from criminal justice agencies, other than courts, which records provide individual identification of a person together with any portion of the individual's record of involvement in the criminal justice system as an alleged or convicted offender, except:

(a) Posters, announcements, or lists for identifying or apprehending fugitives or wanted persons;

(b) Original records of entry maintained by criminal justice agencies to the extent that such records are compiled and maintained chronologically and are accessible only on a chronological basis;

(c) Court indices and records of public judicial proceedings, court decisions, and opinions, and information disclosed during public judicial proceedings;

(d) Records of traffic violations which are not punishable by a maximum term of imprisonment of more than ninety days;

(e) Records of any traffic offenses as maintained by the department of ~~((motor vehicles))~~ licensing for the purpose of regulating the issuance, suspension, revocation, or renewal of drivers' or other operators' licenses and pursuant to RCW 46.52.130 as now existing or hereafter amended;

(f) Records of any aviation violations or offenses as maintained by the ~~((aeronautics commission))~~ department of transportation for the purpose of regulating pilots or other aviation operators, and pursuant to RCW ~~((14-04.330))~~ 47.68.330 as now existing or hereafter amended;

(g) Announcements of executive clemency.

(2) "Nonconviction data" consists of all criminal history record information relating to an incident which has not led to a conviction or other disposition adverse to the subject, and for which proceedings are no longer actively pending. There shall be a rebuttable presumption that proceedings are no longer actively pending if more than one year has elapsed since arrest, citation, or service of warrant and no disposition has been entered.

(3) "Conviction record" means criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the subject.

(4) "Conviction or other disposition adverse to the subject" means any disposition of charges, except a decision not to prosecute, a dismissal, or acquittal: PROVIDED, HOWEVER, That a dismissal entered after a period of probation, suspension, or deferral of sentence shall be considered a disposition adverse to the subject.

(5) "Criminal justice agency" means: (a) A court; or (b) a government agency which performs the administration of criminal justice pursuant to a statute or executive order and which allocates a substantial part of its annual budget to the administration of criminal justice.

(6) "The administration of criminal justice" means performance of any of the following activities: Detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The term also includes criminal identification activities and the collection, storage, dissemination of criminal history record information, and the compensation of victims of crime.

(7) "Disposition" means the formal conclusion of a criminal proceeding at whatever stage it occurs in the criminal justice system.

(8) "Dissemination" means disclosing criminal history record information or disclosing the absence of criminal history record information to any

person or agency outside the agency possessing the information, subject to the following exceptions:

(a) When criminal justice agencies jointly participate in the maintenance of a single record keeping department as an alternative to maintaining separate records, the furnishing of information by that department to personnel of any participating agency is not a dissemination;

(b) The furnishing of information by ~~((one))~~ any criminal justice agency to another for the purpose of processing a matter through the criminal justice system, such as a police department providing information to a prosecutor for use in preparing a charge ~~((resulting from an investigation by that department))~~, is not a dissemination;

(c) The reporting of an event to a record keeping agency for the purpose of maintaining the record is not a dissemination.

~~((9) "State planning agency" shall mean that agency designated by law or executive order to fulfill the functions established by 42 U.S.C. Section 3701, the "Omnibus Crime Control and Safe Streets Act of 1968", as amended.))~~

Sec. 2. Section 4, chapter 314, Laws of 1977 ex. sess. and RCW 10.97-.040 are each amended to read as follows:

~~((Effective January 1, 1978.))~~ No criminal justice agency shall disseminate criminal history record information pertaining to an arrest, detention, indictment, information, or other formal criminal charge made after December 31, 1977, unless the record disseminated states the disposition of such charge to the extent dispositions have been made at the time of the request for the information: PROVIDED, HOWEVER, That if a disposition occurring within ten days immediately preceding the dissemination has not been reported to the agency disseminating the criminal history record information, or if information has been received by the agency within the seventy-two hours immediately preceding the dissemination, that information shall not be required to be included in the dissemination: PROVIDED FURTHER, That when another criminal justice agency requests criminal history record information, the disseminating agency may disseminate specific facts and incidents which are within its direct knowledge without furnishing disposition data as otherwise required by this section, unless the disseminating agency has received such disposition data from either: (1) the state patrol, or (2) the court or other criminal justice agency required to furnish disposition data pursuant to section 6 of this 1979 act.

~~((Effective January 1, 1978.))~~ No criminal justice agency shall disseminate criminal history record information which shall include information concerning a felony or gross misdemeanor without first making inquiry of the identification section of the Washington state patrol for the purpose of obtaining the most current and complete information available, unless one or more of the following circumstances exists:

(1) The information to be disseminated is needed for a purpose in the administration of criminal justice for which time is of the essence and the identification section is technically or physically incapable of responding within the required time;

(2) The full information requested and to be disseminated relates to specific facts or incidents which are within the direct knowledge of the agency which disseminates the information;

(3) The full information requested and to be disseminated is contained in a criminal history record information summary received from the identification section by the agency which is to make the dissemination not more than thirty days preceding the dissemination to be made;

(4) The statute, executive order, court rule, or court order pursuant to which the information is to be disseminated refers solely to information in the files of the agency which makes the dissemination; ((or))

(5) The information requested and to be disseminated is for the express purpose of research, evaluative, or statistical activities to be based upon information maintained in the files of the agency or agencies from which the information is directly sought; or

(6) A person who is the subject of the record requests the information and the agency complies with the requirements in RCW 10.97.080 as now or hereafter amended.

