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By: **The Speaker (By Request - Administration) and Delegates Aumann, Bates, Bohanan, Boutin, Cluster, Costa, Cryor, DeBoy, Eckardt, Edwards, Elliott, Elmore, Frank, Fulton, Impallaria, Jennings, Kach, Kelley, Kelly, Krebs, Leopold, McComas, McDonough, McKee, Miller, Moe, Niemann, O'Donnell, Parrott, Rudolph, Shank, Shewell, Stocksdale, Stull, Trueschler, and Walkup**

Introduced and read first time: January 25, 2005  
Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Justice Information System - National Crime Prevention and**  
3 **Privacy Compact**

4 FOR the purpose of enacting and ratifying the National Crime Prevention and  
5 Privacy Compact; establishing the purpose of the Compact; providing for the  
6 responsibilities of the Compact parties; establishing procedures for ratification  
7 of the Compact; establishing a Compact Council; establishing the authority of  
8 the Compact Council to promulgate rules, procedures, and standards;  
9 establishing the organization and membership of the Compact Council;  
10 providing procedures for the selection of the Compact chairman and vice  
11 chairman; providing for the designation of a Compact Officer for the State;  
12 requiring compliance with certain standards; providing for maintenance of  
13 record services; establishing procedures for authorized record disclosures;  
14 establishing record request procedures; providing procedures for the charging of  
15 certain fees; providing a mechanism for renunciation of the Compact; providing  
16 for the severability of certain provisions of this Act; providing a mechanism for  
17 the adjudication of disputes; defining certain terms; and generally relating to  
18 the National Crime Prevention and Privacy Compact.

19 BY adding to  
20 Article - Criminal Procedure  
21 Section 10-237 through 10-250, inclusive, to be under the new part "Part V.  
22 National Crime Prevention and Privacy Compact"  
23 Annotated Code of Maryland  
24 (2001 Volume and 2004 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
26 MARYLAND, That the Laws of Maryland read as follows:

1

**Article - Criminal Procedure**

2

## PART V. NATIONAL CRIME PREVENTION AND PRIVACY COMPACT.

3 10-237.

4 THE NATIONAL CRIME PREVENTION AND PRIVACY COMPACT IS HEREBY  
5 ENTERED INTO AND ENACTED WITH ANY AND ALL OF THE STATES AND THE  
6 FEDERAL GOVERNMENT LEGALLY JOINING THE COMPACT IN THE FORM  
7 SUBSTANTIALLY AS FOLLOWS.

8 10-238.

9 (A) THIS COMPACT ORGANIZES AN ELECTRONIC INFORMATION SHARING  
10 SYSTEM AMONG THE FEDERAL GOVERNMENT AND THE STATES TO EXCHANGE  
11 CRIMINAL HISTORY RECORDS FOR NONCRIMINAL JUSTICE PURPOSES AUTHORIZED  
12 BY FEDERAL OR STATE LAW, SUCH AS BACKGROUND CHECKS FOR GOVERNMENTAL  
13 LICENSING AND EMPLOYMENT.

14 (B) UNDER THIS COMPACT, THE FBI AND THE PARTY STATES AGREE TO  
15 MAINTAIN DETAILED DATABASES OF THEIR RESPECTIVE CRIMINAL HISTORY  
16 RECORDS, INCLUDING ARRESTS AND DISPOSITIONS, AND TO MAKE THEM AVAILABLE  
17 TO THE FEDERAL GOVERNMENT AND TO PARTY STATES FOR AUTHORIZED  
18 PURPOSES. THE FBI SHALL ALSO MANAGE THE FEDERAL DATA FACILITIES THAT  
19 PROVIDE A SIGNIFICANT PART OF THE INFRASTRUCTURE FOR THE SYSTEM.

20 10-239.

21 (A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

22 (B) "ATTORNEY GENERAL" MEANS THE ATTORNEY GENERAL OF THE UNITED  
23 STATES.

24 (C) "COMPACT OFFICER" MEANS:

25 (1) WITH RESPECT TO THE FEDERAL GOVERNMENT, AN OFFICIAL SO  
26 DESIGNATED BY THE DIRECTOR OF THE FBI; AND

27 (2) WITH RESPECT TO A PARTY STATE, THE CHIEF ADMINISTRATOR OF  
28 THE STATE'S CRIMINAL HISTORY RECORDS REPOSITORY OR A DESIGNEE OF THE  
29 CHIEF ADMINISTRATOR WHO IS A REGULAR FULL-TIME EMPLOYEE OF THE  
30 REPOSITORY.

31 (D) "COUNCIL" MEANS THE COMPACT COUNCIL ESTABLISHED UNDER  
32 SECTION 10-244 OF THIS SUBTITLE.

33 (E) "CRIMINAL HISTORY RECORDS":

34 (1) MEANS INFORMATION COLLECTED BY CRIMINAL JUSTICE AGENCIES  
35 ON INDIVIDUALS CONSISTING OF IDENTIFIABLE DESCRIPTIONS AND NOTATIONS OF

1 ARRESTS, DETENTIONS, INDICTMENTS, OR OTHER FORMAL CRIMINAL CHARGES, AND  
2 ANY DISPOSITION ARISING THEREFROM, INCLUDING ACQUITTAL, SENTENCING,  
3 CORRECTIONAL SUPERVISION, OR RELEASE; AND

4 (2) DOES NOT INCLUDE IDENTIFICATION INFORMATION SUCH AS  
5 FINGERPRINT RECORDS IF SUCH INFORMATION DOES NOT INDICATE INVOLVEMENT  
6 OF THE INDIVIDUAL WITH THE CRIMINAL JUSTICE SYSTEM.

