
SENATE BILL 5119

State of Washington

68th Legislature

2023 Regular Session

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

Prefiled 12/30/22. Read first time 01/09/23. Referred to Committee
on Law & Justice.

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

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

4 **Sec. 1.** RCW 10.97.050 and 2020 c 184 s 2 are each amended to
5 read as follows:

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

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

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

1 purpose for which the information is to be used by the agency making
2 the inquiry.

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

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

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

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

39 (8) Every criminal justice agency that maintains and disseminates
40 criminal history record information must maintain information

1 pertaining to every dissemination of criminal history record
2 information except a dissemination to the effect that the agency has
3 no record concerning an individual. Information pertaining to
4 disseminations shall include:

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

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

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

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

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

12 ~~((+8))~~ (9) In addition to the other provisions in this section
13 allowing dissemination of criminal history record information, RCW
14 4.24.550 governs dissemination of information concerning offenders
15 who commit sex offenses as defined by RCW 9.94A.030. Criminal justice
16 agencies, their employees, and officials shall be immune from civil
17 liability for dissemination on criminal history record information
18 concerning sex offenders as provided in RCW 4.24.550.

19 **Sec. 2.** RCW 43.101.460 and 2021 c 319 s 1 are each amended to
20 read as follows:

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

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

38 (3) The state auditor may not conduct an audit under this section
39 until adequately staffed with subject matter expertise regarding law

1 enforcement and investigative audits. Until that time, the state
2 auditor shall contract with persons with the appropriate subject
3 matter expertise and shall issue a request for proposal for
4 contracting with a person or entity to provide adequate subject
5 matter expertise.

--- **END** ---