

owners according to the records of the county auditor of not less than sixty percent of the area of land to be transferred. If a majority of the commissioners of each district approves the petition, copies of the approving resolutions shall be filed with the county legislative authority which shall act upon the petition as a proposed action in accordance with RCW 57.02.040.

Passed the House April 15, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor May 18, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 18, 1987.

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

"I am returning herewith, without my approval as to sections 6 and 15, Substitute House Bill No. 2, entitled:

"AN ACT Relating to special purpose districts."

Sections 6 and 15, if signed, would result in an identical double amendment of sections 1 and 2 of House Bill No. 643, which I have already signed into law. For this reason, I have vetoed sections 6 and 15.

With the exceptions of sections 6 and 15, Substitute House Bill No. 2 is approved."

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## CHAPTER 450

[Substitute House Bill No. 1065]

### AUTOMATIC FINGERPRINT IDENTIFICATION SYSTEM

AN ACT Relating to establishing an automatic fingerprint identification system; amending RCW 43.43.735, 43.43.740, 10.98.050, 26.44.050, and 13.50.050; adding new sections to chapter 43.43 RCW; creating a new section; repealing RCW 13.04.130 and 43.43.755; and making an appropriation.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 43.43 RCW to read as follows:

(1) No local law enforcement agency may establish or operate an automatic fingerprint identification system unless:

(a) Both the hardware and software of the local system are compatible with the state system under RCW 43.43.560; and

(b) The local system is equipped to receive and answer inquiries from the Washington state patrol automatic fingerprint identification system and transmit data to the Washington state patrol automatic fingerprint identification system.

(2) A local law enforcement agency operating an automatic fingerprint identification system shall transmit data on fingerprint entries to the Washington state patrol electronically by computer. This requirement shall be in addition to those under RCW 10.98.050 and 43.43.740.

(3) Counties or local agencies that purchased or signed a contract to purchase an automatic fingerprint identification system prior to January 1,

1987, are exempt from the requirements of this section. The Washington state patrol shall charge fees for processing latent fingerprints submitted to the patrol by counties or local jurisdictions exempted from the requirements of this section. The fees shall cover, as nearly as practicable, the direct and indirect costs to the patrol of processing such fingerprints.

(4) The Washington state patrol shall adopt rules to implement this section.

Sec. 2. Section 8, chapter 152, Laws of 1972 ex. sess. as amended by section 13, chapter 201, Laws of 1985 and RCW 43.43.735 are each amended to read as follows:

(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))~~ adults and juveniles 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))~~ adults lawfully arrested, or all persons who are the subject of dependency record information.

(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))~~ whose photograph and fingerprints are required or allowed to be taken under this section, or all persons who are the subject of dependency record information, 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.

(4) It shall be the duty of the court having jurisdiction over the dependency action to cause the fingerprinting of all persons who are the subject of dependency record information and to obtain other necessary identifying information, as specified by the section in rules promulgated pursuant to chapter 34.04 RCW to carry out the provisions of this subsection.

(5) The court having jurisdiction over the dependency action may obtain and record, in addition to fingerprints, the photographs, palmprints, soleprints, toeprints, or any other identification data of all persons who are the subject of dependency record information, when in the discretion of the court it is necessary for proper identification of the person.

Sec. 3. Section 9, chapter 152, Laws of 1972 ex. sess. as amended by section 14, chapter 201, Laws of 1985 and RCW 43.43.740 are each amended to read as follows:

~~((Except as provided in RCW 43.43.755 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 RCW 43.43.735.

(2) Law enforcement agencies may retain and file copies of the fingerprints, photographs, and other identifying data and information obtained pursuant to RCW 43.43.735. 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.

(3) It shall be the duty of the court having jurisdiction over the dependency action to furnish dependency record information, obtained pursuant to RCW 43.43.735, to the section within seven days, excluding Saturdays, Sundays, and holidays, from the date that the court enters a finding, pursuant to a dependency action brought under chapter 13.34 RCW, that a person over the age of eighteen, who is a party to the dependency action, has sexually molested, sexually abused, or sexually exploited a child.

