

HOUSE BILL NO. 151

INTRODUCED BY VOGEL
BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE HOUSE

JANUARY 12, 1993 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

FIRST READING.

JANUARY 21, 1993 PRINTING REPORT.

JANUARY 23, 1993 ENGROSSING REPORT.

TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 27, 1993 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

FIRST READING.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

J. House, BILL NO. 151

1
2 INTRODUCED BY *Hardy Vogel*

3 BY REQUEST OF THE DEPARTMENT OF JUSTICE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING THE TERM
6 "CRIMINAL JUSTICE AGENCY" FOR PURPOSES OF THE MONTANA
7 CRIMINAL JUSTICE INFORMATION ACT TO INCLUDE AGENCIES OF
8 FOREIGN NATIONS THAT ADMINISTER CRIMINAL JUSTICE; AND
9 AMENDING SECTION 44-5-103, MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

13 **"44-5-103. Definitions.** As used in this chapter, the
14 following definitions apply:

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

18 (2) "Administration of criminal justice" means the
19 performance of any of the following activities: detection,
20 apprehension, detention, pretrial release, posttrial
21 release, prosecution, adjudication, correctional
22 supervision, or rehabilitation of accused persons or
23 criminal offenders. It includes criminal identification
24 activities and the collection, storage, and dissemination of
25 criminal justice information.

1 (3) "Confidential criminal justice information" means:
2 (a) criminal investigative information;
3 (b) criminal intelligence information;
4 (c) fingerprints and photographs;
5 (d) criminal justice information or records made
6 confidential by law; and
7 (e) any other criminal justice information not clearly
8 defined as public criminal justice information.

9 (4) (a) "Criminal history record information" means
10 information about individuals collected by criminal justice
11 agencies consisting of identifiable descriptions and
12 notations of arrests; detentions; the filing of complaints,
13 indictments, or informations and dispositions arising
14 therefrom; sentences; correctional status; and release. It
15 includes identification information, such as fingerprint
16 records or photographs, unless such the information is
17 obtained for purposes other than the administration of
18 criminal justice.

19 (b) Criminal history record information does not
20 include:

21 (i) records of traffic offenses maintained by the
22 department of justice; or
23 (ii) court records.

24 (5) (a) "Criminal intelligence information" means
25 information associated with an identifiable individual,

1 group, organization, or event compiled by a criminal justice
 2 agency:

3 (i) in the course of conducting an investigation
 4 relating to a major criminal conspiracy, projecting
 5 potential criminal operation, or producing an estimate of
 6 future major criminal activities; or

7 (ii) in relation to the reliability of information
 8 including information derived from reports of informants or
 9 investigators or from any type of surveillance.

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

13 (6) "Criminal investigative information" means
 14 information associated with an individual, group,
 15 organization, or event compiled by a criminal justice agency
 16 in the course of conducting an investigation of a crime or
 17 crimes. It includes information about a crime or crimes
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 19 any type of surveillance. It does not include criminal
 20 intelligence information.

21 (7) "Criminal justice agency" means:

22 (a) any court with criminal jurisdiction;

23 (b) any federal, state, or local government agency
 24 designated by statute or by a governor's executive order to
 25 perform as its principal function the administration of

1 criminal justice; or

2 (c) any local government agency not included under
 3 subsection (7)(b) that performs as its principal function
 4 the administration of criminal justice pursuant to an
 5 ordinance or local executive order; or

6 (d) any agency of a foreign nation that has been
 7 designated by that nation's law or chief executive officer
 8 to perform as its principal function the administration of
 9 criminal justice and that has been approved for the receipt
 10 of criminal justice information by the Montana attorney
 11 general, who may consult with the United States department
 12 of justice.

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

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

23 (10) (a) "Disposition" means information disclosing that
 24 criminal proceedings against an individual have terminated
 25 and describing the nature of the termination or information

1 relating to sentencing, correctional supervision, release
 2 from correctional supervision, the outcome of appellate or
 3 collateral review of criminal proceedings, or executive
 4 clemency. Criminal proceedings have terminated if a decision
 5 has been made not to bring charges or criminal proceedings
 6 have been concluded, abandoned, or indefinitely postponed.

7 (b) Particular dispositions include but are not limited
 8 to:

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 10 (ii) acquittal;
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 13 (v) the sentence imposed, including all conditions
 14 attached thereto to the sentence by the sentencing judge;
 15 (vi) deferred imposition of sentence with any conditions
 16 of deferral;
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 20 (x) bond forfeiture;
 21 (xi) death;
 22 (xii) release as a result of a successful collateral
 23 attack;
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1 determination of mental incompetence or mental illness;
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 9 (11) "Dissemination" means the communication or transfer
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 15 information:
 16 (a) made public by law;
 17 (b) of court records and proceedings;
 18 (c) of convictions, deferred sentences, and deferred
 19 prosecutions;
 20 (d) of postconviction proceedings and status;
 21 (e) originated by a criminal justice agency, including:
 22 (i) initial offense reports;
 23 (ii) initial arrest records;
 24 (iii) bail records; and
 25 (iv) daily jail occupancy rosters;

1 (f) considered necessary by a criminal justice agency
2 to secure public assistance in the apprehension of a
3 suspect; or

4 (g) statistical information.

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

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

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

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-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 4, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 151 (first reading copy -- blue), respectfully report that House Bill No. 151 be amended as follows and as so amended be concurred in.

Signed: Wm Yellowtail
Senator William "Bill" Yellowtail, Chair

That such amendments read:

1. Title, line 8.

Strike: "AND"

2. Title, line 9.

Following: "MCA"

Insert: ";" AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 7, line 14.

Following: line 13

Insert: "NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval."

-END-

SENATE

AD Amd. Coord.
SM Sec. of Senate

Sen. Doherty
Senator Carrying Bill

HB 151

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15 NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] IS
16 EFFECTIVE ON PASSAGE AND APPROVAL.

-End-