SENATE BILL NO. 249

INTRODUCED BY SVRCEK BY REQUEST OF THE DEPARTMENT OF JUSTICE

· · ·	IN THE SENATE
FEBRUARY 1, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 15, 1991	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 16, 1991	PRINTING REPORT.
	SECOND READING, DO PASS.
FEBRUARY 18, 1991	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 49; NOES, 0.
	TRANSMITTED TO HOUSE.
	IN THE HOUSE
MARCH 4, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 11, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 12, 1991	SECOND READING, CONCURRED IN.
MARCH 14, 1991	THIRD READING, CONCURRED IN. AYES, 100; NOES, 0.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 14, 1991

MARCH 16, 1991

RECEIVED FROM HOUSE.

ON MOTION, CONSIDERATION PASSED UNTIL THE 59TH LEGISLATIVE DAY.

MARCH	23, 1991	SECOND READING, AMENDMENTS NOT CONCURRED IN.
		ON MOTION, CONFERENCE COMMITTEE REQUESTED.
MARCH	28, 1991	CONFERENCE COMMITTEE APPOINTED.
		IN THE HOUSE
APRIL	3, 1991	ON MOTION, CONFERENCE COMMITTEE REQUESTED AND APPOINTED.
		IN THE SENATE
APRIL	20, 1991	CONFERENCE COMMITTEE REPORTED.
APRIL	23, 1991	SECOND READING, CONFERENCE COMMITTEE REPORT ADOPTED.
		IN THE HOUSE
APRIL	23, 1991	CONFERENCE COMMITTEE REPORT ADOPTED.
		IN THE SENATE
APRIL	24, 1991	THIRD READING, CONFERENCE COMMITTEE REPORT ADOPTED.
		SENT TO ENROLLING.
		REPORTED CORRECTLY ENROLLED.

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LC 0889/01

Serate BILL NO. 249 1 INTRODUCED BY 2 3 BY REQUEST OF THE DEPARTMENT OF JUSTICE 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE MONTANA 6 CRIMINAL JUSTICE INFORMATION ACT BY EXPANDING THE DEFINITION 2 OF CRIMINAL JUSTICE AGENCY TO INCLUDE FEDERAL LAW ENFORCEMENT AGENCIES; CLARIFYING THE DEFINITION OF PUBLIC 8 JUSTICE INFORMATION; CLARIFYING THE PROVISION 9 CRIMINAL 10 CONCERNING DISSEMINATION OF CONFIDENTIAL CRIMINAL JUSTICE 11 INFORMATION: LIMITING THE CIRCUMSTANCES UNDER WHICH THE STATE REPOSITORY SHALL RETURN ALL COPIES OF AN INDIVIDUAL'S 12 13 PHOTOGRAPHS AND FINGERPRINTS; AND AMENDING SECTIONS 14 44-5-103, 44-5-202, AND 44-5-303." 15

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 Section 1. Section 44-5-103, MCA, is amended to read:

18 "44-5-103. Definitions. As used in this chapter, the 19 following definitions apply:

20 (1) "Access" means the ability to read, change, copy,
21 use, transfer, or disseminate criminal justice information
22 maintained by criminal justice agencies.

(2) "Administration of criminal justice" means the
performance of any of the following activities: detection,
apprehension, detention, pretrial release, posttrial



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include:

1	release, prosecution, adjudication, correctional
2	supervision, or rehabilitation of accused persons or
3	criminal offenders. It includes criminal identification
4	activities and the collection, storage, and dissemination of
5	criminal justice information.
6	(3) "Confidential criminal justice information" means:
7	(a) criminal investigative information;
8	(b) criminal intelligence information;
9	<pre>(c) fingerprints and photographs;</pre>
10	(d) criminal justice information or records made
11	confidential by law; and
12	(e) any other criminal justice information not clearly
13	defined as public criminal justice information.
14	(4) (a) "Criminal history record information" means
15	information about individuals collected by criminal justice
16	agencies consisting of identifiable descriptions and
17	notations of arrests; detentions; the filing of complaints,
18	indictments, or informations and dispositions arising
19	therefrom; sentences; correctional status; and release. It
20	includes identification information, such as fingerprint
21	records or photographs, unless such information is obtained
22	for purposes other than the administration of criminal
23	justice.
24	(b) Criminal history record information does not
21	

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(i) records of traffic offenses maintained by the
 department of justice; or

3 (ii) court records.

4 (5) (a) "Criminal intelligence information" means
5 information associated with an identifiable individual,
6 group, organization, or event compiled by a criminal justice
7 agency:

8 (i) in the course of conducting an investigation
9 relating to a major criminal conspiracy, projecting
10 potential criminal operation, or producing an estimate of
11 future major criminal activities; or

12 (ii) in relation to the reliability of information
13 including information derived from reports of informants or
14 investigators or from any type of surveillance.

(b) Criminal intelligence information does not include
information relating to political surveillance or criminal
investigative information.

18 (6) "Criminal investigative information" means 19 information associated with an individual, group, 20 organization, or event compiled by a criminal justice agency 21 in the course of conducting an investigation of a crime or 22 crimes. It includes information about a crime or crimes 23 derived from reports of informants or investigators or from any type of surveillance. It does not include criminal 24 intelligence information. 25

(7) "Criminal justice agency" means:

(a) any court with criminal jurisdiction;

3 (b) any <u>federal</u>, state, or local government agency
4 designated by statute or by a governor's executive order to
5 perform as its principal function the administration of
6 criminal justice; or

7 (c) any local government agency not included under
8 subsection (7)(b) that performs as its principal function
9 the administration of criminal justice pursuant to an
10 ordinance or local executive order.

(8) "Criminal justice information" means information
relating to criminal justice collected, processed, or
preserved by a criminal justice agency. It does not include
the administrative records of a criminal justice agency.

(9) "Criminal justice information system" means a
system, automated or manual, operated by federal, regional,
state, or local governments or governmental organizations
for collecting, processing, preserving, or disseminating
criminal justice information. It includes equipment,
facilities, procedures, and agreements.