7 (F) "CRIMINAL HISTORY RECORDS REPOSITORY" MEANS THE STATE AGENCY  
8 DESIGNATED BY THE GOVERNOR OR OTHER APPROPRIATE EXECUTIVE OFFICIAL OR  
9 THE LEGISLATURE OF A STATE TO PERFORM CENTRALIZED RECORDKEEPING  
10 FUNCTIONS FOR CRIMINAL HISTORY RECORDS AND SERVICES IN THE STATE.

11 (G) "CRIMINAL JUSTICE" INCLUDES ACTIVITIES RELATING TO THE  
12 DETECTION, APPREHENSION, DETENTION, PRETRIAL RELEASE, POSTTRIAL RELEASE,  
13 PROSECUTION, ADJUDICATION, CORRECTIONAL SUPERVISION, OR REHABILITATION  
14 OF ACCUSED PERSONS OR CRIMINAL OFFENDERS. THE ADMINISTRATION OF  
15 CRIMINAL JUSTICE INCLUDES CRIMINAL IDENTIFICATION ACTIVITIES AND THE  
16 COLLECTION, STORAGE, AND DISSEMINATION OF CRIMINAL HISTORY RECORDS.

17 (H) "CRIMINAL JUSTICE AGENCY":

18 (1) MEANS:

19 (I) COURTS; AND

20 (II) A GOVERNMENTAL AGENCY OR ANY SUBUNIT THEREOF THAT:

21 1. PERFORMS THE ADMINISTRATION OF CRIMINAL JUSTICE  
22 PURSUANT TO A STATUTE OR EXECUTIVE ORDER; AND

23 2. ALLOCATES A SUBSTANTIAL PART OF ITS ANNUAL  
24 BUDGET TO THE ADMINISTRATION OF CRIMINAL JUSTICE; AND

25 (2) INCLUDES FEDERAL AND STATE INSPECTORS GENERAL OFFICES.

26 (I) "CRIMINAL JUSTICE SERVICES" MEANS SERVICES PROVIDED BY THE FBI  
27 TO CRIMINAL JUSTICE AGENCIES IN RESPONSE TO A REQUEST FOR INFORMATION  
28 ABOUT A PARTICULAR INDIVIDUAL OR AS AN UPDATE TO INFORMATION PREVIOUSLY  
29 PROVIDED FOR CRIMINAL JUSTICE PURPOSES.

30 (J) "CRITERION OFFENSE" MEANS ANY FELONY OR MISDEMEANOR OFFENSE  
31 NOT INCLUDED ON THE LIST OF NONSERIOUS OFFENSES PUBLISHED PERIODICALLY  
32 BY THE FBI.

33 (K) "DIRECT ACCESS" MEANS ACCESS TO THE NATIONAL IDENTIFICATION  
34 INDEX BY COMPUTER TERMINAL OR OTHER AUTOMATED MEANS NOT REQUIRING  
35 THE ASSISTANCE OF OR INTERVENTION BY ANY OTHER PARTY OR AGENCY.

1 (L) "EXECUTIVE ORDER" MEANS AN ORDER OF THE PRESIDENT OF THE  
2 UNITED STATES OR THE CHIEF EXECUTIVE OFFICER OF A STATE THAT HAS THE  
3 FORCE OF LAW AND THAT IS PROMULGATED IN ACCORDANCE WITH APPLICABLE  
4 LAW.

5 (M) "FBI" MEANS THE FEDERAL BUREAU OF INVESTIGATION.

6 (N) "INTERSTATE IDENTIFICATION INDEX SYSTEM" OR "III SYSTEM":

7 (1) MEANS THE COOPERATIVE FEDERAL-STATE SYSTEM FOR THE  
8 EXCHANGE OF CRIMINAL HISTORY RECORDS; AND

9 (2) INCLUDES THE NATIONAL IDENTIFICATION INDEX, THE NATIONAL  
10 FINGERPRINT FILE AND, TO THE EXTENT OF THEIR PARTICIPATION IN SUCH  
11 SYSTEM, THE CRIMINAL HISTORY RECORD REPOSITORIES OF THE STATES AND THE  
12 FBI.

13 (O) "NATIONAL FINGERPRINT FILE" MEANS A DATABASE OF FINGERPRINTS,  
14 OR OTHER UNIQUELY PERSONAL IDENTIFYING INFORMATION, RELATING TO AN  
15 ARRESTED OR CHARGED INDIVIDUAL MAINTAINED BY THE FBI TO PROVIDE  
16 POSITIVE IDENTIFICATION OF RECORD SUBJECTS INDEXED IN THE III SYSTEM.

17 (P) "NATIONAL IDENTIFICATION INDEX" MEANS AN INDEX MAINTAINED BY  
18 THE FBI CONSISTING OF NAMES, IDENTIFYING NUMBERS, AND OTHER DESCRIPTIVE  
19 INFORMATION RELATING TO RECORD SUBJECTS ABOUT WHOM THERE ARE  
20 CRIMINAL HISTORY RECORDS IN THE III SYSTEM.

21 (Q) "NATIONAL INDICES" MEANS THE NATIONAL IDENTIFICATION INDEX AND  
22 THE NATIONAL FINGERPRINT FILE.

23 (R) "NONPARTY STATE" MEANS A STATE THAT HAS NOT RATIFIED THIS  
24 COMPACT.

25 (S) "NONCRIMINAL JUSTICE PURPOSES" MEANS USES OF CRIMINAL HISTORY  
26 RECORDS FOR PURPOSES AUTHORIZED BY FEDERAL OR STATE LAW OTHER THAN  
27 PURPOSES RELATING TO CRIMINAL JUSTICE ACTIVITIES, INCLUDING EMPLOYMENT  
28 SUITABILITY, LICENSING DETERMINATIONS, IMMIGRATION AND NATURALIZATION  
29 MATTERS, AND NATIONAL SECURITY CLEARANCES.

