

ASSEMBLY, No. 2813

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

Sponsored by:
Assemblywoman CAROL A. MURPHY
District 7 (Burlington)

SYNOPSIS

The “Uniform Criminal Records Accuracy Act.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the accuracy of criminal records and
2 supplementing Title 53 of the Revised Statutes.

3
4 BE IT ENACTED by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. This act shall be known and may be cited as the “Uniform
8 Criminal Records Accuracy Act.”

9
10 2. For the purposes of this act:

11 “Accurate criminal history record information” means criminal
12 history record information that correctly reflects all reportable
13 events relating to a subject.

14 “Administration of criminal justice” means the detection,
15 apprehension, detention, pretrial release, post-trial release,
16 prosecution, adjudication, correctional supervision, or rehabilitation
17 of an accused person or criminal offender; the hiring of a person for
18 employment by a criminal justice agency or granting access to a
19 criminal justice facility; and criminal identification activities and
20 collection, storage, maintenance, submission, and dissemination of
21 criminal history record information.

22 “Biometric information” means fingerprints and other unique
23 biological or physical characteristics of a person that a contributing
24 justice agency is required or permitted by law to use for the purpose
25 of identification.

26 “Contributing justice agency” or “agency” means a governmental
27 entity of the State, any other state, or the federal government which
28 performs functions pertaining to the administration of criminal
29 justice pursuant to statute, ordinance, resolution, or regulation, and
30 which allocates a substantial portion of its budget to the
31 administration of criminal justice. The term does not include the
32 Division of State Police in the Department of Law and Public
33 Safety.

34 “Criminal history record information” means information
35 collected, received, stored, maintained, submitted, or disseminated
36 by a contributing justice agency or the Division of State Police,
37 consisting of a description of a subject and notation of a reportable
38 event. The term shall include biometric information. The term shall
39 not include noncriminal history record information.

40 “Disposition of a criminal proceeding” or “disposition” includes,
41 but is not limited to diversion, dismissal, indefinite postponement,
42 acquittal, guilty plea, conviction, and sentencing.

43 “Dissemination” means oral, written, or electronic transmission
44 or other disclosure of criminal history record information to a
45 person other than the Division of State Police.

46 “Division” means the Division of State Police in the Department
47 of Law and Public Safety.

1 “Noncriminal history record information” means information
2 collected as a result of an inquiry concerning a person’s activity,
3 habit, practice, possession, association, or financial status; and to
4 anticipate, prevent, monitor, or investigate criminal activity.

5 “Person” means an individual, estate, business, or nonprofit
6 entity, public corporation, government or governmental subdivision,
7 agency, or instrumentality, or other legal entity.

8 “Reportable event” means any of the following relating to a
9 crime of the first, second, third, or fourth degree or disorderly or
10 petty disorderly persons offense: an arrest resulting in a person
11 being detained in a police station, lock up, or other place
12 maintained by a municipality for the detention of offenders or the
13 county jail or collection of biometric information; disposition after
14 an arrest without initiation of a criminal proceeding; initiation of a
15 criminal proceeding; disposition of a criminal proceeding, including
16 diversion, dismissal, indefinite postponement, acquittal, guilty plea,
17 conviction, sentencing, and modification, reversal, and revocation
18 of the disposition; commitment to or release from a place of
19 detention or custodial supervision; commencement or conclusion of
20 noncustodial supervision; completion of a sentence; expungement,
21 sealing, or setting aside of criminal history record information;
22 grant of clemency, including pardon or commutation, or restoration
23 of rights; and finding of mental incompetence by a court at any
24 stage of a criminal proceeding.

25 “State” means a state of the United States, the District of
26 Columbia, Puerto Rico, the United States Virgin Islands, or any
27 territory or insular possession subject to the jurisdiction of the
28 United States. The term includes a federally recognized Indian
29 tribe.

30 “Subject” means a person about whom criminal history record
31 information is collected, stored, maintained, submitted, or
32 disseminated pursuant to the provisions of this act.

