

SENATE BILL NO. 108

INTRODUCED BY GAGE
BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE SENATE

JANUARY 8, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
JANUARY 27, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 28, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
JANUARY 29, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 44; NOES, 3.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 30, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 6, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 9, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
MARCH 10, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
MARCH 11, 1993	SECOND READING, CONCURRED IN AS AMENDED.
MARCH 15, 1993	THIRD READING, CONCURRED IN. AYES, 95; NOES, 4.
MARCH 16, 1993	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 18, 1993

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

MARCH 22, 1993

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 5, 1993

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

APRIL 21, 1993

CONFERENCE COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 22, 1993

SECOND READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

THIRD READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

APRIL 23, 1993

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 108
2 INTRODUCED BY 11/1
3 BY REQUEST OF THE DEPARTMENT OF JUSTICE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS
6 RELATING TO CRIMINAL JUSTICE INFORMATION; ALLOWING THE
7 DEPARTMENT OF JUSTICE TO USE JUVENILES' FINGERPRINTS AND
8 PHOTOGRAPHS FOR INVESTIGATIVE PURPOSES; ALLOWING THE
9 DEPARTMENT TO ASSIGN AUDITS OF CRIMINAL HISTORY RECORD
10 INFORMATION SYSTEMS FOR COMPLIANCE WITH THE LAW TO
11 SUBAGENCIES THAT CONTROL CRIMINAL JUSTICE INFORMATION;
12 ALLOWING THE DEPARTMENT TO CHARGE FOR COSTS ASSOCIATED WITH
13 RECORDS REQUESTS; AND AMENDING SECTIONS 41-5-304, 44-5-105,
14 AND 44-5-214, MCA."

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

17 **Section 1.** Section 41-5-304, MCA, is amended to read:

18 "41-5-304. Investigation, fingerprints, and
19 photographs. (1) All law enforcement investigations relating
20 to a delinquent youth or youth in need of supervision must
21 be conducted in accordance with this chapter and Title 46.

22 (2) A youth may be fingerprinted or photographed for
23 criminal identification purposes:

24 (a) if arrested for conduct alleged to be unlawful that
25 would be a felony if committed by an adult;

1 (b) pursuant to a search warrant, supported by probable
2 cause, issued by a judge, justice of the peace, or
3 magistrate; or

4 (c) upon the order of the youth court judge, after a
5 petition alleging delinquency has been filed in which the
6 unlawful act alleged would constitute a felony if the act
7 had been committed by an adult.

8 (3) Fingerprint records and photographs may be used by
9 the department of justice or any law enforcement agency in
10 the judicial district for comparison and identification
11 purposes in any other investigation."

12 **Section 2.** Section 44-5-105, MCA, is amended to read:

13 "44-5-105. Department of justice -- powers. The
14 department of justice may:

15 (1) adopt rules necessary to carry out the purposes of
16 this chapter;

17 (2) hear and decide contested cases or challenges that
18 may arise under the provisions of the Montana Administrative
19 Procedure Act;

20 (3) conduct audits of the criminal history record
21 information systems of a representative sample of state and
22 local criminal justice agencies chosen annually on a random
23 basis to determine whether they are in compliance with the
24 provisions of this chapter. ~~The function authorized in this~~
25 ~~subsection may not be assigned to any subagency that has~~

1 ~~supervisory-authority-over-any-criminal-justice--information~~
2 ~~system."~~

3 **Section 3.** Section 44-5-214, MCA, is amended to read:

4 "44-5-214. Inspection or transfer of criminal history
5 records. (1) An individual or ~~his~~ the individual's agent may
6 inspect any criminal history record information maintained
7 about the individual or transfer copies of that information
8 to any other person upon the presentation of satisfactory
9 identification to the criminal justice agency maintaining
10 the criminal history record information. Fingerprints may be
11 required for identification. An agent must also submit a
12 notarized authorization from ~~his~~ the agent's principal or an
13 authorization order from a district court.

14 (2) If an individual's criminal history record
15 information is maintained in the state repository, copies of
16 the records shall be transferred to the local agency for
17 inspection upon proper request of the individual or ~~his~~ the
18 individual's agent. A local agency shall honor a verified
19 affidavit accompanying a request by an individual for a
20 transfer of copies of criminal history record information
21 concerning that individual to a criminal justice agency of
22 another state for the purpose of complying with this
23 chapter.

24 (3) (a) An individual may request inspection or
25 transfer of copies, or both, of criminal history record

1 information only during normal working hours.

2 (b) Copies of records may be made by or at the request
3 of a properly identified individual or ~~his~~ the individual's
4 authorized agent. If a machine for making copies is not
5 reasonably available, the individual or ~~his~~ the individual's
6 agent may make handwritten copies. A charge~~,-not-to-exceed~~
7 ~~the-cost-of-labor-and-materials,~~ may be made by the agency
8 for ~~machine-produced--copies~~ costs associated with records
9 requests under this section. Each copy must be clearly
10 marked to indicate that it is for inspection only.