30 (T) "PARTY STATE" MEANS A STATE THAT HAS RATIFIED THIS COMPACT.

31 (U) "POSITIVE IDENTIFICATION" MEANS A DETERMINATION, BASED UPON A  
32 COMPARISON OF FINGERPRINTS OR OTHER EQUALLY RELIABLE BIOMETRIC  
33 IDENTIFICATION TECHNIQUES, THAT THE SUBJECT OF A RECORD SEARCH IS THE  
34 SAME PERSON AS THE SUBJECT OF A CRIMINAL HISTORY RECORD OR RECORDS  
35 INDEXED IN THE III SYSTEM. IDENTIFICATIONS BASED SOLELY UPON A COMPARISON  
36 OF SUBJECTS' NAMES OR OTHER NONUNIQUE IDENTIFICATION CHARACTERISTICS  
37 OR NUMBERS, OR COMBINATIONS THEREOF, SHALL NOT CONSTITUTE POSITIVE  
38 IDENTIFICATION.

1 (V) "SEALED RECORD INFORMATION" MEANS:

2 (1) WITH RESPECT TO ADULTS, THAT PORTION OF A RECORD THAT IS:

3 (I) NOT AVAILABLE FOR CRIMINAL JUSTICE USES;

4 (II) NOT SUPPORTED BY FINGERPRINTS OR OTHER ACCEPTED  
5 MEANS OF POSITIVE IDENTIFICATION; OR

6 (III) SUBJECT TO RESTRICTIONS ON DISSEMINATION FOR  
7 NONCRIMINAL JUSTICE PURPOSES PURSUANT TO A COURT ORDER RELATED TO A  
8 PARTICULAR SUBJECT OR PURSUANT TO A FEDERAL OR STATE STATUTE THAT  
9 REQUIRES ACTION ON A SEALING PETITION FILED BY A PARTICULAR RECORD  
10 SUBJECT; AND

11 (2) WITH RESPECT TO JUVENILES, WHATEVER EACH STATE  
12 DETERMINES IS A SEALED RECORD UNDER ITS OWN LAW AND PROCEDURE.

13 (W) "STATE" MEANS ANY STATE, TERRITORY, OR POSSESSION OF THE UNITED  
14 STATES, THE DISTRICT OF COLUMBIA, AND THE COMMONWEALTH OF PUERTO RICO.  
15 10-240.

16 THE PURPOSES OF THIS COMPACT ARE TO:

17 (1) PROVIDE A LEGAL FRAMEWORK FOR THE ESTABLISHMENT OF A  
18 COOPERATIVE FEDERAL-STATE SYSTEM FOR THE INTERSTATE AND FEDERAL-STATE  
19 EXCHANGE OF CRIMINAL HISTORY RECORDS FOR NONCRIMINAL JUSTICE USES;

20 (2) REQUIRE THE FBI TO PERMIT USE OF THE NATIONAL  
21 IDENTIFICATION INDEX AND THE NATIONAL FINGERPRINT FILE BY EACH PARTY  
22 STATE, AND TO PROVIDE, IN A TIMELY FASHION, FEDERAL AND STATE CRIMINAL  
23 HISTORY RECORDS TO REQUESTING STATES, IN ACCORDANCE WITH THE TERMS OF  
24 THIS COMPACT AND WITH RULES, PROCEDURES, AND STANDARDS ESTABLISHED BY  
25 THE COUNCIL UNDER SECTION 10-244 OF THIS SUBTITLE;

26 (3) REQUIRE PARTY STATES TO PROVIDE INFORMATION AND RECORDS  
27 FOR THE NATIONAL IDENTIFICATION INDEX AND THE NATIONAL FINGERPRINT FILE  
28 AND TO PROVIDE CRIMINAL HISTORY RECORDS, IN A TIMELY FASHION, TO CRIMINAL  
29 HISTORY RECORDS REPOSITORIES OF OTHER STATES AND THE FEDERAL  
30 GOVERNMENT FOR NONCRIMINAL JUSTICE PURPOSES, IN ACCORDANCE WITH THE  
31 TERMS OF THIS COMPACT AND WITH RULES, PROCEDURES, AND STANDARDS  
32 ESTABLISHED BY THE COUNCIL UNDER SECTION 10-244 OF THIS SUBTITLE;

33 (4) PROVIDE FOR THE ESTABLISHMENT OF A COUNCIL TO MONITOR III  
34 SYSTEM OPERATIONS AND TO PRESCRIBE SYSTEM RULES AND PROCEDURES FOR  
35 THE EFFECTIVE AND PROPER OPERATION OF THE III SYSTEM FOR NONCRIMINAL  
36 JUSTICE PURPOSES; AND

1 (5) REQUIRE THE FBI AND EACH PARTY STATE TO ADHERE TO III  
2 SYSTEM STANDARDS CONCERNING RECORD DISSEMINATION AND USE, RESPONSE  
3 TIMES, SYSTEM SECURITY, DATA QUALITY, AND OTHER DULY ESTABLISHED  
4 STANDARDS, INCLUDING THOSE THAT ENHANCE THE ACCURACY AND PRIVACY OF  
5 SUCH RECORDS.

6 10-241.