(4) The court having jurisdiction over the dependency action may retain and file copies of the fingerprints, photographs, and other identifying data and information obtained pursuant to RCW 43.43.735. These records shall remain in the possession of the court as part of the identification record and are not returnable to the subjects thereof.

NEW SECTION. Sec. 4. A new section is added to chapter 43.43 RCW to read as follows:

The Washington state patrol shall adopt rules concerning submission of fingerprints taken by local agencies after the effective date of this section from persons for license application or other noncriminal purposes. The Washington state patrol may charge fees for submission of fingerprints which will cover as nearly as practicable the direct and indirect costs to the Washington state patrol of processing such submission.

NEW SECTION. Sec. 5. The chief officer of every local law enforcement agency shall furnish to the Washington state patrol all fingerprints taken between July 1, 1983, and the effective date of this section from juveniles.

Sec. 6. Section 5, chapter 17, Laws of 1984 as amended by section 2, chapter 201, Laws of 1985 and RCW 10.98.050 are each amended to read as follows:

(1) ~~((Except in the case of juveniles;))~~ It is the duty of the chief law enforcement officer or the local director of corrections to transmit within seventy-two hours from the time of arrest to the section fingerprints together with other identifying data as may be prescribed by the section, and statutory violations of any person lawfully arrested, fingerprinted, and photographed under RCW 43.43.735. The disposition report shall be transmitted to the prosecuting attorney.

(2) At the preliminary hearing or the arraignment of a felony case, the judge shall ensure that the felony defendants have been fingerprinted and an arrest and fingerprint form transmitted to the section. In cases where fingerprints have not been taken, the judge shall order the chief law enforcement officer of the jurisdiction or the local director of corrections to initiate an arrest and fingerprint form and transmit it to the section. The disposition report shall be transmitted to the prosecuting attorney.

~~((3) The chief law enforcement officer of the jurisdiction shall initiate an arrest and fingerprint form for all juveniles who are fifteen years of age or older at the time the offense was committed and who are adjudicated of offenses that would be felonies if the juveniles were adults, and transmit the information within seventy-two hours to the section. The administrator of juvenile court services shall assist the chief law enforcement officer of the jurisdiction in developing procedures for obtaining the identification and disposition information required in this subsection, and the procedures shall be subject to the approval of the juvenile court judge. The juvenile information section of the administrator for the courts may assist the juvenile court with providing the section arrest and fingerprint forms, other identification, or other criminal history information:))~~

Sec. 7. Section 5, chapter 13, Laws of 1965 as last amended by section 5, chapter 97, Laws of 1984 and RCW 26.44.050 are each amended to read as follows:

Upon the receipt of a report concerning the possible occurrence of abuse or neglect, it shall be the duty of the law enforcement agency or the department of social and health services to investigate and provide the protective services section with a report in accordance with the provision of chapter 74.13 RCW, and where necessary to refer such report to the court.

A law enforcement officer may take, or cause to be taken, a child into custody without a court order if there is probable cause to believe that the child is abused or neglected and that the child would be injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW 13.34.050. ~~((Notwithstanding the provisions of RCW 13.04.130 as now or hereafter amended;))~~ The law enforcement agency or the

department of social and health services investigating such a report is hereby authorized to photograph such a child or adult dependent person for the purpose of providing documentary evidence of the physical condition of the child or disabled person.

Sec. 8. Section 9, chapter 155, Laws of 1979 as last amended by section 33, chapter 257, Laws of 1986 and RCW 13.50.050 are each amended to read as follows:

(1) This section governs records relating to the commission of juvenile offenses, including records relating to diversions.

(2) The official juvenile court file of any alleged or proven juvenile offender shall be open to public inspection, unless sealed pursuant to subsection (11) of this section.

(3) All records other than the official juvenile court file are confidential and may be released only as provided in this section and RCW 13.50.010.

(4) Except as otherwise provided in this section and RCW 13.50.010, records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility for supervising the juvenile.

(5) Information not in an official juvenile court file concerning a juvenile or a juvenile's family may be released to the public only when that information could not reasonably be expected to identify the juvenile or the juvenile's family.

(6) Notwithstanding any other provision of this chapter, the release, to the juvenile or his or her attorney, of law enforcement and prosecuting attorneys' records pertaining to investigation, diversion, and prosecution of juvenile offenses shall be governed by the rules of discovery and other rules of law applicable in adult criminal investigations and prosecutions.