(10) (a) "Disposition" means information disclosing that criminal proceedings against an individual have terminated and describing the nature of the termination or information relating to sentencing, correctional supervision, release from correctional supervision, the outcome of appellate or

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1	collateral review of criminal proceedings, or executive	<pre>1 (xv) exercise of executive clemency;</pre>
2	clemency. Criminal proceedings have terminated if a decision	2 (xvi) correctional placement on probation or parole or
3	has been made not to bring charges or criminal proceedings	3 release; or
4	have been concluded, abandoned, or indefinitely postponed.	4 (xvii) revocation of probation or parole.
5	(b) Particular dispositions include but are not limited	5 (c) A single arrest of an individual may result in more
6	to:	6 than one disposition.
7	(i) conviction at trial or on a plea of guilty;	7 (11) "Dissemination" means the communication or transfer
8	(ii) acquittal;	8 of criminal justice information to individuals or agencies
9	(iii) acquittal by reason of mental disease or defect;	9 other than the criminal justice agency that maintains such
10	(iv) acquittal by reason of mental incompetence;	10 information. It includes confirmation of the existence or
11	(v) the sentence imposed, including all conditions	11 nonexistence of criminal justice information.
12	attached thereto by the sentencing judge;	12 (12) "Public criminal justice information" means
13	(vi) deferred imposition of sentence with any conditions	13 information ₇ exceptconfidentialcriminaljustice
14	of deferral;	14 information:
15	(vii) nolle prosequi;	15 (a) made public by law;
16	(viii) nolo contendere plea;	<pre>16 (b) of court records and proceedings;</pre>
17	(ix) deferred prosecution or diversion;	17 (c) of convictions, deferred sentences, and deferred
18	(x) bond forfeiture;	18 prosecutions;
19	(xi) death;	<pre>19 (d) of postconviction proceedings and status;</pre>
20	(xii) release as a result of a successful collateral	20 (e) originated by a criminal justice agency, including:
21	attack;	21 (i) initial offense reports;
22	(xiii) dismissal of criminal proceedings by the court	22 (ii) initial arrest records;
23	with or without the commencement of a civil action for	23 (iii) bail records; and
24	determination of mental incompetence or mental illness;	24 (iv) daily jail occupancy rosters;
25	(xiv) a finding of civil incompetence or mental illness;	25 (f) considered necessary by a criminal justice agency

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1 to secure public assistance in the apprehension of a 2 suspect; or

(g) statistical information.

3

4 (13) "State repository" means the recordkeeping systems
5 maintained by the department of justice pursuant to 44-2-201
6 in which criminal history record information is collected,
7 processed, preserved, and disseminated.

8 (14) "Statistical information" means data derived from
9 records in which individuals are not identified or
10 identification is deleted and from which neither individual
11 identity nor any other unique characteristic that could
12 identify an individual is ascertainable."

13 Section 2. Section 44-5-202, MCA, is amended to read:

14 "44-5-202. Photographs and fingerprints. (1) The
15 following agencies may, if authorized by subsections (2)
16 through (5), collect, process, and preserve photographs and
17 fingerprints:

(a) any criminal justice agency performing, under law,
the functions of a police department or a sheriff's office,
or both:

21 (b) the department of institutions; and

22 (c) the department of justice.

(2) The department of institutions may photograph and
fingerprint anyone under the jurisdiction of the division of
corrections or its successor.

(3) A criminal justice agency described in subsection
 (1)(a) shall photograph and fingerprint a person who has
 been arrested or noticed or summoned to appear to answer an
 information or indictment if:
 (a) the charge is the commission of a felony;

(a) the charge is the commission of a relong;

6 (b) the identification of an accused is in issue; or

(c) it is required to do so by court order.

8 (4) Whenever a person charged with the commission of a 9 felony is not arrested, he shall submit himself to the 10 sheriff, chief of police, or other concerned law enforcement 11 officer for fingerprinting at the time of his initial 12 appearance in court to answer the information or indictment 13 against him.

14 (5) A criminal justice agency described in subsection 15 (1)(a) may photograph and fingerprint an accused if he has 16 been arrested for the commission of a misdemeanor, except 17 that an individual arrested for a traffic, regulatory, or 18 fish and game offense may not be photographed or 19 fingerprinted unless he is incarcerated.

20 (6) Within 10 days the originating agency shall send
21 the state repository a copy of each fingerprint taken on a
22 completed form provided by the state repository.

(7) The state repository shall compare the fingerprints
received with those already on file in the state repository.
If it is determined that the individual is wanted or is a

1 fugitive from justice, the state repository shall at once 2 inform the originating agency. If it is determined that the 3 individual has a criminal record, the state repository shall 4 send the originating agency a copy of the individual's 5 complete criminal history record.

6 (8) Photographs and fingerprints taken shall be
7 returned by the state repository to the originating agency,
8 which shall return all copies to the individual from whom
9 they were taken, in the following circumstances:

10 (a) if--a--court-so-orders upon order of the court that
11 had jurisdiction when proceedings against the individual
12 were dismissed prior to any conviction or when the
13 individual was acquitted at trial; or

14 (b) upon the request of the individual when he was
15 released without the filing of charges:

16 (i)--if-no-charges-were-filed;

17 (ii)-if--a--misdemeanor--charge--did--not--result--in--a
18 conviction;-or

19 (iii)-if--the--individual--was--found--innocent--of--the 20 offense-charged."

21 Section 3. Section 44-5-303, MCA, is amended to read:
22 *44-5-303. Dissemination of confidential criminal
23 justice information. Dissemination of confidential criminal
24 justice information is restricted to criminal justice
25 agencies, or to those authorized by law to receive it, and

1	to those authorized to receive it by a district court upon a
2	written finding that the demands of individual privacy do
3	not clearly exceed the merits of public disclosure. A
4	criminal justice agency that accepts confidential criminal
5	justice information assumes equal responsibility for the
6	security of such information with the originating agency.
7	Whenever confidential criminal justice information is
8	disseminated, it must be designated as confidential."

