

---

**Public Safety & Emergency Preparedness  
Committee**

---

**HB 1235**

**Brief Description:** Concerning the privacy of nonconviction records.

**Sponsors:** Representatives Moscoso, Goodman, Appleton, Pettigrew, Liias, Darneille, Kenney and Roberts.

**Brief Summary of Bill**

- Restricts dissemination of non-conviction data is unless the individual identified in the data has provided express written permission for the information be distributed.
- Specifies that the definition of "non-conviction data" includes conviction records that have been vacated.
- Specifies that upon requested, an individual's record of exonerating disposition must be kept confidential except that the information must be available to court personnel, judicial officers, law enforcement, prosecutors, the individual of record and the individual's attorney.

**Hearing Date:** 2/2/11

**Staff:** Yvonne Walker (786-7841).

**Background:**

Criminal history record information background checks are conducted for employment and licensing decisions and many other purposes related to the security of persons and property.

Under Chapter 10.97 RCW, criminal justice agencies may request and receive unrestricted criminal history record information (a criminal background check) from the Washington State Patrol (WSP) Identification and Criminal History Section for criminal justice purposes. The unrestricted criminal history records includes both "conviction" and "non-conviction" data. The

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

public may request and receive criminal history record information for non-criminal justice purposes, but it is limited to conviction data information only.

Conviction criminal history record information relates to an incident that has led to a conviction or other disposition adverse to the subject. In addition to the "conviction" criminal history record information, non-criminal justice requestors (the public) may receive a record showing pending arrest offenses under one year old without disposition, and if the subject is a registered sex offender or kidnapper.

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

"Conviction record" means criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the subject which includes charges other than: (1) a decision not to prosecute; (2) a dismissal; or (3) certain acquittals.

#### **Summary of Bill:**

The Legislature intends to provide clarity in the types of information that is disseminated by the courts and other criminal justice agencies about individuals in order to protect a person's privacy. This intent is best served by having the courts and other criminal justice agencies provide information to the public that does not involve either an unfiled case or a case that resulted in an exonerating disposition.

The WSP is limited in disseminating "non-conviction" data unless the individual identified in the data has provided written permission for dissemination. "Non-conviction data" includes criminal history record information relating to a conviction that has been vacated. A "conviction record" does not include convictions that have been vacated.

If requested, an individual's record of exonerating disposition must be kept confidential except that the information must be available to court personnel, judicial officers, law enforcement, prosecutors, the individual of record and the individual's attorney.

"Record of exonerating disposition" means a record held by a court or judicial agency that would be non-conviction data if collected by a criminal justice agency other than a court. This includes otherwise qualifying records that are part of court indices and records of public judicial proceedings as well as a record relating to an incident where: (1) a probable cause hearing was held and the court found there was no probable cause; (2) a charge was resolved by the prosecutor's acceptance of bail forfeiture; or (3) a charge was dismissed pursuant to a stipulated order of continuance. A record of exonerating disposition held by a court or judicial agency must, upon the request of the person who is the subject of the record, be kept confidential by that court or judicial agency, except that the information must be available to court personnel, judicial officers, law enforcement, prosecuting agencies, the individual identified in the records, and the attorney for that individual.

This act is known as the Records Privacy Act of 2011.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.