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**SENATE BILL 5119**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senators Dhingra, Hasegawa, Hunt, Kauffman, Kuderer, and Wellman; by request of State Auditor

AN ACT Relating to authorizing the state auditor to receive nonconviction data; and amending RCW 10.97.050 and 43.101.460.

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

**Sec.**  RCW 10.97.050 and 2020 c 184 s 2 are each amended to read as follows:

(1) Conviction records may be disseminated without restriction.

(2) Any criminal history record information which pertains to an incident that occurred within the last twelve months for which a person is currently being processed by the criminal justice system, including the entire period of correctional supervision extending through final discharge from parole, when applicable, may be disseminated without restriction.

(3) Criminal history record information which includes nonconviction data may be disseminated by a criminal justice agency to another criminal justice agency for any purpose associated with the administration of criminal justice, or in connection with the employment of the subject of the record by a criminal justice or juvenile justice agency, except as provided under RCW 13.50.260. A criminal justice agency may respond to any inquiry from another criminal justice agency without any obligation to ascertain the purpose for which the information is to be used by the agency making the inquiry.

(4) Criminal history record information which includes nonconviction data may be disseminated by a criminal justice agency to implement a statute, ordinance, executive order, or a court rule, decision, or order which expressly refers to records of arrest, charges, or allegations of criminal conduct or other nonconviction data and authorizes or directs that it be available or accessible for a specific purpose.

(5) Criminal history record information which includes nonconviction data may be disseminated to individuals and agencies pursuant to a contract with a criminal justice agency to provide services related to the administration of criminal justice. Such contract must specifically authorize access to criminal history record information, but need not specifically state that access to nonconviction data is included. The agreement must limit the use of the criminal history record information to stated purposes and insure the confidentiality and security of the information consistent with state law and any applicable federal statutes and regulations.

(6) Criminal history record information which includes nonconviction data may be disseminated to individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency. Such agreement must authorize the access to nonconviction data, limit the use of that information which identifies specific individuals to research, evaluative, or statistical purposes, and contain provisions giving notice to the person or organization to which the records are disseminated that the use of information obtained therefrom and further dissemination of such information are subject to the provisions of this chapter and applicable federal statutes and regulations, which shall be cited with express reference to the penalties provided for a violation thereof.

(7) Criminal history record information that includes nonconviction data may be disseminated to the state auditor solely for the express purpose of conducting a process compliance audit procedure and review of any deadly force investigation pursuant to RCW 43.101.460. Dissemination or use of nonconviction data for purposes other than authorized in this subsection is prohibited.

(8) Every criminal justice agency that maintains and disseminates criminal history record information must maintain information pertaining to every dissemination of criminal history record information except a dissemination to the effect that the agency has no record concerning an individual. Information pertaining to disseminations shall include:

(a) An indication of to whom (agency or person) criminal history record information was disseminated;

(b) The date on which the information was disseminated;

(c) The individual to whom the information relates; and

(d) A brief description of the information disseminated.

The information pertaining to dissemination required to be maintained shall be retained for a period of not less than one year.

((~~(8)~~)) (9) In addition to the other provisions in this section allowing dissemination of criminal history record information, RCW 4.24.550 governs dissemination of information concerning offenders who commit sex offenses as defined by RCW 9.94A.030. Criminal justice agencies, their employees, and officials shall be immune from civil liability for dissemination on criminal history record information concerning sex offenders as provided in RCW 4.24.550.

**Sec.**  RCW 43.101.460 and 2021 c 319 s 1 are each amended to read as follows:

(1) The office of the Washington state auditor is authorized to conduct a process compliance audit procedure and review of any deadly force investigation conducted pursuant to RCW 10.114.011. At the conclusion of every deadly force investigation, the state auditor shall determine whether the actions of the involved law enforcement agency, investigative body, and prosecutor's office are in compliance with RCW 10.114.011, chapter 43.102 RCW, and all rules adopted pursuant to these provisions for the investigation and reporting of incidents involving the use of deadly force. A deadly force investigation is concluded once the involved prosecutor's office makes a charging decision and any resulting criminal case reaches disposition. Audit procedures under this section shall be conducted in cooperation with the commission.

(2) The state auditor is authorized to access records of arrest, charges, or allegations of criminal conduct or other nonconviction data for the purposes of conducting reviews of any deadly force investigation authorized by this section.

(3) The state auditor may not conduct an audit under this section until adequately staffed with subject matter expertise regarding law enforcement and investigative audits. Until that time, the state auditor shall contract with persons with the appropriate subject matter expertise and shall issue a request for proposal for contracting with a person or entity to provide adequate subject matter expertise.

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