

CERTIFICATION OF ENROLLMENT

**ENGROSSED SENATE BILL 6296**

Chapter 125, Laws of 2012

62nd Legislature  
2012 Regular Session

BACKGROUND CHECKS

EFFECTIVE DATE: 06/07/12

Passed by the Senate February 9, 2012  
YEAS 45 NAYS 2

BRAD OWEN

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**President of the Senate**

Passed by the House February 28, 2012  
YEAS 98 NAYS 0

FRANK CHOPP

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**Speaker of the House of Representatives**

Approved March 29, 2012, 2:23 p.m.

CHRISTINE GREGOIRE

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**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 6296** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

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**Secretary**

FILED

March 29, 2012

**Secretary of State  
State of Washington**

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**ENGROSSED SENATE BILL 6296**

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Passed Legislature - 2012 Regular Session

**State of Washington                      62nd Legislature                      2012 Regular Session**

**By** Senators Harper, Carrell, and Shin; by request of Washington State Patrol

Read first time 01/17/12. Referred to Committee on Human Services & Corrections.

1            AN ACT Relating to background checks; amending RCW 10.97.030,  
2 10.97.050, 10.97.080, 43.43.730, and 43.43.8321; and repealing RCW  
3 43.43.565.

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

5            **Sec. 1.** RCW 10.97.030 and 1999 c 49 s 1 are each amended to read  
6 as follows:

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

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

16            The term includes information contained in records maintained by or  
17 obtained from criminal justice agencies, other than courts, which  
18 records provide individual identification of a person together with any

1 portion of the individual's record of involvement in the criminal  
2 justice system as an alleged or convicted offender, except:

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

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

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

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

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

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

20 (g) Announcements of executive clemency;

21 (h) Intelligence, analytical, or investigative reports and files.

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

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

32 (4) "Conviction or other disposition adverse to the subject" means  
33 any disposition of charges other than: (a) A decision not to  
34 prosecute; (b) a dismissal; or (c) acquittal; with the following  
35 exceptions, which shall be considered dispositions adverse to the  
36 subject: An acquittal due to a finding of not guilty by reason of  
37 insanity and a dismissal by reason of incompetency, pursuant to chapter

1 10.77 RCW; and a dismissal entered after a period of probation,  
2 suspension, or deferral of sentence.

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

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

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

17 (8) "Dissemination" means disclosing criminal history record  
18 information or disclosing the absence of criminal history record  
19 information to any person or agency outside the agency possessing the  
20 information, subject to the following exceptions:

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

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

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

32 **Sec. 2.** RCW 10.97.050 and 2005 c 421 s 9 are each amended to read  
33 as follows:

34 (1) Conviction records may be disseminated without restriction.

35 (2) Any criminal history record information which pertains to an  
36 incident that occurred within the last twelve months for which a person  
37 is currently being processed by the criminal justice system, including

1 the entire period of correctional supervision extending through final  
2 discharge from parole, when applicable, may be disseminated without  
3 restriction (~~(with the exception of a record being disseminated in~~  
4 ~~response to a request for a conviction record under RCW 43.43.832. A~~  
5 ~~request for a conviction record under RCW 43.43.832 shall not contain~~  
6 ~~information for a person who, within the last twelve months, is~~  
7 ~~currently being processed by the criminal justice system unless it~~  
8 ~~pertains to information relating to a crime against a person as defined~~  
9 ~~in RCW 9.94A.411)).~~

10 (3) Criminal history record information which includes  
11 nonconviction data may be disseminated by a criminal justice agency to  
12 another criminal justice agency for any purpose associated with the  
13 administration of criminal justice, or in connection with the  
14 employment of the subject of the record by a criminal justice or  
15 juvenile justice agency. A criminal justice agency may respond to any  
16 inquiry from another criminal justice agency without any obligation to  
17 ascertain the purpose for which the information is to be used by the  
18 agency making the inquiry.

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

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

36 (6) Criminal history record information which includes  
37 nonconviction data may be disseminated to individuals and agencies for  
38 the express purpose of research, evaluative, or statistical activities

1 pursuant to an agreement with a criminal justice agency. Such  
2 agreement must authorize the access to nonconviction data, limit the  
3 use of that information which identifies specific individuals to  
4 research, evaluative, or statistical purposes, and contain provisions  
5 giving notice to the person or organization to which the records are  
6 disseminated that the use of information obtained therefrom and further  
7 dissemination of such information are subject to the provisions of this  
8 chapter and applicable federal statutes and regulations, which shall be  
9 cited with express reference to the penalties provided for a violation  
10 thereof.

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

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

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

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

21 (d) A brief description of the information disseminated.