33 “Superintendent” means the Superintendent of the Division of
34 State Police in the Department of Law and Public Safety.

35
36 3. Every contributing justice agency and the Superintendent
37 shall create, store, and maintain a dissemination log for each
38 criminal history record information request and dissemination of
39 that information.

40 a. Each log shall include, but not be limited to:

- 41 (1) the name of the subject about whom the information is
42 requested;
43 (2) the name and address of the person making the request;
44 (3) the name of the person disseminating the information;
45 (4) the date of the request;
46 (5) the date of dissemination; and
47 (6) a statement of whether the information was disseminated for
48 a purpose other than the administration of criminal justice.

1 b. The log shall be separate from criminal and noncriminal
2 history record information.

3 c. The dissemination log shall be made available to the public
4 as provided by law.

5 d. An entry in a dissemination log pursuant to this section
6 shall be maintained as long as the corresponding criminal history
7 record information is maintained.

8

9 4. A contributing justice agency that has custody of, or control,
10 authority, or jurisdiction over a person for a reportable event shall
11 collect, store, and maintain criminal history record information
12 related to the event according to the provisions of this section.

13 a. The agency shall submit the information to the
14 superintendent consistent with procedures established by the
15 superintendent pursuant to subsection c. of this section within five
16 days of collecting the information.

17 b. The agency shall determine whether biometric information
18 about the person has been collected and submitted to the
19 superintendent for the event. If the agency is a court, the agency
20 representing the State before the court shall make this determination
21 and report the results to the court. If the agency determines that
22 biometric information has not been collected and submitted to the
23 superintendent, the agency, using any legal procedure available to it
24 under law, including, but not limited to a court order, shall collect
25 the missing biometric information and submit it to the
26 superintendent within five days of collection.

27 c. The superintendent shall establish procedures for the
28 collection, storage, maintenance, submission, and dissemination of
29 accurate criminal history record information.

30 d. Within 14 days of an agency discovering that it possesses
31 inaccurate criminal history record information, the agency shall:

32 (1) correct its records;

33 (2) notify the superintendent of the inaccuracy and the required
34 correction; and

35 (3) within one year of discovery, notify each agency that
36 received the information of the inaccuracy and required correction.

37 e. An agency may disseminate criminal history record
38 information only as required or authorized by this act.

39 f. An agency may disseminate criminal history record
40 information to another agency upon request of the other agency in
41 connection with the duties of the requesting agency.

42 g. The agency shall enter the required information in the
43 dissemination log required pursuant to section 3 of this act within
44 14 days after the criminal history record information has been
45 disseminated.

1 5. The superintendent shall store, maintain, and disseminate
2 criminal history record information received from a criminal justice
3 agency according to the provisions of this section.

4 a. The superintendent shall receive, store, maintain, and
5 disseminate accurate criminal history record information in
6 compliance with procedures adopted by the Attorney General,
7 including but not limited to procedures to resolve data conflicts and
8 discover missing data for accurate criminal history record
9 information.

10 b. Within 14 days of receipt of a request from a subject for the
11 subject's criminal history record information, the superintendent
12 shall search its records and disseminate to the subject any
13 information that is identified or inform the subject that no
14 information was identified. Information disseminated pursuant to
15 this subsection shall include conspicuous notification that the
16 information is provided for review by the subject only and may not
17 be relied on or considered current for use by any other person.

18 c. If a subject authorizes another person to receive the subject's
19 criminal history record information from the superintendent, prior
20 to disseminating that information, the superintendent shall
21 determine whether the information contains a disposition after an
22 arrest without initiation of a criminal proceeding, a disposition of a
23 criminal proceeding, and modification, reversal, and revocation of
24 the disposition, for every arrest or initiation of a criminal
25 proceeding.

26 (1) If information does not contain a disposition, the
27 superintendent shall make an effort to determine the disposition and
28 include it in the relevant records maintained by the superintendent
29 in the information to be disseminated.