7 (A) THE DIRECTOR OF THE FBI SHALL:

8 (1) APPOINT AN FBI COMPACT OFFICER WHO SHALL:

9 (I) ADMINISTER THIS COMPACT WITHIN THE DEPARTMENT OF  
10 JUSTICE AND AMONG FEDERAL AGENCIES AND OTHER AGENCIES AND  
11 ORGANIZATIONS THAT SUBMIT SEARCH REQUESTS TO THE FBI PURSUANT TO  
12 SECTION 10-243(C) OF THIS SUBTITLE;

13 (II) ENSURE THAT COMPACT PROVISIONS AND RULES,  
14 PROCEDURES, AND STANDARDS PRESCRIBED BY THE COUNCIL UNDER SECTION  
15 10-244 OF THIS SUBTITLE ARE COMPLIED WITH BY THE DEPARTMENT OF JUSTICE  
16 AND THE FEDERAL AGENCIES AND OTHER AGENCIES AND ORGANIZATIONS  
17 REFERRED TO IN ITEM (I) OF THIS ITEM; AND

18 (III) REGULATE THE USE OF RECORDS RECEIVED BY MEANS OF THE  
19 III SYSTEM FROM PARTY STATES WHEN SUCH RECORDS ARE SUPPLIED BY THE FBI  
20 DIRECTLY TO OTHER FEDERAL AGENCIES;

21 (2) PROVIDE TO FEDERAL AGENCIES AND TO STATE CRIMINAL HISTORY  
22 RECORDS REPOSITORIES, CRIMINAL HISTORY RECORDS MAINTAINED IN ITS  
23 DATABASE FOR THE NONCRIMINAL JUSTICE PURPOSES DESCRIBED IN SECTION  
24 10-242 OF THIS SUBTITLE INCLUDING:

25 (I) INFORMATION FROM NONPARTY STATES; AND

26 (II) INFORMATION FROM PARTY STATES THAT IS AVAILABLE FROM  
27 THE FBI THROUGH THE III SYSTEM, BUT IS NOT AVAILABLE FROM THE PARTY STATE  
28 THROUGH THE III SYSTEM;

29 (3) PROVIDE A TELECOMMUNICATIONS NETWORK AND MAINTAIN  
30 CENTRALIZED FACILITIES FOR THE EXCHANGE OF CRIMINAL HISTORY RECORDS FOR  
31 BOTH CRIMINAL JUSTICE PURPOSES AND THE NONCRIMINAL JUSTICE PURPOSES  
32 DESCRIBED IN SUBSECTION (B)(4) OF THIS SECTION, AND ENSURE THAT THE  
33 EXCHANGE OF SUCH RECORDS FOR CRIMINAL JUSTICE PURPOSES HAS PRIORITY  
34 OVER EXCHANGE FOR NONCRIMINAL JUSTICE PURPOSES; AND

35 (4) MODIFY OR ENTER INTO USER AGREEMENTS WITH NONPARTY  
36 STATE CRIMINAL HISTORY RECORDS REPOSITORIES TO REQUIRE THEM TO  
37 ESTABLISH RECORD REQUEST PROCEDURES CONFORMING TO THOSE PRESCRIBED  
38 IN SECTION 10-243 OF THIS SUBTITLE.

1 (B) EACH PARTY STATE SHALL:

2 (1) APPOINT A COMPACT OFFICER WHO SHALL:

3 (I) ADMINISTER THIS COMPACT WITHIN THAT STATE;

4 (II) ENSURE THAT COMPACT PROVISIONS AND RULES,  
5 PROCEDURES, AND STANDARDS ESTABLISHED BY THE COUNCIL UNDER SECTION  
6 10-244 OF THIS SUBTITLE ARE COMPLIED WITH IN THE STATE; AND

7 (III) REGULATE THE IN-STATE USE OF RECORDS RECEIVED BY  
8 MEANS OF THE III SYSTEM FROM THE FBI OR FROM OTHER PARTY STATES;

9 (2) ESTABLISH AND MAINTAIN A CRIMINAL HISTORY RECORDS  
10 REPOSITORY, WHICH SHALL PROVIDE:

11 (I) INFORMATION AND RECORDS FOR THE NATIONAL  
12 IDENTIFICATION INDEX AND THE NATIONAL FINGERPRINT FILE; AND

13 (II) THE STATE'S III SYSTEM-INDEXED CRIMINAL HISTORY  
14 RECORDS FOR NONCRIMINAL JUSTICE PURPOSES DESCRIBED IN SECTION 10-242 OF  
15 THIS SUBTITLE;

16 (3) PARTICIPATE IN THE NATIONAL FINGERPRINT FILE; AND

17 (4) PROVIDE AND MAINTAIN TELECOMMUNICATIONS LINKS AND  
18 RELATED EQUIPMENT NECESSARY TO SUPPORT THE SERVICES SET FORTH IN THIS  
19 COMPACT.

20 (C) IN CARRYING OUT THEIR RESPONSIBILITIES UNDER THIS COMPACT, THE  
21 FBI AND EACH PARTY STATE SHALL COMPLY WITH III SYSTEM RULES, PROCEDURES,  
22 AND STANDARDS DULY ESTABLISHED BY THE COUNCIL CONCERNING RECORD  
23 DISSEMINATION AND USE, RESPONSE TIMES, DATA QUALITY, SYSTEM SECURITY,  
24 ACCURACY, PRIVACY PROTECTION, AND OTHER ASPECTS OF III SYSTEM OPERATION.

25 (D) (1) USE OF THE III SYSTEM FOR NONCRIMINAL JUSTICE PURPOSES  
26 AUTHORIZED IN THIS COMPACT SHALL BE MANAGED SO AS NOT TO DIMINISH THE  
27 LEVEL OF SERVICES PROVIDED IN SUPPORT OF CRIMINAL JUSTICE PURPOSES.