-End-

APPROVED BY COMMITTEE ON JUDICIARY

1	SENATE BILL NO. 249	1	release, prosecution, adjudication,
2	INTRODUCED BY SVRCEK	2	supervision, or rehabilitation of accused
3	BY REQUEST OF THE DEPARTMENT OF JUSTICE	3	criminal offenders. It includes criminal i
4		4	activities and the collection, storage, and dis
5	A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE MONTANA	5	criminal justice information.
6	CRIMINAL JUSTICE INFORMATION ACT BY EXPANDING THE DEFINITION	6	(3) "Confidential criminal justice informa
7	OF CRIMINAL JUSTICE AGENCY TO INCLUDE FEDERAL LAW	7	(a) criminal investigative information;
8	ENFORCEMENT AGENCIES; CLARIFYING THE DEFINITION OF PUBLIC	8	(b) criminal intelligence information;
9	CRIMINAL JUSTICE INFORMATION; CLARIFYING THE PROVISION	9	(c) fingerprints and photographs;
10	CONCERNING DISSEMINATION OF CONFIDENTIAL CRIMINAL JUSTICE	10	(đ) criminal justice information or
11	INFORMATION; LIMITING THE CIRCUMSTANCES UNDER WHICH THE	11	confidential by law; and
12	STATE REPOSITORY SHALL RETURN ALL COPIES OF AN INDIVIDUAL'S	12	(e) any other criminal justice information
13	PHOTOGRAPHS AND FINGERPRINTS; AND AMENDING SECTIONS	13	defined as public criminal justice information.
14	44-5-103, 44-5-202, AND 44-5-303."	14	(4) (a) "Criminal history record inform
15		15	information about individuals collected by cri
16	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	16	agencies consisting of identifiable descr
17	Section 1. Section 44-5-103, MCA, is amended to read:	17	notations of arrests; detentions; the filing of
18	"44-5-103. Definitions. As used in this chapter, the	18	indictments, or informations and dispositi
19	following definitions apply:	19	therefrom; sentences; correctional status; and
20	(1) "Access" means the ability to read, change, copy,	20	includes identification information, such as
21	use, transfer, or disseminate criminal justice information	21	records or photographs, unless such informatic

22 maintained by criminal justice agencies.

23 (2) "Administration of criminal justice" means the 24 performance of any of the following activities: detection, 25 apprehension, detention, pretrial release, posttrial

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cludes criminal identification n, storage, and dissemination of nal justice information" means: ive information; ce information; otographs; information or records made justice information not clearly justice information. ory record information" means ils collected by criminal justice dentifiable descriptions and tions; the filing of complaints, ns and dispositions arising ectional status; and release. It ormation, such as fingerprint ess such information is obtained for purposes other than the administration of criminal 22 23 justice.

24 (b) Criminal history record information does not 25 include:

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correctional

or

persons

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(i) records of traffic offenses maintained by the
 department of justice; or

3 (ii) court records.

4 (5) (a) "Criminal intelligence information" means 5 information associated with an identifiable individual, 6 group, organization, or event compiled by a criminal justice 7 agency:

8 (i) in the course of conducting an investigation 9 relating to a major criminal conspiracy, projecting 10 potential criminal operation, or producing an estimate of 11 future major criminal activities; or

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13 including information derived from reports of informants or
14 investigators or from any type of surveillance.

(b) Criminal intelligence information does not include
information relating to political surveillance or criminal
investigative information.

investigative information" means (6) "Criminal 18 information associated with an individual, 19 group, organization, or event compiled by a criminal justice agency 20 in the course of conducting an investigation of a crime or 21 crimes. It includes information about a crime or crimes 22 derived from reports of informants or investigators or from 23 any type of surveillance. It does not include criminal 24 intelligence information. 25

(7) "Criminal justice agency" means:

(a) any court with criminal jurisdiction;

3 (b) any <u>federal</u>, state, or local government agency 4 designated by statute or by a governor's executive order to 5 perform as its principal function the administration of 6 criminal justice; or

7 (c) any local government agency not included under 8 subsection (7)(b) that performs as its principal function 9 the administration of criminal justice pursuant to an 10 ordinance or local executive order.

11 (B) "Criminal justice information" means information 12 relating to criminal justice collected, processed, or 13 preserved by a criminal justice agency. It does not include 14 the administrative records of a criminal justice agency.

(9) "Criminal justice information system" means a
system, automated or manual, operated by federal, regional,
state, or local governments or governmental organizations
for collecting, processing, preserving, or disseminating
criminal justice information. It includes equipment,
facilities, procedures, and agreements.

(10) (a) "Disposition" means information disclosing that criminal proceedings against an individual have terminated and describing the nature of the termination or information relating to sentencing, correctional supervision, release from correctional supervision, the outcome of appellate or

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l	collateral review of criminal proceedings, or executive	1	(xv) exercise of executive clemency;
2	clemency. Criminal proceedings have terminated if a decision	2	(xvi) correctional placement on probation or parole or
3	has been made not to bring charges or criminal proceedings	3	release; or
4	have been concluded, abandoned, or indefinitely postponed.	4	(xvii) revocation of probation or parole.
5	(b) Particular dispositions include but are not limited	5	(c) A single arrest of an individual may result in more
6	to:	6	than one disposition.
7	(i) conviction at trial or on a plea of guilty;	7	(11) "Dissemination" means the communication or transfer
8	(ii) acquittal;	8	of criminal justice information to individuals or agencies
9	(iii) acquittal by reason of mental disease or defect;	9	other than the criminal justice agency that maintains such
10	(iv) acquittal by reason of mental incompetence;	10	information. It includes confirmation of the existence or
11	(v) the sentence imposed, including all conditions	11	nonexistence of criminal justice information.
12	attached thereto by the sentencing judge;	12	(12) "Public criminal justice information" means
13	(vi) deferred imposition of sentence with any conditions	13	informationexceptconfidentialcriminaljustice
14	of deferral;	14	information:
15	(vii) nolle prosequi;	15	(a) made public by law;
16	(viii) nolo contendere plea;	16	(b) of court records and proceedings;
17	(ix) deferred prosecution or diversion;	17	(c) of convictions, deferred sentences, and deferred
18	(x) bond forfeiture;	18	prosecutions;
19	(xi) death;	19	(d) of postconviction proceedings and status;
20	(xii) release as a result of a successful collateral	20	(e) originated by a criminal justice agency, including:
21	attack;	21	(i) initial offense reports;
22	(xiii) dismissal of criminal proceedings by the court	22	(ii) initial arrest records;
23	with or without the commencement of a civil action for	23	(iii) bail records; and
24	determination of mental incompetence or mental illness;	24	(iv) daily jail occupancy rosters;
25	(xiv) a finding of civil incompetence or mental illness;	25	(f) considered necessary by a criminal justice agency

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1 to secure public assistance in the apprehension of a 2 suspect; or

(g) statistical information.

3

4 (13) "State repository" means the recordkeeping systems
5 maintained by the department of justice pursuant to 44-2-201
6 in which criminal history record information is collected,
7 processed, preserved, and disseminated.

8 (14) "Statistical information" means data derived from 9 records in which individuals are not identified or 10 identification is deleted and from which neither individual 11 identity nor any other unique characteristic that could 12 identify an individual is ascertainable."

13 Section 2. Section 44-5-202, MCA, is amended to read: 14 "44-5-202. Photographs and fingerprints. (1) The 15 following agencies may, if authorized by subsections (2) 16 through (5), collect, process, and preserve photographs and 17 fingerprints:

18 (a) any criminal justice agency performing, under law,
19 the functions of a police department or a sheriff's office,
20 or both;

21 (b) the department of institutions; and

22 (c) the department of justice.