30 (2) The superintendent shall remove from the information to be
31 disseminated the notation of an arrest or initiation of criminal
32 proceedings if:

33 (a) 18 months have elapsed since the later of the date of the
34 arrest or initiation of criminal proceedings;

35 (b) no disposition has been identified with respect to the arrest;

36 (c) no warrant is outstanding with respect to the arrest; and

37 (d) no proceeding is pending with respect to the arrest that may
38 result in a conviction.

39 d. Within five days of disseminating information pursuant to
40 subsection c. of this section, the superintendent shall send the same
41 information to the subject, based on the contact information
42 provided by the person requesting the information.

43 e. Within 14 days of disseminating information pursuant to
44 subsection c. of this section, the superintendent shall enter the
45 required information in the dissemination log required by section 3
46 of this act.

1 f. Within 14 days of determining that it possesses inaccurate
2 criminal history record information, the superintendent shall correct
3 the records pursuant to subsection c. of section 6 of this act.

4 g. The superintendent shall establish procedures:

5 (1) necessary to carry out its powers and duties under this act;

6 (2) for the manner and form in which an agency collects, stores,
7 maintains, submits, and disseminates criminal history record
8 information, including biometric information;

9 (3) to ensure that all criminal history record information for the
10 same subject are linked; and

11 (4) for reporting, exchanging, and seeking correction of criminal
12 history record information under this act, including prescribing the
13 appropriate forms.

14 h. The superintendent is authorized to disseminate criminal
15 history record information, including personally identifiable
16 information, for statistical or research purposes and may limit the
17 use and subsequent dissemination of this information.

18 i. The superintendent shall inform the public of the existence
19 and accessibility of criminal history record information collected,
20 stored, maintained, and disseminated by contributing justice
21 agencies and the superintendent. The superintendent annually shall
22 inform the public of the:

23 (1) extent and general nature of criminal history record
24 information collected, stored, maintained, and disseminated in this
25 State;

26 (2) number of corrections to criminal history record information
27 made by the superintendent;

28 (3) results of audits pursuant to subsection b. of section 8 of this
29 act and the status of any correction of deficiencies; and

30 (4) requirements and forms for a subject to access, review, and
31 seek correction of criminal history record information collected,
32 stored, or maintained by the superintendent, including the right to
33 appeal an adverse determination.

34 j. The superintendent shall provide regular training to agencies
35 concerning submitting information on a reportable event and the
36 importance of the information to subjects, the public, and the
37 criminal justice system. The superintendent periodically shall
38 identify any contributing justice agency that fails to meet the
39 requirements of this act and provide remedial training to the
40 agency.

41

42 6. a. A subject may seek correction of criminal history record
43 information by sending the contributing justice agency storing the
44 information or the superintendent a request for correction,
45 specifying the information alleged to be inaccurate and providing
46 the allegedly correct information. An agency that receives the
47 request shall inform the subject that only the superintendent may act
48 on the subject's request and that the agency will forward the request

1 to the superintendent. Within five days of receiving the request, the
2 agency shall forward to the superintendent the request and any
3 criminal history record information relating to the subject.

4 b. Within 40 days of receiving a request under subsection a. of
5 this section, the superintendent shall review and approve or deny
6 the request. The superintendent may extend the time to review and
7 act on the request for up to 21 days if the superintendent certifies
8 that there is good cause for an extension and notifies the subject.
9 The extension may not be renewed unless the subject agrees.

10 (1) An approval is deemed final and not subject to appeal.

11 (2) If the superintendent does not act within the time provided in
12 this section, the request is deemed denied.

13 (3) The subject has the right to appeal the superintendent's
14 failure to act within the timeframe provided in this section and the
15 superintendent bears the burden of proof in the immediately
16 subsequent review.

