

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5573

Chapter 49, Laws of 1999

56th Legislature
1999 Regular Session

CRIMINAL HISTORY RECORDS

EFFECTIVE DATE: 7/25/99

Passed by the Senate March 12, 1999
YEAS 48 NAYS 0

BRAD OWEN
President of the Senate

Passed by the House April 7, 1999
YEAS 91 NAYS 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

FRANK CHOPP
**Speaker of the
House of Representatives**

Approved April 20, 1999

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5573** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK
Secretary

FILED

April 20, 1999 - 3:14 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5573

Passed Legislature - 1999 Regular Session

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Judiciary (originally sponsored by Senators Horn, Johnson, Costa, Patterson and Winsley; by request of Washington State Patrol)

Read first time 03/03/99.

1 AN ACT Relating to criminal history records; and amending RCW
2 10.97.030 and 10.98.050.

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

4 **Sec. 1.** RCW 10.97.030 and 1998 c 297 s 49 are each amended to read
5 as follows:

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

8 (1) "Criminal history record information" means information
9 contained in records collected by criminal justice agencies, other than
10 courts, on individuals, consisting of identifiable descriptions and
11 notations of arrests, detentions, indictments, informations, or other
12 formal criminal charges, and any disposition arising therefrom,
13 including acquittals by reason of insanity, dismissals based on lack of
14 competency, sentences, correctional supervision, and release.

15 The term includes information contained in records maintained by or
16 obtained from criminal justice agencies, other than courts, which
17 records provide individual identification of a person together with any
18 portion of the individual's record of involvement in the criminal
19 justice system as an alleged or convicted offender, except:

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

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

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

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

11 (e) Records of any traffic offenses as maintained by the department
12 of licensing for the purpose of regulating the issuance, suspension,
13 revocation, or renewal of drivers' or other operators' licenses and
14 pursuant to RCW 46.52.130;

15 (f) Records of any aviation violations or offenses as maintained by
16 the department of transportation for the purpose of regulating pilots
17 or other aviation operators, and pursuant to RCW 47.68.330;

18 (g) Announcements of executive clemency.

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

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

29 (4) "Conviction or other disposition adverse to the subject" means
30 any disposition of charges other than: (a) A decision not to
31 prosecute; (b) a dismissal; or (c) acquittal; with the following
32 exceptions, which shall be considered dispositions adverse to the
33 subject: An acquittal due to a finding of not guilty by reason of
34 insanity and a dismissal by reason of incompetency, pursuant to chapter
35 10.77 RCW; and a dismissal entered after a period of probation,
36 suspension, or deferral of sentence.

37 (5) "Criminal justice agency" means: (a) A court; or (b) a
38 government agency which performs the administration of criminal justice
39 pursuant to a statute or executive order and which allocates a

1 substantial part of its annual budget to the administration of criminal
2 justice.

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

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

12 (8) "Dissemination" means disclosing criminal history record
13 information or disclosing the absence of criminal history record
14 information to any person or agency outside the agency possessing the
15 information, subject to the following exceptions:

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

21 (b) The furnishing of information by any criminal justice agency to
22 another for the purpose of processing a matter through the criminal
23 justice system, such as a police department providing information to a
24 prosecutor for use in preparing a charge, is not a dissemination;

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

27 **Sec. 2.** RCW 10.98.050 and 1989 c 6 s 1 are each amended to read as
28 follows:

29 (1) It is the duty of the chief law enforcement officer or the
30 local director of corrections to transmit within seventy-two hours from
31 the time of arrest to the section fingerprints together with other
32 identifying data as may be prescribed by the section, and statutory
33 violations of any person lawfully arrested, fingerprinted, and
34 photographed under RCW 43.43.735. The disposition report shall be
35 transmitted to the prosecuting attorney, county clerk, or appropriate
36 court of limited jurisdiction, whichever is responsible for
37 transmitting the report to the section under RCW 10.98.010.

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

Passed the Senate March 12, 1999.

Passed the House April 7, 1999.

Approved by the Governor April 20, 1999.

Filed in Office of Secretary of State April 20, 1999.