(7) The juvenile court and the prosecutor may set up and maintain a central record-keeping system which may receive information on all alleged juvenile offenders against whom a complaint has been filed pursuant to RCW 13.40.070 whether or not their cases are currently pending before the court. The central record-keeping system may be computerized. If a complaint has been referred to a diversion unit, the diversion unit shall promptly report to the juvenile court or the prosecuting attorney when the juvenile has agreed to diversion. An offense shall not be reported as criminal history in any central record-keeping system without notification by the diversion unit of the date on which the offender agreed to diversion.

(8) Upon request of the victim of a crime or the victim's immediate family, the identity of an alleged or proven juvenile offender alleged or found to have committed a crime against the victim and the identity of the alleged or proven juvenile offender's parent, guardian, or custodian and the

circumstance of the alleged or proven crime shall be released to the victim of the crime or the victim's immediate family.

(9) Subject to the rules of discovery applicable in adult criminal prosecutions, the juvenile offense records of an adult criminal defendant or witness in an adult criminal proceeding shall be released upon request to prosecution and defense counsel after a charge has actually been filed. The juvenile offense records of any adult convicted of a crime and placed under the supervision of the adult corrections system shall be released upon request to the adult corrections system.

(10) In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and, subject to subsection (24) of this section, order the sealing of the official juvenile court file, the social file, and records of the court and of any other agency in the case.

(11) The court shall grant the motion to seal records made pursuant to subsection (10) of this section if it finds that:

(a) Two years have elapsed from the later of: (i) Final discharge of the person from the supervision of any agency charged with supervising juvenile offenders; or (ii) from the entry of a court order relating to the commission of a juvenile offense or a criminal offense;

(b) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense; and

(c) No proceeding is pending seeking the formation of a diversion agreement with that person.

(12) The person making a motion pursuant to subsection (10) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose files are sought to be sealed.

(13) If the court grants the motion to seal made pursuant to subsection (10) of this section, it shall, subject to subsection (24) of this section, order sealed the official juvenile court file, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(14) Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as otherwise provided in RCW 13.50.010(8) and subsection (24) of this section.

(15) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying the sealing order. Any conviction for any adult felony subsequent to the sealing has the effect of nullifying the sealing order for the purposes of chapter 9.94A RCW for any juvenile adjudication of guilt for a class A offense.

(16) In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person who is the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and, subject to subsection (24) of this section, order the destruction of the official juvenile court file, the social file, and records of the court and of any other agency in the case.

(17) The court may grant the motion to destroy records made pursuant to subsection (16) of this section if it finds:

(a) The person making the motion is at least twenty-three years of age;

(b) The person has not subsequently been convicted of a felony;

(c) No proceeding is pending against that person seeking the conviction of a criminal offense; and

(d) The person has never been found guilty of a serious offense.

(18) A person eighteen years of age or older whose criminal history consists of only one referral for diversion may request that the court order the records in that case destroyed. The request shall be granted, subject to subsection (24) of this section, if the court finds that two years have elapsed since completion of the diversion agreement.

(19) If the court grants the motion to destroy records made pursuant to subsection (16) or (18) of this section, it shall, subject to subsection (24) of this section, order the official juvenile court file, the social file, and any other records named in the order to be destroyed.

(20) The person making the motion pursuant to subsection (16) or (18) of this section shall give reasonable notice of the motion to the prosecuting attorney and to any agency whose records are sought to be destroyed.

(21) Any juvenile to whom the provisions of this section may apply shall be given written notice of his or her rights under this section at the time of his or her disposition hearing or during the diversion process.

(22) Nothing in this section may be construed to prevent a crime victim or a member of the victim's family from divulging the identity of the alleged or proven juvenile offender or his or her family when necessary in a civil proceeding.

(23) Any juvenile justice or care agency may, subject to the limitations in subsection (24) of this section and subparagraphs (a) and (b) of this subsection, develop procedures for the routine destruction of records relating to juvenile offenses and diversions.

(a) Records may be routinely destroyed only when the person the subject of the information or complaint has attained twenty-three years of age or older, or is eighteen years of age or older and his or her criminal history consists entirely of one diversion agreement and two years have passed since completion of the agreement.