17 c. Within 14 days of an approval by the superintendent
18 pursuant to subsection b. of this section, the superintendent shall:

19 (1) correct the records;

20 (2) disseminate a notice of the inaccuracy and the required
21 correction to the subject and each person that received from the
22 superintendent inaccurate information for a purpose of
23 administration of criminal justice within one year before the date of
24 approval of the correction;

25 (3) notify the agency that provided the inaccurate information of
26 the inaccuracy and the required correction; and

27 (4) upon request of the subject, disseminate a notice of the
28 inaccuracy and the required correction to each person the subject
29 identifies as having received the inaccurate information and provide
30 to the subject, at no cost, one certified, corrected copy of the
31 accurate information.

32

33 7. The superintendent shall create and maintain a mistaken
34 identity prevention registry consisting of information voluntarily
35 provided by a victim of mistaken identity or a person whose name
36 or other identifying characteristic is similar to that of another
37 person who is the subject of criminal history record information.

38 a. The registry shall be designed to prevent:

39 (1) creation of inaccurate criminal history record information;

40 (2) inaccurate modification of criminal history record
41 information;

42 (3) mistaken arrest; and

43 (4) confusion of one person with another person when criminal
44 history record information is searched.

45 b. The superintendent shall establish procedures for entering
46 information concerning a person in the registry including but not
47 limited to, procedures to require:

1 (1) submission by the person of a request to be entered in the
2 registry;

3 (2) collection of biometric information from the person; and

4 (3) a determination by the superintendent of whether a
5 certification pursuant to subsection d. of this section is appropriate.

6 c. The superintendent shall enter in the mistaken identity
7 prevention registry information concerning a person who satisfies
8 the requirements under subsection b. of this section. If the
9 superintendent excludes an entry in the registry, the person may
10 seek relief under the "Administrative Procedures Act," P.L.1968,
11 c.410 (C.52:14B-1 et seq.) as a contested case.

12 d. Within 14 days of entering information concerning a person
13 in the registry, the superintendent shall certify that the person is not
14 a specified person with a similar name or identifying characteristic
15 who is the subject of criminal history record information. The
16 certification is prima facie evidence of the certified facts.

17 e. The superintendent shall not use or disseminate information
18 from the mistaken identity prevention registry except as provided in
19 this subsection.

20 (1) The superintendent shall disseminate information from the
21 registry to an agency if the superintendent has reason to believe that
22 identifying information on a reportable event may be inaccurate or
23 incorrectly associated with a person.

24 (2) The superintendent may disseminate information from the
25 registry to a national mistaken identity prevention registry if the
26 national registry is created and maintained by a federal law
27 enforcement agency with a similar purpose and protections.

28 f. If an agency seeks to establish the identity of a person and
29 the person presents a certification issued pursuant to subsection d.
30 of this section, the agency shall accept the certification unless the
31 agency has a reasonable basis to doubt that identity or the
32 authenticity of the certification, in which case the agency shall
33 contact the superintendent to verify the authenticity of the
34 certification according to procedures established by the
35 superintendent.

36 g. An agency and the superintendent may access or use
37 information from the mistaken identity prevention registry only to:

38 (1) accurately identify a person about whom the agency has
39 requested or received registry information; or

40 (2) investigate, prosecute, or adjudicate a person for an offense
41 relating to, participating in, using, or operating the registry.

42 h. If information in the registry is accessed or used for a
43 purpose other than permitted pursuant to paragraphs (1) or (2) of
44 subsection g. of this section, the information and any information
45 acquired as a result of improper access or use shall not be
46 admissible in any criminal or civil action. The superintendent shall
47 notify the person whose information was improperly accessed or
48 used within five days of discovery of the improper access or use.

1 i. The superintendent shall establish procedures regarding a
2 request to remove information from the registry. These procedures
3 shall include, but not be limited to, requiring the superintendent to
4 remove the information within 14 days of receiving the request.

