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HOUSE BILL 3118

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State of Washington

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By Representatives O'Brien, Clements, Lovick, Dickerson, Darneille and Ericks

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1 AN ACT Relating to reporting requirements for criminal history  
2 record information; and amending RCW 43.43.700, 43.43.705, 43.43.715,  
3 43.43.725, 43.43.730, 43.43.735, 43.43.740, and 43.43.810.

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

5 **Sec. 1.** RCW 43.43.700 and 1998 c 141 s 2 are each amended to read  
6 as follows:

7 There is hereby established within the Washington state patrol a  
8 section on identification(~~(, child abuse, vulnerable adult abuse,)~~) and  
9 criminal history hereafter referred to as the section.

10 In order to aid the administration of justice the section shall  
11 install systems for the identification of individuals, including the  
12 fingerprint system and such other systems as the chief deems necessary.  
13 The section shall keep a complete record and index of all information  
14 received in convenient form for consultation and comparison.

15 The section shall obtain from whatever source available and file  
16 for record the fingerprints, palmprints, photographs, or such other  
17 identification data as it deems necessary, of persons who have been or  
18 shall hereafter be lawfully arrested and charged with, or convicted of

1 any criminal offense. The section may obtain like information  
2 concerning persons arrested for or convicted of crimes under the laws  
3 of another state or government.

4 ~~((The section shall also contain like information concerning  
5 persons, over the age of eighteen years, who have been found to have  
6 physically abused or sexually abused or exploited a child pursuant to  
7 a dependency proceeding under chapter 13.34 RCW, or to have abused or  
8 financially exploited a vulnerable adult pursuant to a protection  
9 proceeding under chapter 74.34 RCW.))~~

10 **Sec. 2.** RCW 43.43.705 and 1999 c 151 s 1101 are each amended to  
11 read as follows:

12 Upon the receipt of identification data from criminal justice  
13 agencies within this state, the section shall immediately cause the  
14 files to be examined and upon request shall promptly return to the  
15 contributor of such data a transcript of the record of previous arrests  
16 and dispositions of the persons described in the data submitted.

17 Upon application, the section shall furnish to criminal justice  
18 agencies(~~(, or to the department of social and health services,~~  
19 ~~hereinafter referred to as the "department",)~~) a transcript of the  
20 criminal (~~(offender)~~) history record information(~~(, dependency record~~  
21 ~~information, or protection proceeding record information))~~) available  
22 pertaining to any person of whom the section has a record.

23 For the purposes of RCW 43.43.700 through 43.43.785 the following  
24 words and phrases shall have the following meanings:

25 "Criminal (~~(offender)~~) history record information" includes, and  
26 shall be restricted to identifying data and (~~(public record)~~)  
27 information recorded as the result of an arrest or other initiation of  
28 criminal proceedings and the consequent proceedings related thereto.  
29 "Criminal (~~(offender)~~) history record information" shall not include  
30 intelligence, analytical, or investigative reports and files.

31 "Criminal justice agencies" are those public agencies within or  
32 outside the state which perform, as a principal function, activities  
33 directly relating to the apprehension, prosecution, adjudication or  
34 rehabilitation of criminal offenders.

35 ~~(( "Dependency record information" includes and shall be restricted  
36 to identifying data regarding a person, over the age of eighteen, who~~

1 ~~was a party to a dependency proceeding brought under chapter 13.34 RCW~~  
2 ~~and who has been found, pursuant to such dependency proceeding, to have~~  
3 ~~sexually abused or exploited or physically abused a child.~~

4 ~~"Protection proceeding record information" includes and shall be~~  
5 ~~restricted to identifying data regarding a person, over eighteen, who~~  
6 ~~was a respondent to a protection proceeding brought under chapter 74.34~~  
7 ~~RCW and who has been found pursuant to such a proceeding to have abused~~  
8 ~~or financially exploited a vulnerable adult.))~~

9 The section may refuse to furnish any information pertaining to the  
10 identification or history of any person or persons of whom it has a  
11 record, or other information in its files and records, to any applicant  
12 if the chief determines that the applicant has previously misused  
13 information furnished to such applicant by the section or the chief  
14 believes that the applicant will not use the information requested  
15 solely for the purpose of due administration of the criminal laws or  
16 for the purposes enumerated in RCW 43.43.760(~~(+3+))~~ (4). The applicant  
17 may appeal such determination by notifying the chief in writing within  
18 thirty days. The hearing shall be before an administrative law judge  
19 appointed under chapter 34.12 RCW and in accordance with procedures for  
20 adjudicative proceedings under chapter 34.05 RCW.

21 **Sec. 3.** RCW 43.43.715 and 1989 c 334 s 8 are each amended to read  
22 as follows:

23 The section shall, consistent with the procedures set forth in  
24 chapter 152, Laws of 1972 ex. sess., cooperate with all other criminal  
25 justice agencies(~~(, and the department,)~~) within or without the state,  
26 in an exchange of information regarding convicted criminals and those  
27 suspected of or wanted for the commission of crimes(~~(, and persons who~~  
28 ~~are the subject of dependency record information or protection~~  
29 ~~proceeding record information,)~~) to the end that proper identification  
30 may rapidly be made and the ends of justice served.

31 **Sec. 4.** RCW 43.43.725 and 1985 c 201 s 11 are each amended to read  
32 as follows:

33 Any copy of a criminal (~~(offender)~~) history record, photograph,  
34 fingerprint, or other paper or document in the files of the section,  
35 (~~(including dependency record information,)~~) certified by the chief or  
36 his or her designee to be a true and complete copy of the original or

1 of information on file with the section, shall be admissible in  
2 evidence in any court of this state pursuant to the provisions of RCW  
3 5.44.040.

