

Legislative Analysis



JUVENILE HISTORY RECORD INFORMATION

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Senate Bill 471 as passed by the Senate
Sponsor: Sen. Roger Kahn, M.D.
House Committee: Criminal Justice
Senate Committee: Judiciary

(Enacted as Public Act 152 of 2013)

Complete to 10-22-13

A SUMMARY OF SENATE BILL 471 AS REPORTED BY HOUSE COMMITTEE

The bill would prescribe how juvenile history record information could be disseminated and revise a provision regarding the dissemination of information for adult offenders.

Senate Bill 471 would amend the Fingerprinting Act (MCL 28.242a) to specify that, except as provided below, all juvenile history record information associated with a state identification number and supported by biometric data could be disseminated only in response to a fingerprint-based search of the criminal history record information database. (This means, the information could not be disseminated when a request was based only on the name of the individual, except as described below.)

All juvenile history record information associated with a state identification number and supported by biometric data could be disseminated in response to either a *name-based* or a *fingerprint based* search of the criminal history record information database *solely* to a person or entity authorized to access the law enforcement information network (LEIN).

Neither of these provisions would allow the dissemination of record information that is nonpublic or is prohibited by law from being disseminated.

In addition, current law states that all criminal history record information that is associated with a state identification number and supported by biometric data must be disseminated in response to a fingerprint-based or name-based search of the criminal history record information database. The law states that this provision does not *require* the dissemination of criminal history record information that is nonpublic or is prohibited by law from being disseminated. The bill instead specifies that the provision would not *allow* the dissemination of criminal history record information that was nonpublic or was prohibited by law from being disseminated.

FISCAL IMPACT:

The bill would have no fiscal impact on the Department of State Police.

BRIEF DISCUSSION:

State and federal law defines to whom and under what circumstances the Department of State Police (MSP) can disseminate criminal history record information and the type of information. For example, some information is deemed non-public, such as when a conviction is later expunged, or set aside. In addition, criminal history record information pertaining to juveniles is handled differently than for adults. Some information is not placed in a record or not retained permanently (e.g., if the juvenile is adjudicated but not found responsible for a juvenile offense), and fingerprints are not retained for some minor offenses.

The bill would define the parameters for the MSP to follow when criminal history record information is requested for juvenile records. According to the MSP, current law is vague when applied to requests for juvenile information. Under the bill, the MSP would have to disseminate information in a juvenile history record if that information was supported by biometric data (which includes fingerprints) and is associated with a state identification number (SID), but only if the request was submitted with a copy of the individual's fingerprints (thus, no name-based checks). A person or entity with authority to access the Law Enforcement Information Network (LEIN) would receive the disseminated information with either a name-based or fingerprint-based request.

Thus, under the bill, a person's entire juvenile history would not necessarily be disseminated to a potential employer or landlord or other requester as not everything in a person's past would be in a record or would be associated with biometric data and a SID. And, the requester would need a copy of the person's fingerprints in order to submit a records request. Those with LEIN access, generally law enforcement agencies and criminal justice-related entities such as the Department of Corrections, would be able to obtain the same information with either a name-based or fingerprint-based request. The bill also clearly states that it would not allow the dissemination of criminal history record information that is designated as nonpublic or was otherwise prohibited from being disseminated.

("SID" is an eight-digit number assigned when a person's fingerprints are submitted to and retained by the Criminal Justice Information Center within the MSP for the first time. The person would keep the same SID for all subsequent lifetime contact with the state's criminal justice network. According to a Criminal Records Reporting Manual by the MSP, law enforcement agents with LEIN access can access an individual file by a query to LEIN using the name, race, sex, and date of birth used at arrest.)

Some see the bill as protecting juveniles or those adults who have since "cleaned up their act" by narrowing the types of requests that could be granted (fingerprint only unless had LEIN access), and narrowing the types of information that could be disseminated (only that associated with a SID number and fingerprints). Others feel that the bill could frustrate some who need a fuller picture of a person to accurately judge the appropriateness of hiring them, such as schools and other places that serve vulnerable populations. Additionally, some think there should be broader access through LEIN to

fuller criminal history record information; for instance, some believe criminal defense investigators and even victims should be able to apply for access to an individual's records via LEIN under certain, restricted conditions.

POSITIONS:

A representative of the Department of State Police testified in support of the bill. (10-16-13)

The Michigan Probate Judges Association indicated support for the bill. (10-16-13)

The Criminal Defense Attorneys of Michigan indicated support for the bill. (10-16-13)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.