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**SUBSTITUTE SENATE BILL 5573**

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**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.

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