(2) The department of institutions may photograph and
 fingerprint anyone under the jurisdiction of the division of
 corrections or its successor.

(3) A criminal justice agency described in subsection
 (1)(a) shall photograph and fingerprint a person who has
 been arrested or noticed or summoned to appear to answer an
 information or indictment if:

(a) the charge is the commission of a felony;

(b) the identification of an accused is in issue; or

(c) it is required to do so by court order.

8 (4) Whenever a person charged with the commission of a 9 felony is not arrested, he shall submit himself to the 10 sheriff, chief of police, or other concerned law enforcement 11 officer for fingerprinting at the time of his initial 12 appearance in court to answer the information or indictment 13 against him.

14 (5) A criminal justice agency described in subsection 15 (1)(a) may photograph and fingerprint an accused if he has 16 been arrested for the commission of a misdemeanor, except 17 that an individual arrested for a traffic, regulatory, or 18 fish and game offense may not be photographed or 19 fingerprinted unless he is incarcerated.

20 (6) Within 10 days the originating agency shall send
21 the state repository a copy of each fingerprint taken on a
22 completed form provided by the state repository.

(7) The state repository shall compare the fingerprints
received with those already on file in the state repository.
If it is determined that the individual is wanted or is a

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fugitive from justice, the state repository shall at once
 inform the originating agency. If it is determined that the
 individual has a criminal record, the state repository shall
 send the originating agency a copy of the individual's
 complete criminal history record.

6 (8) Photographs and fingerprints taken shall be
7 returned by the state repository to the originating agency,
8 which shall return all copies to the individual from whom
9 they were taken, in the following circumstances:

10 (a) if--a--court-so-orders upon order of the court that 11 had jurisdiction when--proceedings--against--the--individual

12 were---dismissed---prior--to--any--conviction--or--when--the

13 individual-was-acquitted-at-trial; or

14 (b) upon the request of the individual when he was
15 released without the filing of charges OR WHEN THE CHARGES
16 DID NOT RESULT IN A CONVICTION:

17 fit--if-no-charges-were-fited;

18 (ii)-if--a--misdemeanor--charge--did--not--result--in--a
19 conviction--or

20 (iii)-if--the--individual--was--found--innocent--of--the
21 offense-charged."

Section 3. Section 44-5-303, MCA, is amended to read:
 "44-5-303. Dissemination of confidential criminal
 justice information. Dissemination of confidential criminal
 justice information is restricted to criminal justice

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1	agencies,	or	to	those	authorized	bу	law	to	receive	it <u>.</u>	and

- 2 to those authorized to receive it by a district court upon a
- 3 written finding that the demands of individual privacy do
- 4 not clearly exceed the merits of public disclosure. A

5 criminal justice agency that accepts confidential criminal

- 6 justice information assumes equal responsibility for the
- 7 security of such information with the originating agency.
- 8 Whenever confidential criminal justice information is
- 9 disseminated, it must be designated as confidential."

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apprehension,

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1	SENATE BILL NO. 249	l release, prosecution, adjudication, correctional
2	INTRODUCED BY SVRCEK	2 supervision, or rehabilitation of accused persons or
3	BY REQUEST OF THE DEPARTMENT OF JUSTICE	3 criminal offenders. It includes criminal identification
4		4 activities and the collection, storage, and dissemination of
5	A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE MONTANA	5 criminal justice information.
6	CRIMINAL JUSTICE INFORMATION ACT BY EXPANDING THE DEFINITION	6 (3) "Confidential criminal justice information" means:
7	OF CRIMINAL JUSTICE AGENCY TO INCLUDE FEDERAL LAW	7 (a) criminal investigative information;
8	ENFORCEMENT AGENCIES; CLARIFYING THE DEFINITION OF PUBLIC	<pre>8 (b) criminal intelligence information;</pre>
9	CRIMINAL JUSTICE INFORMATION; CLARIFYING THE PROVISION	9 (c) fingerprints and photographs;
10	CONCERNING DISSEMINATION OF CONFIDENTIAL CRIMINAL JUSTICE	10 (d) criminal justice information or records made
11	INFORMATION; LIMITING THE CIRCUMSTANCES UNDER WHICH THE	<pre>ll confidential by law; and</pre>
12	STATE REPOSITORY SHALL RETURN ALL COPIES OF AN INDIVIDUAL'S	12 (e) any other criminal justice information not clearly
13	PHOTOGRAPHS AND FINGERPRINTS; AND AMENDING SECTIONS	13 defined as public criminal justice information.
14	44-5-103, 44-5-202, AND 44-5-303."	14 (4) (a) "Criminal history record information" means
15		15 information about individuals collected by criminal justice
16	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	16 agencies consisting of identifiable descriptions and
17	Section 1. Section 44-5-103, MCA, is amended to read:	<pre>17 notations of arrests; detentions; the filing of complaints,</pre>
18	*44-5-103. Definitions. As used in this chapter, the	18 indictments, or informations and dispositions arising
19	following definitions apply:	19 therefrom; sentences; correctional status; and release. It
20	(1) "Access" means the ability to read, change, copy,	20 includes identification information, such as fingerprint
21	use, transfer, or disseminate criminal justice information	21 records or photographs, unless such information is obtained
22	maintained by criminal justice agencies.	22 for purposes other than the administration of criminal
23	(2) "Administration of criminal justice" means the	23 justice.
24	performance of any of the following activities: detection,	24 (b) Criminal history record information does not

25

include:

detention, pretrial release, posttrial

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(i) records of traffic offenses maintained by the
 department of justice; or

3 (ii) court records.

4 (5) (a) "Criminal intelligence information" means 5 information associated with an identifiable individual, 6 group, organization, or event compiled by a criminal justice 7 agency:

8 (i) in the course of conducting an investigation 9 relating to a major criminal conspiracy, projecting 10 potential criminal operation, or producing an estimate of 11 future major criminal activities; or

12 (ii) in relation to the reliability of information
13 including information derived from reports of informants or
14 investigators or from any type of surveillance.

(b) Criminal intelligence information does not include
information relating to political surveillance or criminal
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information" 18 (6) "Criminal investigative means information associated with an individual, 19 group, organization, or event compiled by a criminal justice agency 20 in the course of conducting an investigation of a crime or 21 22 crimes. It includes information about a crime or crimes 23 derived from reports of informants or investigators or from any type of surveillance. It does not include criminal 24 25 intelligence information.