28 (2) ADMINISTRATION OF COMPACT PROVISIONS SHALL NOT REDUCE  
29 THE LEVEL OF SERVICE AVAILABLE TO AUTHORIZED NONCRIMINAL JUSTICE USERS  
30 ON THE EFFECTIVE DATE OF THIS COMPACT.

31 10-242.

32 (A) TO THE EXTENT AUTHORIZED BY SECTION 552A OF TITLE 5, (COMMONLY  
33 KNOWN AS THE "PRIVACY ACT OF 1974"), THE FBI SHALL PROVIDE ON REQUEST  
34 CRIMINAL HISTORY RECORDS (EXCLUDING SEALED RECORDS) TO STATE CRIMINAL  
35 HISTORY RECORDS REPOSITORIES FOR NONCRIMINAL JUSTICE PURPOSES ALLOWED  
36 BY FEDERAL STATUTE, FEDERAL EXECUTIVE ORDER, OR A STATE STATUTE THAT HAS

1 BEEN APPROVED BY THE ATTORNEY GENERAL AND THAT AUTHORIZES NATIONAL  
2 INDICES CHECKS.

3 (B) THE FBI, TO THE EXTENT AUTHORIZED BY SECTION 552A OF TITLE 5,  
4 (COMMONLY KNOWN AS THE "PRIVACY ACT OF 1974"), AND STATE CRIMINAL HISTORY  
5 RECORDS REPOSITORIES SHALL PROVIDE CRIMINAL HISTORY RECORDS (EXCLUDING  
6 SEALED RECORDS) TO CRIMINAL JUSTICE AGENCIES AND OTHER GOVERNMENTAL  
7 OR NONGOVERNMENTAL AGENCIES FOR NONCRIMINAL JUSTICE PURPOSES  
8 ALLOWED BY FEDERAL STATUTE, FEDERAL EXECUTIVE ORDER, OR A STATE STATUTE  
9 THAT HAS BEEN APPROVED BY THE ATTORNEY GENERAL, THAT AUTHORIZES  
10 NATIONAL INDICES CHECKS.

11 (C) ANY RECORD OBTAINED UNDER THIS COMPACT MAY BE USED ONLY FOR  
12 THE OFFICIAL PURPOSES FOR WHICH THE RECORD WAS REQUESTED. EACH  
13 COMPACT OFFICER SHALL ESTABLISH PROCEDURES, CONSISTENT WITH THIS  
14 COMPACT, AND WITH RULES, PROCEDURES, AND STANDARDS ESTABLISHED BY THE  
15 COUNCIL UNDER SECTION 10-244 OF THIS SUBTITLE, WHICH PROCEDURES SHALL  
16 PROTECT THE ACCURACY AND PRIVACY OF THE RECORDS, AND SHALL:

17 (1) ENSURE THAT RECORDS OBTAINED UNDER THIS COMPACT ARE  
18 USED ONLY BY AUTHORIZED OFFICIALS FOR AUTHORIZED PURPOSES;

19 (2) REQUIRE THAT SUBSEQUENT RECORD CHECKS ARE REQUESTED TO  
20 OBTAIN CURRENT INFORMATION WHENEVER A NEW NEED ARISES; AND

21 (3) ENSURE THAT RECORD ENTRIES THAT MAY NOT LEGALLY BE USED  
22 FOR A PARTICULAR NONCRIMINAL JUSTICE PURPOSE ARE DELETED FROM THE  
23 RESPONSE AND, IF NO INFORMATION AUTHORIZED FOR RELEASE REMAINS, AN  
24 APPROPRIATE "NO RECORD" RESPONSE IS COMMUNICATED TO THE REQUESTING  
25 OFFICIAL.

26 10-243.

27 (A) SUBJECT FINGERPRINTS OR OTHER APPROVED FORMS OF POSITIVE  
28 IDENTIFICATION SHALL BE SUBMITTED WITH ALL REQUESTS FOR CRIMINAL  
29 HISTORY RECORDS CHECKS FOR NONCRIMINAL JUSTICE PURPOSES.

30 (B) EACH REQUEST FOR A CRIMINAL HISTORY RECORDS CHECK UTILIZING  
31 THE NATIONAL INDICES MADE UNDER ANY APPROVED STATE STATUTE SHALL BE  
32 SUBMITTED THROUGH THAT STATE'S CRIMINAL HISTORY RECORDS REPOSITORY. A  
33 STATE CRIMINAL HISTORY RECORDS REPOSITORY SHALL PROCESS AN INTERSTATE  
34 REQUEST FOR NONCRIMINAL JUSTICE PURPOSES THROUGH THE NATIONAL INDICES  
35 ONLY IF SUCH REQUEST IS TRANSMITTED THROUGH ANOTHER STATE CRIMINAL  
36 HISTORY RECORDS REPOSITORY OR THE FBI.

37 (C) EACH REQUEST FOR A CRIMINAL HISTORY RECORDS CHECK UTILIZING  
38 THE NATIONAL INDICES MADE UNDER FEDERAL AUTHORITY SHALL BE SUBMITTED  
39 THROUGH THE FBI OR, IF THE STATE CRIMINAL HISTORY RECORDS REPOSITORY  
40 CONSENTS TO PROCESS FINGERPRINT SUBMISSIONS, THROUGH THE CRIMINAL  
41 HISTORY RECORDS REPOSITORY IN THE STATE IN WHICH SUCH REQUEST

1 ORIGINATED. DIRECT ACCESS TO THE NATIONAL IDENTIFICATION INDEX BY  
2 ENTITIES OTHER THAN THE FBI AND STATE CRIMINAL HISTORY RECORDS  
3 REPOSITORIES SHALL NOT BE PERMITTED FOR NONCRIMINAL JUSTICE PURPOSES.