11 (c) An agency employee should be available to answer
12 questions concerning record content. A record of each
13 request to inspect records under this section must be
14 maintained."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0108, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: Generally revises laws relating to criminal justice information and allows the Department of Justice to use juveniles' fingerprints and photographs for investigative purposes.

ASSUMPTIONS:

1. The bill will cause some workload increase in the Department of Justice but will not have a material fiscal impact.
2. There are 3.00 federally funded FTE in FY93 in the Law Enforcement Services Division of the Department of Justice whose duties are directed toward maintenance and update of criminal history records. These FTE are not included in the executive budget for the 1995 biennium due to the expiration of federal funds. In the absence of these positions, this bill will add to a potential backlog of work in criminal history records.

FISCAL IMPACT:

None.

David Lewis 1-14-93

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Delwyn Gage 1-14-93

DELWYN GAGE, PRIMARY SPONSOR DATE

Fiscal Note for SB0108, as introduced

SB 108

APPROVED BY COMMITTEE
ON JUDICIARY

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2 INTRODUCED BY Mr. [Signature]
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25 would be a felony if committed by an adult;

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2 cause, issued by a judge, justice of the peace, or
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5 petition alleging delinquency has been filed in which the
6 unlawful act alleged would constitute a felony if the act
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22 local criminal justice agencies chosen annually on a random
23 basis to determine whether they are in compliance with the
24 provisions of this chapter. ~~The-function-authorized-in--this~~
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12 questions concerning record content. A record of each
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-End-

HOUSE STANDING COMMITTEE REPORT

March 5, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 108 (third reading copy -- blue) be concurred in as amended .

Signed: Russ Fagg
Russ Fagg, Chair

And, that such amendments read:

Carried by: Rep. Bird

1. Page 4, lines 8 and 9.

Strike: "costs associated with records requests under this section"

Insert: "the cost of supplying the copies"

-END-

Committee Vote:
Yes 12, No 2.

HOUSE

SB 108

HOUSE COMMITTEE OF THE WHOLE AMENDMENT
Senate Bill 108
Representative Winslow

March 10, 1993 3:57 pm
Page 1 of 1

Mr. Chairman: I move to amend Senate Bill 108 (third reading copy -- blue).

Signed: *Karel Winslow*
Representative Winslow

And, that such amendments to Senate Bill 108 read as follows:

1. Page 2, line 12.

Following: line 11

Insert: "(4) Unless, in a youth court or criminal proceeding, a youth is found to have committed an act that would be a felony if committed by an adult, the arresting law enforcement agency may not disseminate the youth's fingerprint records or photographs. That agency shall destroy any fingerprint records and photographs that it holds if the youth is not found to have committed such an act.

-END-

ADOPT

REJECT

HOUSE
SB 108

541557CW.Hpf

SENATE BILL NO. 108

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(4) UNLESS, IN A YOUTH COURT OR CRIMINAL PROCEEDING, A YOUTH IS FOUND TO HAVE COMMITTED AN ACT THAT WOULD BE A FELONY IF COMMITTED BY AN ADULT, THE ARRESTING LAW ENFORCEMENT AGENCY MAY NOT DISSEMINATE THE YOUTH'S FINGERPRINT RECORDS OR PHOTOGRAPHS. THAT AGENCY SHALL DESTROY ANY FINGERPRINT RECORDS AND PHOTOGRAPHS THAT IT HOLDS IF THE YOUTH IS NOT FOUND TO HAVE COMMITTED SUCH AN ACT."

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-End-

Conference Committee
on Senate Bill No. 108
Report No. 1, April 20, 1993

Page 1 of 1

Mr. President and Mr. Speaker:

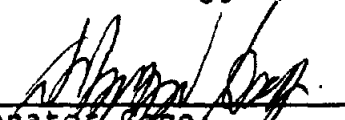
We, your Conference Committee on Senate Bill No. 108, met and considered: House amendments to Senate Bill No. 108. We recommend that Senate Bill No. 108 (reference copy - salmon) be amended as follows:

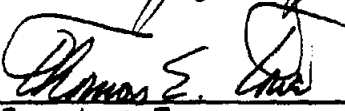
1. Page 2, lines 12 through 19.
Strike: subsection (4) in its entirety

And that this Conference Committee report be adopted.


For the Senate:


Senator Halligan, Chair


Senator Sage




Senator Towe

For the House:


Representative Vogel, Chair


Representative Brooke


Representative Tash


Amd. Coord.

Sec. of Senate

ADOPT

REJECT

C.C.R. #1
SB 108
871317CC.Sma

SENATE BILL NO. 108

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-End-