(7) "Criminal justice agency" means:

(a) any court with criminal jurisdiction;

3 (b) any <u>federal</u>, state, or local government agency 4 designated by statute or by a governor's executive order to 5 perform as its principal function the administration of 6 criminal justice; or

7 (c) any local government agency not included under
8 subsection (7)(b) that performs as its principal function
9 the administration of criminal justice pursuant to an
10 ordinance or local executive order.

(8) "Criminal justice information" means information
relating to criminal justice collected, processed, of
preserved by a criminal justice agency. It does not include
the administrative records of a criminal justice agency.

(9) "Criminal justice information system" means a
system, automated or manual, operated by federal, regional,
state, or local governments or governmental organizations
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l	collateral review of criminal proceedings, or executive	1	(xv) exercise of executive clemency;
2	clemency. Criminal proceedings have terminated if a decision	2	(xvi) correctional placement on probation or parole or
3	has been made not to bring charges or criminal proceedings	3	release; or
4	have been concluded, abandoned, or indefinitely postponed.	4	(xvii) revocation of probation or parole.
5	(b) Particular dispositions include but are not limited	5	(c) A single arrest of an individual may result in more
6	to:	6	than one disposition.
7	(i) conviction at trial or on a plea of guilty;	7	(11) "Dissemination" means the communication or transfer
8	(ii) acquittal;	8	of criminal justice information to individuals or agencies
9	(iii) acquittal by reason of mental disease or defect;	9	other than the criminal justice agency that maintains such
10	(iv) acquittal by reason of mental incompetence;	10	information. It includes confirmation of the existence or
11	(v) the sentence imposed, including all conditions	11	nonexistence of criminal justice information.
12	attached thereto by the sentencing judge;	12	(12) "Public criminal justice information" means
13	(vi) deferred imposition of sentence with any conditions	13	informationexceptconfidentialcriminaljustice
14	of deferral;	14	information:
15	(vii) nolle prosequi;	15	(a) made public by law;
16	(viii) nolo contendere plea;	16	(b) of court records and proceedings;
17	(ix) deferred prosecution or diversion;	17	(c) of convictions, deferred sentences, and deferred
18	(x) bond forfeiture;	18	prosecutions;
19	(xi) death;	19	(d) of postconviction proceedings and status;
20	(xii) release as a result of a successful collateral	20	(e) originated by a criminal justice agency, including:
21	attack;	21	(i) initial offense reports;
22	(xiii) dismissal of criminal proceedings by the court	22	(ii) initial arrest records;
23	with or without the commencement of a civil action for	23	(iii) bail records; and
24	determination of mental incompetence or mental illness;	24	(iv) daily jail occupancy rosters;
25	(xiv) a finding of civil incompetence or mental illness;	25	(f) considered necessary by a criminal justice agency
	c (P. 340)		
	-5- SB 249		-6- SB 249

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1 to secure public assistance in the apprehension of a 2 suspect; or

(g) statistical information.

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4 (13) "State repository" means the recordkeeping systems
5 maintained by the department of justice pursuant to 44-2-201
6 in which criminal history record information is collected,
7 processed, preserved, and disseminated.

8 (14) "Statistical information" means data derived from
9 records in which individuals are not identified or
10 identification is deleted and from which neither individual
11 identity nor any other unique characteristic that could
12 identify an individual is ascertainable."

13 Section 2. Section 44-5-202, MCA, is amended to read:

14 "44-5-202. Photographs and fingerprints. (1) The 15 following agencies may, if authorized by subsections (2) 16 through (5), collect, process, and preserve photographs and 17 fingerprints:

18 (a) any criminal justice agency performing, under law,
19 the functions of a police department or a sheriff's office,
20 or both;

21 (b) the department of institutions; and

22 (c) the department of justice.

(2) The department of institutions may photograph and
fingerprint anyone under the jurisdiction of the division of
corrections or its successor.

(3) A criminal justice agency described in subsection
 (1)(a) shall photograph and fingerprint a person who has
 been arrested or noticed or summoned to appear to answer an
 information or indictment if:

(a) the charge is the commission of a felony;

(b) the identification of an accused is in issue; or

(c) it is required to do so by court order.

8 (4) Whenever a person charged with the commission of a 9 felony is not arrested, he shall submit himself to the 10 sheriff, chief of police, or other concerned law enforcement 11 officer for fingerprinting at the time of his initial 12 appearance in court to answer the information or indictment 13 against him.

14 (5) A criminal justice agency described in subsection 15 (1)(a) may photograph and fingerprint an accused if he has 16 been arrested for the commission of a misdemeanor, except 17 that an individual arrested for a traffic, regulatory, or 18 fish and game offense may not be photographed or 19 fingerprinted unless he is incarcerated.

(6) Within 10 days the originating agency shall send
the state repository a copy of each fingerprint taken on a
completed form provided by the state repository.

(7) The state repository shall compare the fingerprints
received with those already on file in the state repository.
If it is determined that the individual is wanted or is a

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1 fugitive from justice, the state repository shall at once 2 inform the originating agency. If it is determined that the 3 individual has a criminal record, the state repository shall 4 send the originating agency a copy of the individual's 5 complete criminal history record.

6 (8) Photographs and fingerprints taken shall be
7 returned by the state repository to the originating agency,
8 which shall return all copies to the individual from whom
9 they were taken, in the following circumstances:

10 (a) if--a--court-so-orders upon order of the court that

11 had jurisdiction when--proceedings--against--the--individual

12 were---dismissed---prior--to--any--conviction--or--when--the

13 individual-was-acquitted-at-trial; or

14 (b) upon the request of the individual when he was
 15 released without the filing of charges OR WHEN THE CHARGES
 16 DID NOT RESULT IN A CONVICTION:

17 (i)--if-no-charges-were-filed;

18 (ii)-if--a--misdemeanor--charge--did--not--result--in--a
19 conviction;-or

20 (iii)-if--the--individual--was--found--innocent--of--the
21 offense-charged."

Section 3. Section 44-5-303, MCA, is amended to read:
 "44-5-303. Dissemination of confidential criminal
 justice information. Dissemination of confidential criminal
 justice information is restricted to criminal justice

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1	agencies, or to those authorized by law to receive it, and
2	to those authorized to receive it by a district court upon a
3	written finding that the demands of individual privacy do
4	not clearly exceed the merits of public disclosure. A
5	criminal justice agency that accepts confidential criminal
6	justice information assumes equal responsibility for the
7	security of such information with the originating agency.
8	Whenever confidential criminal justice information is
9	disseminated, it must be designated as confidential."