5
6 8. a. The Attorney General shall establish procedures to
7 protect the confidentiality and security of criminal history record
8 information collected, received, stored, maintained, submitted, and
9 disseminated pursuant to the provisions of this act, including but
10 not limited to procedures to:

11 (1) protect information that is stored or maintained from loss or
12 damage;

13 (2) allow only authorized persons to access the information;

14 (3) select, supervise, and train persons authorized to have access
15 to the information;

16 (4) meet the technical guidance for the security of systems
17 adopted by the responsible agency or person if computerized data
18 processing is used; and

19 (5) maintain a record of each data breach.

20 b. The Attorney General shall conduct an annual audit of a
21 sample of contributing justice agencies and a triennial audit of the
22 division pursuant to this subsection.

23 (1) If an audit required by the federal government satisfies the
24 requirements of this section, the Attorney General shall certify that
25 no additional audit is required.

26 (2) An audit required pursuant to this subsection shall:

27 (a) assess the operational practices of the division for
28 consistency, efficiency, and security;

29 (b) assess the integrity of each computerized system and
30 database and each physical location where criminal history record
31 information is stored;

32 (c) assess any data breach in the division and response to the
33 breach; and

34 (d) review a representative sample of criminal history record
35 information stored by an agency or the superintendent and
36 determine the number of missing reportable events and amount and
37 nature of missing biometric information in the sample, in part by
38 examining public records of the courts of this State.

39 c. Every agency and the superintendent shall provide the
40 Attorney General with access to the records, reports, listings, and
41 information required to conduct an audit pursuant to subsection b.
42 of this section. An officer, employee, or contractor of this State or a
43 political subdivision of this State with relevant information shall
44 cooperate with the Attorney General.

45 d. The Attorney General shall prepare and make available a
46 public report containing the results of audits conducted pursuant to
47 this section and a list of any deficiencies and recommendations for
48 correction of deficiencies.

1 dissemination log for every request for criminal history record
2 information. A criminal justice agency is defined in the act as a
3 governmental entity of the State, any other state, or the federal
4 government which performs functions pertaining to the
5 administration of criminal justice pursuant to statute, ordinance,
6 resolution, or regulation, and which allocates a substantial portion
7 of its budget to the administration of criminal justice. Each
8 dissemination log is to include: the name of the subject about whom
9 the information is requested; the name and address of the person
10 making the request; the name of the person disseminating the
11 information; the date of the request; the date of dissemination; and a
12 statement of whether the information was disseminated for a
13 purpose other than the administration of criminal justice.
14 Information is to be included in the log within 14 days of
15 dissemination.

16 The bill requires contributing justice agencies with control,
17 authority, or jurisdiction over a person to conform to certain
18 standards in collecting, storing, and maintaining criminal history
19 record information for certain reportable events. A reportable event
20 is defined in the bill as any of the following relating to a crime or
21 offense:

22 1) an arrest resulting in a person being detained in a police
23 station, lock up, or other place maintained by a municipality for the
24 detention of offenders or the county jail or collection of biometric
25 information;

26 2) disposition after an arrest without initiation of a criminal
27 proceeding;

28 3) initiation of a criminal proceeding;

29 4) disposition of a criminal proceeding, including diversion,
30 dismissal, indefinite postponement, acquittal, guilty plea,
31 conviction, sentencing, and modification, reversal, and revocation
32 of the disposition;

33 5) commitment to or release from a place of detention or
34 custodial supervision;

35 6) commencement or conclusion of noncustodial supervision;

36 7) completion of a sentence;

37 8) expungement, sealing, or setting aside of criminal history
38 record information;

39 9) grant of clemency, including pardon or commutation, or
40 restoration of rights; and

41 10) finding of mental incompetence by a court at any stage of a
42 criminal proceeding.

43 The agency is required to submit information on a reportable
44 event to the State Police within five days of collecting it and to
45 otherwise conform to State Police guidelines concerning collection,
46 storage, maintenance, submission, and dissemination of accurate
47 criminal history record information, including biometric
48 information, such as fingerprints. If an agency discovers inaccurate

1 criminal history record information, it is required to correct its
2 records, notify the State Police of the inaccuracy and correction,
3 and within one year of discovery, notify each agency that received
4 the information of the inaccuracy and correction.