4 (D) A STATE CRIMINAL HISTORY RECORDS REPOSITORY OR THE FBI:

5 (1) MAY CHARGE A FEE, IN ACCORDANCE WITH APPLICABLE LAW, FOR  
6 HANDLING A REQUEST INVOLVING FINGERPRINT PROCESSING FOR NONCRIMINAL  
7 JUSTICE PURPOSES; AND

8 (2) MAY NOT CHARGE A FEE FOR PROVIDING CRIMINAL HISTORY  
9 RECORDS IN RESPONSE TO AN ELECTRONIC REQUEST FOR A RECORD THAT DOES  
10 NOT INVOLVE A REQUEST TO PROCESS FINGERPRINTS.

11 (E) (1) IF A STATE CRIMINAL HISTORY RECORDS REPOSITORY CANNOT  
12 POSITIVELY IDENTIFY THE SUBJECT OF A RECORD REQUEST MADE FOR  
13 NONCRIMINAL JUSTICE PURPOSES, THE REQUEST, TOGETHER WITH FINGERPRINTS  
14 OR OTHER APPROVED IDENTIFYING INFORMATION, SHALL BE FORWARDED TO THE  
15 FBI FOR A SEARCH OF THE NATIONAL INDICES.

16 (2) IF, WITH RESPECT TO A REQUEST FORWARDED BY A STATE  
17 CRIMINAL HISTORY RECORDS REPOSITORY UNDER PARAGRAPH (1) OF THIS  
18 SUBSECTION, THE FBI POSITIVELY IDENTIFIES THE SUBJECT AS HAVING A III  
19 SYSTEM-INDEXED RECORD OR RECORDS:

20 (I) THE FBI SHALL SO ADVISE THE STATE CRIMINAL HISTORY  
21 RECORDS REPOSITORY; AND

22 (II) THE STATE CRIMINAL HISTORY RECORDS REPOSITORY SHALL  
23 BE ENTITLED TO OBTAIN THE ADDITIONAL CRIMINAL HISTORY RECORDS  
24 INFORMATION FROM THE FBI OR OTHER STATE CRIMINAL HISTORY RECORDS  
25 REPOSITORIES.

26 10-244.

27 (A) (1) THERE IS ESTABLISHED A COUNCIL TO BE KNOWN AS THE  
28 "COMPACT COUNCIL", WHICH SHALL HAVE THE AUTHORITY TO PROMULGATE RULES  
29 AND PROCEDURES GOVERNING THE USE OF THE III SYSTEM FOR NONCRIMINAL  
30 JUSTICE PURPOSES, NOT TO CONFLICT WITH FBI ADMINISTRATION OF THE III  
31 SYSTEM FOR CRIMINAL JUSTICE PURPOSES.

32 (2) THE COUNCIL SHALL:

33 (I) CONTINUE IN EXISTENCE AS LONG AS THIS COMPACT REMAINS  
34 IN EFFECT;

35 (II) BE LOCATED, FOR ADMINISTRATIVE PURPOSES, WITHIN THE  
36 FBI; AND

1 (III) BE ORGANIZED AND HOLD ITS FIRST MEETING AS SOON AS  
2 PRACTICABLE AFTER THE EFFECTIVE DATE OF THIS COMPACT.

3 (B) THE COUNCIL SHALL BE COMPOSED OF 15 MEMBERS, EACH OF WHOM  
4 SHALL BE APPOINTED BY THE ATTORNEY GENERAL, AS FOLLOWS:

5 (1) NINE MEMBERS, EACH OF WHOM SHALL SERVE A TWO-YEAR TERM,  
6 WHO SHALL BE SELECTED FROM AMONG THE COMPACT OFFICERS OF PARTY STATES  
7 BASED ON THE RECOMMENDATION OF THE COMPACT OFFICERS OF ALL PARTY  
8 STATES, EXCEPT THAT, IN THE ABSENCE OF THE REQUISITE NUMBER OF COMPACT  
9 OFFICERS AVAILABLE TO SERVE, THE CHIEF ADMINISTRATORS OF THE CRIMINAL  
10 HISTORY RECORDS REPOSITORIES OF NONPARTY STATES SHALL BE ELIGIBLE TO  
11 SERVE ON AN INTERIM BASIS.

12 (2) TWO AT-LARGE MEMBERS, NOMINATED BY THE DIRECTOR OF THE  
13 FBI, EACH OF WHOM SHALL SERVE A THREE-YEAR TERM, OF WHOM:

14 (I) ONE SHALL BE A REPRESENTATIVE OF THE CRIMINAL JUSTICE  
15 AGENCIES OF THE FEDERAL GOVERNMENT AND MAY NOT BE AN EMPLOYEE OF THE  
16 FBI; AND

17 (II) ONE SHALL BE A REPRESENTATIVE OF THE NONCRIMINAL  
18 JUSTICE AGENCIES OF THE FEDERAL GOVERNMENT.

19 (3) TWO AT-LARGE MEMBERS, NOMINATED BY THE CHAIRMAN OF THE  
20 COUNCIL, ONCE THE CHAIRMAN IS ELECTED PURSUANT TO THIS SECTION, EACH OF  
21 WHOM SHALL SERVE A THREE-YEAR TERM, OF WHOM:

22 (I) ONE SHALL BE A REPRESENTATIVE OF STATE OR LOCAL  
23 CRIMINAL JUSTICE AGENCIES; AND

24 (II) ONE SHALL BE A REPRESENTATIVE OF STATE OR LOCAL  
25 NONCRIMINAL JUSTICE AGENCIES.