-End-

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SB 0249/02

HOUSE STANDING COMMITTEE REPORT

March 11, 1991

Page 1 of 1

Mr. Speaker: We, the committee on <u>Judiciary</u> report that <u>Senate Bill 249</u> (third reading copy -- blue) <u>be concurred in as</u> <u>amended</u>.

Carried by: Rep. Boharski

And, that such amendments read:

Page 10, line 3.
 Following: "that"
 Insert: "the merits of public disclosure clearly exceed"
 Page 10, lines 3 and 4.

Strike: "do not clearly exceed the merits of public disclosure"

HOUSE SB249 52nd Legislature

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SB 0249/03

1	SENATE BILL NO. 249	1	re
2	INTRODUCED BY SVRCEK	2	su
3	BY REQUEST OF THE DEPARTMENT OF JUSTICE	3	cr
4		4	ac
5	A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE MONTANA	5	cr
6	CRIMINAL JUSTICE INFORMATION ACT BY EXPANDING THE DEFINITION	6	
7	OF CRIMINAL JUSTICE AGENCY TO INCLUDE FEDERAL LAW	7	
8	ENFORCEMENT AGENCIES; CLARIFYING THE DEFINITION OF PUBLIC	8	
9	CRIMINAL JUSTICE INFORMATION; CLARIFYING THE PROVISION	9	
10	CONCERNING DISSEMINATION OF CONFIDENTIAL CRIMINAL JUSTICE	10	
11	INFORMATION; LIMITING THE CIRCUMSTANCES UNDER WHICH THE	11	co
12	STATE REPOSITORY SHALL RETURN ALL COPIES OF AN INDIVIDUAL'S	12	
13	PHOTOGRAPHS AND FINGERPRINTS; AND AMENDING SECTIONS	13	de
14	44-5-103, 44-5-202, AND 44-5-303."	14	
15		15	in
16	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	16	ag
17	Section 1. Section 44-5-103, MCA, is amended to read:	17	no
18	"44-5-103. Definitions. As used in this chapter, the	18	in
19	following definitions apply:	19	th
20	(1) "Access" means the ability to read, change, copy,	20	in
21	use, transfer, or disseminate criminal justice information	21	re

23 (2) "Administration of criminal justice" means the
24 performance of any of the following activities: detection,
25 apprehension, detention, pretrial release, posttrial

maintained by criminal justice agencies.

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1	release, prosecution, adjudication, correctional
2	supervision, or rehabilitation of accused persons or
3	criminal offenders. It includes criminal identification
4	activities and the collection, storage, and dissemination of
5	criminal justice information.
6	(3) "Confidential criminal justice information" means:
7	(a) criminal investigative information;
8	(b) criminal intelligence information;
9	<pre>(c) fingerprints and photographs;</pre>
10	(d) criminal justice information or records made
11	confidential by law; and
12	(e) any other criminal justice information not clearly
13	defined as public criminal justice information.
14	(4) (a) "Criminal history record information" means
15	information about individuals collected by criminal justice
16	agencies consisting of identifiable descriptions and
17	notations of arrests; detentions; the filing of complaints,
18	indictments, or informations and dispositions arising
19	therefrom; sentences; correctional status; and release. It
20	includes identification information, such as fingerprint
21	records or photographs, unless such information is obtained
22	for purposes other than the administration of criminal
23	justice.
74	(b) Criminal history record information does not

25 include:



2

(i) records of traffic offenses maintained by the
 department of justice; or

3 (ii) court records.

4 (5) (a) "Criminal intelligence information" means
5 information associated with an identifiable individual,
6 group, organization, or event compiled by a criminal justice
7 agency:

8 (i) in the course of conducting an investigation 9 relating to a major criminal conspiracy, projecting 10 potential criminal operation, or producing an estimate of 11 future major criminal activities; or

12 (ii) in relation to the reliability of information
13 including information derived from reports of informants or
14 investigators or from any type of surveillance.

(b) Criminal intelligence information does not include
information relating to political surveillance or criminal
investigative information.

18 (6) "Criminal investigative information" means information associated with an individual, 19 group. 20 organization, or event compiled by a criminal justice agency 21 in the course of conducting an investigation of a crime or 22 crimes. It includes information about a crime or crimes 23 derived from reports of informants or investigators or from 24 any type of surveillance. It does not include criminal 25 intelligence information.

(7) "Criminal justice agency" means:

(a) any court with criminal jurisdiction;

3 (b) any <u>federal</u>, state, or local government agency 4 designated by statute or by a governor's executive order to 5 perform as its principal function the administration of 6 criminal justice; or

7 (c) any local government agency not included under
8 subsection (7)(b) that performs as its principal function
9 the administration of criminal justice pursuant to an
10 ordinance or local executive order.

(8) "Criminal justice information" means information
relating to criminal justice collected, processed, or
preserved by a criminal justice agency. It does not include
the administrative records of a criminal justice agency.

(9) "Criminal justice information system" means a
system, automated or manual, operated by federal, regional,
state, or local governments or governmental organizations
for collecting, processing, preserving, or disseminating
criminal justice information. It includes equipment,
facilities, procedures, and agreements.

(10) (a) "Disposition" means information disclosing that criminal proceedings against an individual have terminated and describing the nature of the termination or information relating to sentencing, correctional supervision, release from correctional supervision, the outcome of appellate or

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1	collateral review of criminal proceedings, or executive	<pre>1 (xv) exercise of executive clemency;</pre>
2	clemency. Criminal proceedings have terminated if a decision	2 (xvi) correctional placement on probation or parole
3	has been made not to bring charges or criminal proceedings	3 release; or
4	have been concluded, abandoned, or indefinitely postponed.	4 (xvii) revocation of probation or parole.
5	(b) Particular dispositions include but are not limited	5 (c) A single arrest of an individual may result in mo
6	to:	6 than one disposition.
7	(i) conviction at trial or on a plea of guilty;	7 (11) "Dissemination" means the communication or trans.
8	(ii) acquittal;	8 of criminal justice information to individuals or agenc
9	(iii) acquittal by reason of mental disease or defect;	9 other than the criminal justice agency that maintains s
10	(iv) acquittal by reason of mental incompetence;	10 information. It includes confirmation of the existence
11	(v) the sentence imposed, including all conditions	11 nonexistence of criminal justice information.
12	attached thereto by the sentencing judge;	12 (12) "Public criminal justice information" me
13	(vi) deferred imposition of sentence with any conditions	<pre>13 information;exceptconfidentialcriminaljust</pre>
14	of deferral;	14 information:
15	(vii) nolle prosequi;	15 (a) made public by law;
16	(viii) nolo contendere plea;	<pre>16 (b) of court records and proceedings;</pre>
17	(ix) deferred prosecution or diversion;	17 (c) of convictions, deferred sentences, and defer
18	<pre>(x) bond forfeiture;</pre>	18 prosecutions;
19	(xi) death;	19 (d) of postconviction proceedings and status;
20	(xii) release as a result of a successful collateral	20 (e) originated by a criminal justice agency, includi
21	attack;	21 (i) initial offense reports;
22	(xiii) dismissal of criminal proceedings by the court	22 (ii) initial arrest records;
23	with or without the commencement of a civil action for	23 (iii) bail records; and
24	determination of mental incompetence or mental illness;	<pre>24 (1v) daily jail occupancy rosters;</pre>
25	(xiv) a finding of civil incompetence or mental illness;	25 (f) considered necessary by a criminal justice age

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1 to secure public assistance in the apprehension of a
2 suspect; or

(g) statistical information.