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

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

31 **Sec. 3.** RCW 10.97.080 and 2010 c 8 s 1093 are each amended to read  
32 as follows:

33 All criminal justice agencies shall permit an individual who is, or  
34 who believes that he or she may be, the subject of a criminal record  
35 maintained by that agency, to appear in person during normal business  
36 hours of that criminal justice agency and request to see the criminal  
37 history record information held by that agency pertaining to the

1 individual. The individual's right to access and review of criminal  
2 history record information shall not extend to data contained in  
3 intelligence, investigative, or other related files, and shall not be  
4 construed to include any information other than that defined as  
5 criminal history record information by this chapter.

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

13 No person shall be allowed to retain or mechanically reproduce any  
14 nonconviction data except for the ~~((purpose of challenge or correction~~  
15 ~~when the))~~ person who is the subject of the record ~~((asserts the belief~~  
16 ~~in writing that the information regarding such person is inaccurate or~~  
17 ~~incomplete))~~. Such person may retain a copy of their personal  
18 nonconviction data information on file, if the criminal justice agency  
19 has verified the identities of those who seek to inspect them.  
20 Criminal justice agencies may impose such additional restrictions,  
21 including fingerprinting, as are reasonably necessary both to assure  
22 the record's security and to verify the identities of those who seek to  
23 inspect them. The criminal justice agency may charge a reasonable fee  
24 for fingerprinting or providing a copy of the personal nonconviction  
25 data information pursuant to this section. The provisions of chapter  
26 42.56 RCW shall not be construed to require or authorize copying of  
27 nonconviction data for any other purpose.

28 The Washington state patrol shall establish rules for the challenge  
29 of records which an individual declares to be inaccurate or incomplete,  
30 and for the resolution of any disputes between individuals and criminal  
31 justice agencies pertaining to the accuracy and completeness of  
32 criminal history record information. The Washington state patrol shall  
33 also adopt rules for the correction of criminal history record  
34 information and the dissemination of corrected information to agencies  
35 and persons to whom inaccurate or incomplete information was previously  
36 disseminated. Such rules may establish time limitations of not less  
37 than ninety days upon the requirement for disseminating corrected  
38 information.

1       **Sec. 4.** RCW 43.43.730 and 2006 c 294 s 5 are each amended to read  
2 as follows:

3       (1) Any individual shall have the right to inspect or request a  
4 copy of the criminal history record information on file with the  
5 section which refers to the individual. If the individual believes  
6 such information to be inaccurate or incomplete, he or she may request  
7 the section to purge, modify or supplement it and to advise such  
8 persons or agencies who have received his or her record and whom the  
9 individual designates to modify it accordingly. Should the section  
10 decline to so act, or should the individual believe the section's  
11 decision to be otherwise unsatisfactory, the individual may appeal such  
12 decision to the superior court in the county in which he or she is  
13 resident, or the county from which the disputed record emanated or  
14 Thurston county. The court shall in such case conduct a de novo  
15 hearing, and may order such relief as it finds to be just and  
16 equitable.

17       (2) The section may prescribe reasonable hours and a place for  
18 inspection, and may impose such additional restrictions, including  
19 fingerprinting, as are reasonably necessary both to assure the record's  
20 security and to verify the identities of those who seek to inspect  
21 them: PROVIDED, That the section may charge a reasonable fee for  
22 fingerprinting or for providing a copy of the criminal history record  
23 information pursuant to subsection (1) of this section.

24       **Sec. 5.** RCW 43.43.8321 and 2005 c 421 s 10 are each amended to  
25 read as follows:

26       When the Washington state patrol disseminates conviction record  
27 information in response to a request under RCW 43.43.832, it shall  
28 clearly state that: (1) The conviction record data does not include  
29 information on civil adjudications, administrative findings, or  
30 disciplinary board final decisions and that all such information must  
31 be obtained from the courts and licensing agencies; (2) the conviction  
32 record (~~(that is being disseminated includes information)~~) includes any  
33 criminal history record information which pertains to an incident that  
34 occurred within the last twelve months for which a person is currently  
35 being processed by the criminal justice system (~~(relating to only~~  
36 ~~crimes against a person as defined in RCW 9.94A.411 and that it does~~  
37 ~~not include any other current or pending charge information for which~~



1 ~~a person could be in the current process of being processed by the~~  
2 ~~criminal justice system)), including the entire period of correctional~~  
3 ~~supervision extending through final discharge from parole, when~~  
4 ~~applicable, may be disseminated without restriction;~~ and (3) an arrest  
5 is not a conviction or a finding of guilt.

6 NEW SECTION. **Sec. 6.** RCW 43.43.565 (Automatic fingerprint  
7 information system account) and 1986 c 196 s 2 are each repealed.

Passed by the Senate February 9, 2012.

Passed by the House February 28, 2012.

Approved by the Governor March 29, 2012.

Filed in Office of Secretary of State March 29, 2012.