5 The State Police are required by the act to receive, store,
6 maintain, and disseminate accurate criminal history record
7 information in compliance with procedures adopted by the Attorney
8 General. The State Police have 14 days after a person requests his
9 or her criminal history record information to search its records and
10 disseminate that information to the requester. The requester is to
11 receive conspicuous notification that the information is provided for
12 the requester's review only and may not be relied on or considered
13 current for use by any other person. If one person authorizes
14 another person to receive the person's criminal history record
15 information, the State Police are to determine whether the
16 information contains a disposition after an arrest without initiation
17 of a criminal proceeding or a disposition of a criminal proceeding.
18 If a disposition is not found, the State Police are to try to determine
19 if there was a disposition and if so, include it in the relevant
20 records. The State Police are to remove the notation of an arrest or
21 initiation of criminal proceedings if 18 months have elapsed since
22 the date of the arrest or initiation of criminal proceedings,
23 whichever is later; no disposition has been identified; there is no
24 outstanding warrant; and there is no pending proceeding that may
25 result in a conviction. The State Police have five days to
26 disseminate the information to the person and the requester and 14
27 days to correct inaccurate records.

28 The bill also requires the State Police to inform the public of the
29 existence and accessibility of criminal history record information
30 collected, stored, maintained, and disseminated by contributing
31 justice agencies and the superintendent and to provide agencies with
32 appropriate training.

33 The bill further requires the State Police to create and maintain a
34 mistaken identity prevention registry consisting of information
35 voluntarily provided by a victim of mistaken identity or a person
36 whose name or other identifying characteristic is similar to that of
37 another person who is the subject of criminal history record
38 information. The purpose of the registry is to prevent inaccurate
39 criminal history record information, inaccurate modification of
40 criminal history record information, mistaken arrest, and confusion
41 of one person with another person when criminal history record
42 information is searched.

43 The act sets forth procedures for a person to follow to have
44 criminal history record information corrected by an agency or the
45 State Police. The State Police are required to approve or deny a
46 request for correction within 40 days. Upon approval of a request,
47 the State Police have 14 days to correct its records and give notice
48 of the inaccuracy. The person is to be provided a free certified,

1 corrected copy of the accurate information. If the request is denied,
2 the person has the right to appeal.

3 The Attorney General is responsible under the bill to establish
4 procedures to protect the confidentiality and security of criminal
5 history record information and to conduct annual audits of a sample
6 of contributing justice agencies and a triennial audit of the State
7 Police.

8 The Attorney General, the State Police, or a person may
9 commence an action to compel compliance with or enjoin a
10 violation of the provisions of the bill. Reasonable fees, attorneys'
11 fees, and court costs may be awarded. Civil fines also may be
12 imposed.

13 According to the National Conference of Commissioners on
14 State Laws, there have been numerous developments concerning
15 criminal records over the past 20 years, including the creation of the
16 National Instant Criminal Background Check System (NICS) in
17 1993, the establishment of criminal history repositories in all states,
18 and the increasing use of criminal record checks in connection with
19 eligibility for employment, professional and occupational licenses,
20 credit worthiness, and other non-criminal justice purposes. Recent
21 studies have demonstrated that criminal records accessed for these
22 purposes may be inaccurate or incomplete which may be
23 attributable to lack of information concerning dispositions after an
24 arrest or other charge that has been entered in a database; data entry
25 errors resulting in an incorrect listing of the offense; multiple
26 listings of the same offense; attribution of an offense to a wrong
27 person; criminal identity theft; and searches for criminal record
28 information resulting in one person's criminal record information
29 appearing in search results initiated for a different person.

30 This bill is modeled on the conference's recommendations to
31 improve the accuracy of criminal history record information.