3

4 (13) "State repository" means the recordkeeping systems
5 maintained by the department of justice pursuant to 44-2-201
6 in which criminal history record information is collected,
7 processed, preserved, and disseminated.

8 (14) "Statistical information" means data derived from 9 records in which individuals are not identified or 10 identification is deleted and from which neither individual 11 identity nor any other unique characteristic that could 12 identify an individual is ascertainable."

13 Section 2. Section 44-5-202, MCA, is amended to read:

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(a) any criminal justice agency performing, under law,
the functions of a police department or a sheriff's office,
or both;

21 (b) the department of institutions; and

22 (c) the department of justice.

(2) The department of institutions may photograph and
Fingerprint anyone under the jurisdiction of the division of
corrections or its successor.

(3) A criminal justice agency described in subsection
 (1)(a) shall photograph and fingerprint a person who has
 been arrested or noticed or summoned to appear to answer an
 information or indictment if:

(a) the charge is the commission of a felony;

6 (b) the identification of an accused is in issue; or

(c) it is required to do so by court order.

8 (4) Whenever a person charged with the commission of a 9 felony is not arrested, he shall submit himself to the 10 sheriff, chief of police, or other concerned law enforcement 11 officer for fingerprinting at the time of his initial 12 appearance in court to answer the information or indictment 13 against him.

14 (5) A criminal justice agency described in subsection 15 (1)(a) may photograph and fingerprint an accused if he has 16 been arrested for the commission of a misdemeanor, except 17 that an individual arrested for a traffic, regulatory, or 18 fish and game offense may not be photographed or 19 fingerprinted unless he is incarcerated.

20 (6) Within 10 days the originating agency shall send
21 the state repository a copy of each fingerprint taken on a
22 completed form provided by the state repository.

(7) The state repository shall compare the fingerprints
received with those already on file in the state repository.
If it is determined that the individual is wanted or is a

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1 fugitive from justice, the state repository shall at once
2 inform the originating agency. If it is determined that the
3 individual has a criminal record, the state repository shall
4 send the originating agency a copy of the individual's
5 complete criminal history record.

6 (8) Photographs and fingerprints taken shall be
7 returned by the state repository to the originating agency,
8 which shall return all copies to the individual from whom
9 they were taken, in the following circumstances:

10 (a) if--a--court-so-orders upon order of the court that

11 had jurisdiction when--proceedings--against--the--individual

12 were---dismissed---prior--to--any--conviction--or--whem--the

13 individual-was-acquitted-at-trial; or

14 (b) upon the request of the individual when he was 15 released without the filing of charges OR WHEN THE CHARGES 16 DID NOT RESULT IN A CONVICTION:

17 (i)--if-no-charges-were-filed;

18 (ii)-if--a--misdemeanor--charge--did--not--result--in--a

- 19 conviction;-or
- 20 (iii)-if--the--individual--was--found--innocent--of--the
 21 offense-charged."

Section 3. Section 44-5-303, MCA, is amended to read:
 "44-5-303. Dissemination of confidential criminal
 justice information. Dissemination of confidential criminal
 justice information is restricted to criminal justice

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1 agencies, or to those authorized by law to receive it, and 2 to those authorized to receive it by a district court upon a 3 written finding that THE MERITS OF PUBLIC DISCLOSURE CLEARLY 4 EXCEED the demands of individual privacy do-not-elearly 5 exceed-the-merits-of-public-disclosure. A criminal justice 6 agency that accepts confidential criminal justice 7 information assumes equal responsibility for the security of 8 such information with the originating agency. Whenever 9 confidential criminal justice information is disseminated, 10 it must be designated as confidential."

-End-

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SB 0249/03

Conference Committee on Senate Bill No. 249 Report No. 1, April 20, 1991

Mr. President and Mr. Speaker:

We, your Conference Committee on Senate Bill No. 249, met and considered the amendments of the House Judiciary Standing Committee Report dated March 11, 1991 and recommend that the report be rejected in its entirety and, therefore,:

We recommend that Senate Bill No. 249 (reference copy - salmon) be amended as follows:

1. Page 10, lines 3 and 4.
Following: "that" on line 3
Strike: "THE" on line 3 through "EXCEED" on line 4.

2. Page 10, line 5. Following: "disclosure" on line 5 Insert: "do not clearly exceed the merits of public disclosure"

And that this Conference Committee report be adopted.

For the Senate: Chair, Sen Swarcek Halligan S Sen. Crippen

the House:

Chair, Rep. Strizich

Rep. Toole

CCR #1

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10:40 of Senate Sec.

ADOPT

REJECT

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release,

SENATE BILL NO. 249 1 2 INTRODUCED BY SVRCEK BY REQUEST OF THE DEPARTMENT OF JUSTICE 3 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE MONTANA 6 CRIMINAL JUSTICE INFORMATION ACT BY EXPANDING THE DEFINITION CRIMINAL JUSTICE AGENCY TO INCLUDE FEDERAL LAW 7 OF ENFORCEMENT AGENCIES; CLARIFYING THE DEFINITION OF PUBLIC 8 CRIMINAL JUSTICE INFORMATION: CLARIFYING THE PROVISION 9 CONCERNING DISSEMINATION OF CONFIDENTIAL CRIMINAL JUSTICE 10 INFORMATION: LIMITING THE CIRCUMSTANCES UNDER WHICH THE 11 STATE REPOSITORY SHALL RETURN ALL COPIES OF AN INDIVIDUAL'S 12 PHOTOGRAPHS AND FINGERPRINTS; AND AMENDING SECTIONS 13 14 44-5-103, 44-5-202, AND 44-5-303."