(b) The court may not routinely destroy the official juvenile court file or recordings or transcripts of any proceedings.

(24) No identifying information held by the Washington state patrol in accordance with chapter 43.43 RCW is subject to destruction or sealing under this section. For the purposes of this subsection, identifying information includes photographs, fingerprints, palmprints, soleprints, toeprints and any other data that identifies a person by physical characteristics, name, birthdate or address, but does not include information regarding criminal activity, arrest, charging, diversion, conviction or other information about a person's treatment by the criminal justice system or about the person's behavior.

NEW SECTION. Sec. 9. The following acts or parts of acts are each repealed:

(1) Section 2, chapter 132, Laws of 1945, section 7, chapter 155, Laws of 1979, section 1, chapter 267, Laws of 1983 and RCW 13.04.130; and

(2) Section 12, chapter 152, Laws of 1972 ex. sess. and RCW 43.43-.755.

NEW SECTION. Sec. 10. (1) The sum of five million four hundred fifty-one thousand dollars, or so much thereof as may be necessary, is appropriated to the Washington state patrol from the general fund for the biennium ending June 30, 1989, for the purpose of establishing and operating the automatic fingerprint identification system under RCW 43.43.560, and for the purchase of remote tenprint and latent input systems, and remote terminals. The general fund appropriation under this section shall be reduced by the amount of any grants received from the federal bureau of justice assistance and deposited in the automatic fingerprint identification system account under RCW 43.43.565. Any funds in this account are appropriated to the Washington state patrol for the biennium ending June 30, 1989, for the purpose of this section.

(2) The state patrol shall develop rules and criteria to determine which local jurisdictions are eligible to receive terminals or remote systems under this act: PROVIDED, That a remote tenprint and latent input system shall be located in eastern Washington; a remote tenprint and latent input system shall be located in western Washington if the recipient local jurisdiction pays for thirty percent of the system's purchase cost; and at least twelve terminals shall be distributed throughout the state. However, no local jurisdiction may receive a terminal or remote tenprint and latent input system unless:



(a) The local jurisdiction agrees to connect the terminal or remote system to the state automatic fingerprint identification system;

(b) The local jurisdiction has submitted or will submit fingerprints under section 5 of this act;

(c) The local jurisdiction agrees that all terminal and remote system operators and technicians will be trained and certified by the Washington state patrol;

(d) The local jurisdiction agrees to pay all personnel, operating, installation, and maintenance costs associated with the terminals and remote systems, including the costs of transmitting data to the state system; and

(e) The local jurisdiction agrees to make the terminal or remote system available to other local law enforcement agencies, but the local jurisdiction may enter into an agreement with these other local law enforcement agencies for reimbursement for the costs associated with their use.

Passed the House April 21, 1987.

Passed the Senate April 10, 1987.

Approved by the Governor May 18, 1987.

Filed in Office of Secretary of State May 18, 1987.

## CHAPTER 451

[Substitute Senate Bill No. 5058]

### RULES REVIEW COMMITTEE--PROCEDURES AND AUTHORITY

AN ACT Relating to legislative review of agency rules; and amending RCW 34.04.220, 34.04.230, 34.04.240, and 34.04.250.

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

Sec. 1. Section 6, chapter 324, Laws of 1981 and RCW 34.04.220 are each amended to read as follows:

Whenever a majority of the members of the rules review committee determines that a proposed rule is not within the intent of the legislature as expressed in the statute which the rule implements, the committee shall give the affected agency written notice of its decision. The notice shall be given at least seven days prior to any hearing scheduled for consideration of or adoption of the proposed rule pursuant to RCW 34.04.025(1)(a)(iii) (~~as now or hereafter amended~~). The notice shall include a statement of the review committee's findings and the reasons therefor. When the agency holds a hearing on the proposed rule, the agency shall consider the review committee's decision.

Sec. 2. Section 7, chapter 324, Laws of 1981 and RCW 34.04.230 to read as follows:

(1) All rules required to be filed pursuant to RCW 34.04.040, and emergency rules adopted pursuant to RCW 34.04.030 (~~as now or hereafter amended~~), are subject to selective review by the legislature.