26 (4) ONE MEMBER, WHO SHALL SERVE A THREE-YEAR TERM, AND WHO  
27 SHALL SIMULTANEOUSLY BE A MEMBER OF THE FBI'S ADVISORY POLICY BOARD ON  
28 CRIMINAL JUSTICE INFORMATION SERVICES, NOMINATED BY THE MEMBERSHIP OF  
29 THAT POLICY BOARD.

30 (5) ONE MEMBER, NOMINATED BY THE DIRECTOR OF THE FBI, WHO  
31 SHALL SERVE A THREE-YEAR TERM, AND WHO SHALL BE AN EMPLOYEE OF THE FBI.

32 (C) (1) FROM ITS MEMBERSHIP, THE COUNCIL SHALL ELECT A CHAIRMAN  
33 AND A VICE CHAIRMAN OF THE COUNCIL, RESPECTIVELY. BOTH THE CHAIRMAN AND  
34 VICE CHAIRMAN OF THE COUNCIL:

35 (I) SHALL BE A COMPACT OFFICER, UNLESS THERE IS NO  
36 COMPACT OFFICER ON THE COUNCIL WHO IS WILLING TO SERVE, IN WHICH CASE  
37 THE CHAIRMAN MAY BE AN AT-LARGE MEMBER; AND

1 (II) SHALL SERVE A TWO-YEAR TERM AND MAY BE REELECTED TO  
2 ONLY ONE ADDITIONAL TWO-YEAR TERM.

3 (2) THE VICE CHAIRMAN OF THE COUNCIL SHALL SERVE AS THE  
4 CHAIRMAN OF THE COUNCIL IN THE ABSENCE OF THE CHAIRMAN.

5 (D) (1) THE COUNCIL SHALL MEET AT LEAST ONCE EACH YEAR AT THE CALL  
6 OF THE CHAIRMAN. EACH MEETING OF THE COUNCIL SHALL BE OPEN TO THE  
7 PUBLIC. THE COUNCIL SHALL PROVIDE PRIOR PUBLIC NOTICE IN THE FEDERAL  
8 REGISTER OF EACH MEETING OF THE COUNCIL, INCLUDING THE MATTERS TO BE  
9 ADDRESSED AT SUCH MEETING.

10 (2) A MAJORITY OF THE COUNCIL OR ANY COMMITTEE OF THE COUNCIL  
11 SHALL CONSTITUTE A QUORUM OF THE COUNCIL OR OF SUCH COMMITTEE,  
12 RESPECTIVELY, FOR THE CONDUCT OF BUSINESS. A LESSER NUMBER MAY MEET TO  
13 HOLD HEARINGS, TAKE TESTIMONY, OR CONDUCT ANY BUSINESS NOT REQUIRING A  
14 VOTE.

15 (E) THE COUNCIL SHALL MAKE AVAILABLE FOR PUBLIC INSPECTION AND  
16 COPYING AT THE COUNCIL OFFICE WITHIN THE FBI, AND SHALL PUBLISH IN THE  
17 FEDERAL REGISTER, ANY RULES, PROCEDURES, OR STANDARDS ESTABLISHED BY  
18 THE COUNCIL.

19 (F) THE COUNCIL MAY REQUEST FROM THE FBI SUCH REPORTS, STUDIES,  
20 STATISTICS, OR OTHER INFORMATION OR MATERIALS AS THE COUNCIL DETERMINES  
21 TO BE NECESSARY TO ENABLE THE COUNCIL TO PERFORM ITS DUTIES UNDER THIS  
22 COMPACT. THE FBI, TO THE EXTENT AUTHORIZED BY LAW, MAY PROVIDE SUCH  
23 ASSISTANCE OR INFORMATION UPON SUCH A REQUEST.

24 (G) THE CHAIRMAN MAY ESTABLISH COMMITTEES AS NECESSARY TO CARRY  
25 OUT THIS COMPACT AND MAY PRESCRIBE THEIR MEMBERSHIP, RESPONSIBILITIES,  
26 AND DURATION.

27 10-245.

28 (A) THIS COMPACT SHALL TAKE EFFECT UPON BEING ENTERED INTO BY TWO  
29 OR MORE STATES AS BETWEEN THOSE STATES AND THE FEDERAL GOVERNMENT.  
30 UPON SUBSEQUENT ENTERING INTO THIS COMPACT BY ADDITIONAL STATES, IT  
31 SHALL BECOME EFFECTIVE AMONG THOSE STATES AND THE FEDERAL  
32 GOVERNMENT AND EACH PARTY STATE THAT HAS PREVIOUSLY RATIFIED IT.

33 (B) WHEN RATIFIED, THIS COMPACT SHALL HAVE THE FULL FORCE AND  
34 EFFECT OF LAW WITHIN THE RATIFYING JURISDICTIONS. THE FORM OF  
35 RATIFICATION SHALL BE IN ACCORDANCE WITH THE LAWS OF THE EXECUTING  
36 STATE.

37 10-246.

38 (A) ADMINISTRATION OF THIS COMPACT SHALL NOT INTERFERE WITH THE  
39 MANAGEMENT AND CONTROL OF THE DIRECTOR OF THE FBI OVER THE FBI'S

1 COLLECTION AND DISSEMINATION OF CRIMINAL HISTORY RECORDS AND THE  
2 ADVISORY FUNCTION OF THE FBI'S ADVISORY POLICY BOARD (APB) CHARTERED  
3 UNDER THE FEDERAL ADVISORY COMMITTEE ACT (5 U.S.C. APP.) FOR ALL PURPOSES  
4 OTHER THAN NONCRIMINAL JUSTICE.

5 (B) NOTHING IN THIS COMPACT SHALL REQUIRE THE FBI TO OBLIGATE OR  
6 EXPEND FUNDS BEYOND THOSE APPROPRIATED TO THE FBI.