Sec. 3. Section 8, chapter 314, Laws of 1977 ex. sess. and RCW 10.97-.080 are each amended to read as follows:

All criminal justice agencies shall permit an individual who is, or who believes that he may be, the subject of a criminal record maintained by that agency, to appear in person during normal business hours of that criminal justice agency and request to see the criminal history record information held by that agency pertaining to the individual. The individual's right to access and review of criminal history record information shall not extend to data contained in intelligence, investigative, or other related files, and shall not be construed to include any information other than that defined as criminal history record information by this chapter.

Every criminal justice agency shall adopt rules and make available forms to facilitate the inspection and review of criminal history record information by the subjects thereof, which rules may include requirements for identification, the establishment of reasonable periods of time to be allowed an individual to examine the record, and for assistance by an individual's counsel, interpreter, or other appropriate persons.

No person shall be allowed to retain or mechanically reproduce any nonconviction data except for the purpose of challenge or correction when the person who is the subject of the record asserts the belief in writing that the information regarding such person is inaccurate or incomplete. The provisions of chapter 42.17 RCW shall not be construed to require or authorize copying of nonconviction data for any other purpose.

The (~~state planning agency~~) Washington state patrol shall establish rules for the challenge of records which an individual declares to be inaccurate or incomplete, and for the resolution of any disputes between individuals and criminal justice agencies pertaining to the accuracy and completeness of criminal history record information. The (~~state planning agency~~) Washington state patrol shall also adopt rules for the correction of criminal history record information and the dissemination of corrected information to agencies and persons to whom inaccurate or incomplete information was previously disseminated. Such rules may establish time limitations of not less than ninety days upon the requirement for disseminating corrected information.

Sec. 4. Section 9, chapter 314, Laws of 1977 ex. sess. and RCW 10.97-.090 are each amended to read as follows:

The (~~state planning agency~~) Washington state patrol is hereby designated the agency of state government responsible for the administration of the 1977 Washington State Criminal Records Privacy Act. The (~~state planning agency~~) Washington state patrol may adopt any rules and regulations necessary for the performance of the administrative functions provided for in this chapter.

The (~~state planning agency~~) Washington state patrol shall have the following specific administrative duties:

- (1) To establish by rule and regulation standards for the security of criminal history information systems in order that such systems and the data contained therein be adequately protected from fire, theft, loss, destruction, other physical hazard, or unauthorized access;
- (2) To establish by rule and regulation standards for personnel employed by criminal justice of other state and local government agencies in positions with responsibility for maintenance and dissemination of criminal history record information; and
- (3) To contract with the Washington state auditor or other public or private agency, organization, or individual to perform audits of criminal history record information systems.

Sec. 5. Section 11, chapter 314, Laws of 1977 ex. sess. and RCW 10.97.110 are each amended to read as follows:

Any person may maintain an action to enjoin a continuance of any act or acts in violation of any of the provisions of this chapter, and if injured thereby, for the recovery of damages and for the recovery of reasonable attorneys' fees. If, in such action, the court shall find that the defendant is violating or has violated any of the provisions of this chapter, it shall enjoin the defendant from a continuance thereof, and it shall not be necessary that actual damages to the plaintiff be alleged or proved. In addition to such injunctive relief, the plaintiff in said action shall be entitled to recover from the defendant the amount of the actual damages, if any, sustained by him if actual damages to the plaintiff are alleged and proved. In any suit brought

to enjoin a violation of this chapter, the prevailing party may be awarded reasonable attorneys' fees, including fees incurred upon appeal. Commencement, pendency, or conclusion of a civil action for injunction or damages shall not affect the liability ((or)) of a person or agency to criminal prosecution for a violation of this chapter.

NEW SECTION. Sec. 6. There is added to chapter 314, Laws of 1977 ex. sess. and to chapter 10.97 RCW a new section to read as follows:

Whenever a court or other criminal justice agency reaches a disposition of a criminal proceeding, the court or other criminal justice agency shall furnish the disposition data to the agency initiating the criminal history record for that charge and to the identification section of the Washington state patrol as required under RCW 43.43.745.

Sec. 7. Section 3, chapter 152, Laws of 1972 ex. sess. as amended by section 1, chapter 30, Laws of 1977 ex. sess. and by section 15, chapter 314, Laws of 1977 ex. sess. and RCW 43.43.710 are each repealed and reenacted to read as follows:

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 and, for the sole purpose of investigating the cause of fires under RCW 48.48.060(2) where the cause is suspected to be arson, to the state fire marshal, upon the filing of an application as provided in RCW 43.43.705.

Although no application for information has been made to the section as provided in RCW 43.43.705, the section may transmit such information in the chief's discretion, to such agencies as are authorized by RCW 43.43.705 to make application for it.

Passed the House March 29, 1979.

Passed the Senate April 11, 1979.

Approved by the Governor April 23, 1979.

Filed in Office of Secretary of State April 23, 1979.

CHAPTER 37

[House Bill No. 576]

APPRENTICESHIP—COUNCIL MEMBERSHIP—AGREEMENT STANDARDS

AN ACT Relating to apprenticeship; amending section 1, chapter 231, Laws of 1941 as last amended by section 72, chapter 75, Laws of 1977 and RCW 49.04.010; amending section 2, chapter 231, Laws of 1941 as amended by section 2, chapter 114, Laws of 1961 and