

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 20, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 21, 1993	PRINTING REPORT.
JANUARY 22, 1993	SECOND READING, DO PASS.
JANUARY 23, 1993	ENGROSSING REPORT.
JANUARY 25, 1993	THIRD READING, PASSED. AYES, 91; NOES, 7.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 27, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 5, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 6, 1993	SECOND READING, CONCURRED IN.
MARCH 8, 1993	THIRD READING, CONCURRED IN. AYES, 48; NOES, 0.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 31, 1993	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 2, 1993	THIRD READING, AMENDMENTS

CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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

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

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

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

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

(7) "Criminal justice agency" means:

(a) any court with criminal jurisdiction;

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

criminal justice; or

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

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

(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 foreign, 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

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:

- 9 (i) conviction at trial or on a plea of guilty;
- 10 (ii) acquittal;
- 11 (iii) acquittal by reason of mental disease or defect;
- 12 (iv) acquittal by reason of mental incompetence;
- 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;
- 17 (vii) nolle prosequi;
- 18 (viii) nolo contendere plea;
- 19 (ix) deferred prosecution or diversion;
- 20 (x) bond forfeiture;
- 21 (xi) death;
- 22 (xii) release as a result of a successful collateral
- 23 attack;
- 24 (xiii) dismissal of criminal proceedings by the court
- 25 with or without the commencement of a civil action for

1 determination of mental incompetence or mental illness;

2 (xiv) a finding of civil incompetence or mental illness;

3 (xv) exercise of executive clemency;

4 (xvi) correctional placement on probation or parole or
 5 release; or

6 (xvii) revocation of probation or parole.

7 (c) A single arrest of an individual may result in more
 8 than one disposition.

9 (11) "Dissemination" means the communication or transfer
 10 of criminal justice information to individuals or agencies
 11 other than the criminal justice agency that maintains such
 12 the information. It includes confirmation of the existence
 13 or nonexistence of criminal justice information.

14 (12) "Public criminal justice information" means
 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;

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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-

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

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

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

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

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

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

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- (ii) acquittal;
- (iii) acquittal by reason of mental disease or defect;
- (iv) acquittal by reason of mental incompetence;
- (v) the sentence imposed, including all conditions attached thereto to the sentence by the sentencing judge;
- (vi) deferred imposition of sentence with any conditions of deferral;
- (vii) nolle prosequi;
- (viii) nolo contendere plea;
- (ix) deferred prosecution or diversion;
- (x) bond forfeiture;
- (xi) death;
- (xii) release as a result of a successful collateral attack;
- (xiii) dismissal of criminal proceedings by the court with or without the commencement of a civil action for

determination of mental incompetence or mental illness;

(xiv) a finding of civil incompetence or mental illness;

(xv) exercise of executive clemency;

(xvi) correctional placement on probation or parole or release; or

(xvii) revocation of probation or parole.

(c) A single arrest of an individual may result in more than one disposition.

(11) "Dissemination" means the communication or transfer of criminal justice information to individuals or agencies other than the criminal justice agency that maintains such the information. It includes confirmation of the existence or nonexistence of criminal justice information.

(12) "Public criminal justice information" means information:

(a) made public by law;

(b) of court records and proceedings;

(c) of convictions, deferred sentences, and deferred prosecutions;

(d) of postconviction proceedings and status;

(e) originated by a criminal justice agency, including:

(i) initial offense reports;

(ii) initial arrest records;

(iii) bail records; and

(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

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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-

1 House, BILL NO. 151
2 INTRODUCED BY Randy Upd
3 BY REQUEST OF THE DEPARTMENT OF JUSTICE

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."

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

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
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19 any type of surveillance. It does not include criminal
20 intelligence information.

21 (7) "Criminal justice agency" means:

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25 perform as its principal function the administration of

1 criminal justice; or

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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

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7 designated by that nation's law or chief executive officer
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9 criminal justice and that has been approved for the receipt
10 of criminal justice information by the Montana attorney
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24 criminal proceedings against an individual have terminated
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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

HB 151

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APN Amd. Coord.
th Sec. of Senate

Sen. Doherty
Senator Carrying Bill

HOUSE BILL NO. 151

INTRODUCED BY VOGEL

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING THE TERM
"CRIMINAL JUSTICE AGENCY" FOR PURPOSES OF THE MONTANA
CRIMINAL JUSTICE INFORMATION ACT TO INCLUDE AGENCIES OF
FOREIGN NATIONS THAT ADMINISTER CRIMINAL JUSTICE; AND
AMENDING SECTION 44-5-103, MCA; AND PROVIDING AN IMMEDIATE
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13 identity nor any other unique characteristic that could
14 identify an individual is ascertainable."

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

-End-