7 (C) NOTHING IN THIS COMPACT SHALL DIMINISH OR LESSEN THE  
8 OBLIGATIONS, RESPONSIBILITIES, AND AUTHORITIES OF ANY STATE, WHETHER A  
9 PARTY STATE OR A NONPARTY STATE, OR OF ANY CRIMINAL HISTORY RECORDS  
10 REPOSITORY OR OTHER SUBDIVISION OR COMPONENT THEREOF, UNDER THE  
11 DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED  
12 AGENCIES APPROPRIATION ACT, 1973 (PUBLIC LAW 92-544), OR REGULATIONS AND  
13 GUIDELINES PROMULGATED THEREUNDER, INCLUDING THE RULES AND  
14 PROCEDURES PROMULGATED BY THE COUNCIL UNDER SECTION 10-244 OF THIS  
15 SUBTITLE, REGARDING THE USE AND DISSEMINATION OF CRIMINAL HISTORY  
16 RECORDS AND INFORMATION.

17 10-247.

18 (A) THIS COMPACT SHALL BIND EACH PARTY STATE UNTIL RENOUNCED BY  
19 THE PARTY STATE.

20 (B) ANY RENUNCIATION OF THIS COMPACT BY A PARTY STATE SHALL:

21 (1) BE EFFECTED IN THE SAME MANNER BY WHICH THE PARTY STATE  
22 RATIFIED THIS COMPACT; AND

23 (2) BECOME EFFECTIVE 180 DAYS AFTER WRITTEN NOTICE OF  
24 RENUNCIATION IS PROVIDED BY THE PARTY STATE TO EACH OTHER PARTY STATE  
25 AND TO THE FEDERAL GOVERNMENT.

26 10-248.

27 THE PROVISIONS OF THIS COMPACT SHALL BE SEVERABLE, AND IF ANY  
28 PHRASE, CLAUSE, SENTENCE, OR PROVISION OF THIS COMPACT IS DECLARED TO BE  
29 CONTRARY TO THE CONSTITUTION OF ANY PARTICIPATING STATE, OR TO THE  
30 CONSTITUTION OF THE UNITED STATES, OR THE APPLICABILITY THEREOF TO ANY  
31 GOVERNMENT, AGENCY, PERSON, OR CIRCUMSTANCE IS HELD INVALID, THE  
32 VALIDITY OF THE REMAINDER OF THIS COMPACT AND THE APPLICABILITY THEREOF  
33 TO ANY GOVERNMENT, AGENCY, PERSON, OR CIRCUMSTANCE SHALL NOT BE  
34 AFFECTED THEREBY. IF A PORTION OF THIS COMPACT IS HELD CONTRARY TO THE  
35 CONSTITUTION OF ANY PARTY STATE, ALL OTHER PORTIONS OF THIS COMPACT  
36 SHALL REMAIN IN FULL FORCE AND EFFECT AS TO THE REMAINING PARTY STATES  
37 AND IN FULL FORCE AND EFFECT AS TO THE PARTY STATE AFFECTED, AS TO ALL  
38 OTHER PROVISIONS.

1 10-249.

2 (A) THE COUNCIL SHALL:

3 (1) HAVE INITIAL AUTHORITY TO MAKE DETERMINATIONS WITH  
4 RESPECT TO ANY DISPUTE REGARDING:

5 (I) INTERPRETATION OF THIS COMPACT;

6 (II) ANY RULE OR STANDARD ESTABLISHED BY THE COUNCIL  
7 PURSUANT TO SECTION 10-244 OF THIS SUBTITLE; AND

8 (III) ANY DISPUTE OR CONTROVERSY BETWEEN ANY PARTIES TO  
9 THIS COMPACT; AND

10 (2) HOLD A HEARING CONCERNING ANY DISPUTE DESCRIBED IN  
11 PARAGRAPH (1) AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL AND ONLY  
12 RENDER A DECISION BASED UPON A MAJORITY VOTE OF THE MEMBERS OF THE  
13 COUNCIL. SUCH DECISION SHALL BE PUBLISHED PURSUANT TO THE REQUIREMENTS  
14 OF SECTION 10-244(E) OF THIS SUBTITLE.

15 (B) THE FBI SHALL EXERCISE IMMEDIATE AND NECESSARY ACTION TO  
16 PRESERVE THE INTEGRITY OF THE III SYSTEM, MAINTAIN SYSTEM POLICY AND  
17 STANDARDS, PROTECT THE ACCURACY AND PRIVACY OF RECORDS, AND TO PREVENT  
18 ABUSES, UNTIL THE COUNCIL HOLDS A HEARING ON SUCH MATTERS.

19 (C) THE FBI OR A PARTY STATE MAY APPEAL ANY DECISION OF THE COUNCIL  
20 TO THE ATTORNEY GENERAL, AND THEREAFTER MAY FILE SUIT IN THE  
21 APPROPRIATE DISTRICT COURT OF THE UNITED STATES, WHICH SHALL HAVE  
22 ORIGINAL JURISDICTION OF ALL CASES OR CONTROVERSIES ARISING UNDER THIS  
23 COMPACT. ANY SUIT ARISING UNDER THIS COMPACT AND INITIATED IN A STATE  
24 COURT SHALL BE REMOVED TO THE APPROPRIATE DISTRICT COURT OF THE UNITED  
25 STATES IN THE MANNER PROVIDED BY SECTION 1446 OF TITLE 28, OR OTHER  
26 STATUTORY AUTHORITY.

27 10-250.

28 THE SECRETARY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL  
29 SERVICES SHALL DESIGNATE A COMPACT OFFICER IN ACCORDANCE WITH SECTION  
30 10-239 OF THIS SUBTITLE.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
32 effect October 1, 2005.