4 **Sec. 5.** RCW 43.43.730 and 1985 c 201 s 12 are each amended to read  
5 as follows:

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

20 (2) The section may prescribe reasonable hours and a place for  
21 inspection, and may impose such additional restrictions, including  
22 fingerprinting, as are reasonably necessary both to assure the record's  
23 security and to verify the identities of those who seek to inspect  
24 them: PROVIDED, That the section may charge a reasonable fee for  
25 fingerprinting.

26 **Sec. 6.** RCW 43.43.735 and 1991 c 3 s 297 are each amended to read  
27 as follows:

28 (1) It shall be the duty of the sheriff or director of public  
29 safety of every county, and the chief of police of every city or town,  
30 and of every chief officer of other law enforcement agencies duly  
31 operating within this state, to cause the photographing and  
32 fingerprinting of all adults and juveniles lawfully arrested for the  
33 commission of any criminal offense constituting a felony or gross  
34 misdemeanor. (a) When such juveniles are brought directly to a  
35 juvenile detention facility, the juvenile court administrator is also  
36 authorized, but not required, to cause the photographing,

1 fingerprinting, and record transmittal to the appropriate law  
2 enforcement agency; and (b) a further exception may be made when the  
3 arrest is for a violation punishable as a gross misdemeanor and the  
4 arrested person is not taken into custody.

5 (2) It shall be the right, but not the duty, of the sheriff or  
6 director of public safety of every county, and the chief of police of  
7 every city or town, and every chief officer of other law enforcement  
8 agencies operating within this state to photograph and record the  
9 fingerprints of all adults lawfully arrested(~~(, all persons who are the~~  
10 ~~subject of dependency record information, or all persons who are the~~  
11 ~~subject of protection proceeding record information)).~~

12 (3) Such sheriffs, directors of public safety, chiefs of police,  
13 and other chief law enforcement officers, may record, in addition to  
14 photographs and fingerprints, the palmprints, soleprints, toeprints, or  
15 any other identification data of all persons whose photograph and  
16 fingerprints are required or allowed to be taken under this section(~~(,~~  
17 ~~all persons who are the subject of dependency record information, or~~  
18 ~~all persons who are the subject of protection proceeding record~~  
19 ~~information,)~~) when in the discretion of such law enforcement officers  
20 it is necessary for proper identification of the arrested person or the  
21 investigation of the crime with which he is charged.

22 (~~(4) It shall be the duty of the department of health or the court~~  
23 ~~having jurisdiction over the dependency action and protection~~  
24 ~~proceedings under chapter 74.34 RCW to cause the fingerprinting of all~~  
25 ~~persons who are the subject of a disciplinary board final decision,~~  
26 ~~dependency record information, protection proceeding record~~  
27 ~~information, or to obtain other necessary identifying information, as~~  
28 ~~specified by the section in rules adopted under chapter 34.05 RCW to~~  
29 ~~carry out the provisions of this subsection.~~

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

1       **Sec. 7.** RCW 43.43.740 and 1989 c 334 s 10 are each amended to read  
2 as follows:

3       (1) It shall be the duty of the sheriff or director of public  
4 safety of every county, and the chief of police of every city or town,  
5 and of every chief officer of other law enforcement agencies duly  
6 operating within this state to furnish within seventy-two hours from  
7 the time of arrest to the section the required sets of fingerprints  
8 together with other identifying data as may be prescribed by the chief,  
9 of any person lawfully arrested, fingerprinted, and photographed  
10 pursuant to RCW 43.43.735.

11       (2) Law enforcement agencies may retain and file copies of the  
12 fingerprints, photographs, and other identifying data and information  
13 obtained pursuant to RCW 43.43.735. Said records shall remain in the  
14 possession of the law enforcement agency as part of the identification  
15 record and are not returnable to the subjects thereof.

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

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

30       ~~(5) It shall be the duty of a court having jurisdiction over the  
31 protection proceeding to furnish protection proceeding record  
32 information, obtained under RCW 43.43.735 to the section within seven  
33 days, excluding Saturdays, Sundays, and holidays, from the date that  
34 the court enters a final order pursuant to a protection proceeding  
35 brought under chapter 74.34 RCW, that a person over the age of  
36 eighteen, who is the respondent to the protection proceeding, has  
37 abused or financially exploited a vulnerable adult as that term is  
38 defined in RCW 43.43.830.~~

1       ~~(6) The section shall administer periodic compliance audits for the~~  
2 ~~department of licensing and each court having jurisdiction over~~  
3 ~~dependency and protection proceeding actions as defined in chapters~~  
4 ~~13.34 and 74.34 RCW, respectively. Such audits shall ensure that all~~  
5 ~~dependency record information regarding persons over the age of~~  
6 ~~eighteen years has been furnished to the section as required in~~  
7 ~~subsection (3) of this section.))~~

8       **Sec. 8.** RCW 43.43.810 and 1977 ex.s. c 314 s 17 are each amended  
9 to read as follows:

10       Any person who willfully requests, obtains or seeks to obtain  
11 criminal ((~~offender~~)) history record information under false pretenses,  
12 or who willfully communicates or seeks to communicate criminal  
13 ((~~offender~~)) history record information to any agency or person except  
14 in accordance with chapter 152, Laws of 1972 ex. sess., or any member,  
15 officer, employee or agent of the section, the council or any  
16 participating agency, who willfully falsifies criminal ((~~offender~~))  
17 history record information, or any records relating thereto, shall for  
18 each such offense be guilty of a misdemeanor.

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