15

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 44-5-103, MCA, is amended to read:
 "44-5-103. Definitions. As used in this chapter, the

18 *44-5-103. Definitions. As used in this chapter, the
19 following definitions apply:

20 (1) "Access" means the ability to read, change, copy,
21 use, transfer, or disseminate criminal justice information
22 maintained by criminal justice agencies.

(2) "Administration of criminal justice" means the
performance of any of the following activities: detection,
apprehension, detention, pretrial release, posttrial

Montana Legislative Counce

2 supervision, or rehabilitation of accused persons or 3 criminal offenders. It includes criminal identification 4 activities and the collection, storage, and dissemination of 5 criminal justice information. 6 (3) "Confidential criminal justice information" means: 7 criminal investigative information; (a) 8 (b) criminal intelligence information; 9 fingerprints and photographs; (c) (d) criminal justice information or records made 10 11 confidential by law; and 12 (e) any other criminal justice information not clearly 13 defined as public criminal justice information. 14 (4) (a) "Criminal history record information" means 15 information about individuals collected by criminal justice agencies consisting of identifiable descriptions 16 and notations of arrests; detentions; the filing of complaints, 17 18 indictments, or informations and dispositions arising 19 therefrom; sentences; correctional status; and release. It 20 includes identification information, such as fingerprint records or photographs, unless such information is obtained 21 22 for purposes other than the administration of criminal 23 justice.

adjudication,

prosecution,

24 (b) Criminal history record information does not 25 include:

> -2- SB 249 REFERENCE BILL: Includes Conference Committee report Dated 4-20-91

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correctional

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1 2 (i) records of traffic offenses maintained by the department of justice; or

3 (ii) court records.

4 (5) (a) "Criminal intelligence information" means 5 information associated with an identifiable individual, 6 group, organization, or event compiled by a criminal justice 7 agency:

8 (i) in the course of conducting an investigation
9 relating to a major criminal conspiracy, projecting
10 potential criminal operation, or producing an estimate of
11 future major criminal activities; or

12 (ii) in relation to the reliability of information
13 including information derived from reports of informants or
14 investigators or from any type of surveillance.

(b) Criminal intelligence information does not include
information relating to political surveillance or criminal
investigative information.

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(7) "Criminal justice agency" means:

(a) any court with criminal jurisdiction;

3 (b) any <u>federal</u>, state, or local government agency 4 designated by statute or by a governor's executive order to 5 perform as its principal function the administration of 6 criminal justice; or

7 (c) any local government agency not included under
8 subsection (7)(b) that performs as its principal function
9 the administration of criminal justice pursuant to an
10 ordinance or local executive order.

11 (8) "Criminal justice information" means information
12 relating to criminal justice collected, processed, or
13 preserved by a criminal justice agency. It does not include
14 the administrative records of a criminal justice agency.

15 (9) "Criminal justice information system" means a 16 system, automated or manual, operated by federal, regional, 17 state, or local governments or governmental organizations 18 for collecting, processing, preserving, or disseminating 19 criminal justice information. It includes equipment, 20 facilities, procedures, and agreements.

21 (10) (a) "Disposition" means information disclosing that 22 criminal proceedings against an individual have terminated 23 and describing the nature of the termination or information 24 relating to sentencing, correctional supervision, release 25 from correctional supervision, the outcome of appellate or

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1	collateral review of criminal proceedings, or executive	1	(xv) exercise of executive clemency;
2	clemency. Criminal proceedings have terminated if a decision	2	(xvi) correctional placement on probation or parole or
3	has been made not to bring charges or criminal proceedings	3	release; or
4	have been concluded, abandoned, or indefinitely postponed.	4	(xvii) revocation of probation or parole.
5	(b) Particular dispositions include but are not limited	5	(C) A single arrest of an individual may result in more
6	to:	6	than one disposition.
7	(i) conviction at trial or on a plea of guilty;	7	(11) "Dissemination" means the communication or transfer
8	(ii) acquittal;	8	of criminal justice information to individuals or agencies
9	(iii) acquittal by reason of mental disease or defect;	9	other than the criminal justice agency that maintains such
10	(iv) acquittal by reason of mental incompetence;	10	information. It includes confirmation of the existence or
11	(v) the sentence imposed, including all conditions	11	nonexistence of criminal justice information.
12	attached thereto by the sentencing judge;	12	(12) "Public criminal justice information" means
13	(vi) deferred imposition of sentence with any conditions	13	information except confidential criminal justice
14	of deferral;	14	information:
15	(vii) nolle prosequi;	15	(a) made public by law;
16	(viii) nolo contendere plea;	16	(b) of court records and proceedings;
17	(ix) deferred prosecution or diversion;	17	(c) of convictions, deferred sentences, and deferred
18	(x) bond forfeiture;	18	prosecutions;
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23	with or without the commencement of a civil action for	23	(iii) bail records; and
24	determination of mental incompetence or mental illness;	24	(iv) daily jail occupancy rosters;
25	(xiv) a finding of civil incompetence or mental illness;	25	(f) considered necessary by a criminal justice agency

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to secure public assistance in the apprehension of a
 suspect: or

3 (q) statistical information.

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19 the functions of a police department or a sheriff's office,
20 or both;

21 (b) the department of institutions; and

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 fingerprint anyone under the jurisdiction of the division of
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22 completed form provided by the state repository.

(7) The state repository shall compare the fingerprints
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If it is determined that the individual is wanted or is a

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-8-

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6 (8) Photographs and fingerprints taken shall be
7 returned by the state repository to the originating agency,
8 which shall return all copies to the individual from whom
9 they were taken, in the following circumstances:

10 (a) if--a--court-so-orders upon order of the court that had jurisdiction when--proceedings--against--the--individual were---dismissed---prior--to--any--conviction--or--when--the individual-was-acquitted-at-trial; or 14 (b) upon the request of the individual when he was 15 released without the filing of charges OR WHEN THE CHARGES 16 DID NOT RESULT IN A CONVICTION;

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 justice information. Dissemination of confidential criminal
 justice information is restricted to criminal justice

1 agencies, or to those authorized by law to receive it, and 2 to those authorized to receive it by a district court upon a 3 written finding that THE-MERITS-OF-PUBLIC-DISCLOSURE-CLEARLY EXCERP the demands of individual privacy do-not-clearly Δ 5 exceed-the-merits-of-public-disclosure DO NOT CLEARLY EXCEED THE MERITS OF PUBLIC DISCLOSURE. A criminal justice agency 6 7 that accepts confidential criminal justice information 8 assumes equal responsibility for the security of such 9 information with the originating agency. Whenever 10 confidential criminal justice information is disseminated, 11 it must be designated as confidential."

-End-

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