
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

Committee Report: Favorable
House action: Adopted
Read second time: February 22, 2005

CHAPTER _____

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"

1 Annotated Code of Maryland
2 (2001 Volume and 2004 Supplement)

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

5 **Article - Criminal Procedure**

6 PART V. NATIONAL CRIME PREVENTION AND PRIVACY COMPACT.

7 10-237.

8 THE NATIONAL CRIME PREVENTION AND PRIVACY COMPACT IS HEREBY
9 ENTERED INTO AND ENACTED WITH ANY AND ALL OF THE STATES AND THE
10 FEDERAL GOVERNMENT LEGALLY JOINING THE COMPACT IN THE FORM
11 SUBSTANTIALLY AS FOLLOWS.

12 10-238.

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

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

24 10-239.

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

26 (B) "ATTORNEY GENERAL" MEANS THE ATTORNEY GENERAL OF THE UNITED
27 STATES.

28 (C) "COMPACT OFFICER" MEANS:

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

31 (2) WITH RESPECT TO A PARTY STATE, THE CHIEF ADMINISTRATOR OF
32 THE STATE'S CRIMINAL HISTORY RECORDS REPOSITORY OR A DESIGNEE OF THE
33 CHIEF ADMINISTRATOR WHO IS A REGULAR FULL-TIME EMPLOYEE OF THE
34 REPOSITORY.

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

3 (E) "CRIMINAL HISTORY RECORDS":

4 (1) MEANS INFORMATION COLLECTED BY CRIMINAL JUSTICE AGENCIES
5 ON INDIVIDUALS CONSISTING OF IDENTIFIABLE DESCRIPTIONS AND NOTATIONS OF
6 ARRESTS, DETENTIONS, INDICTMENTS, OR OTHER FORMAL CRIMINAL CHARGES, AND
7 ANY DISPOSITION ARISING THEREFROM, INCLUDING ACQUITTAL, SENTENCING,
8 CORRECTIONAL SUPERVISION, OR RELEASE; AND

9 (2) DOES NOT INCLUDE IDENTIFICATION INFORMATION SUCH AS
10 FINGERPRINT RECORDS IF SUCH INFORMATION DOES NOT INDICATE INVOLVEMENT
11 OF THE INDIVIDUAL WITH THE CRIMINAL JUSTICE SYSTEM.

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

16 (G) "CRIMINAL JUSTICE" INCLUDES ACTIVITIES RELATING TO THE
17 DETECTION, APPREHENSION, DETENTION, PRETRIAL RELEASE, POSTTRIAL RELEASE,
18 PROSECUTION, ADJUDICATION, CORRECTIONAL SUPERVISION, OR REHABILITATION
19 OF ACCUSED PERSONS OR CRIMINAL OFFENDERS. THE ADMINISTRATION OF
20 CRIMINAL JUSTICE INCLUDES CRIMINAL IDENTIFICATION ACTIVITIES AND THE
21 COLLECTION, STORAGE, AND DISSEMINATION OF CRIMINAL HISTORY RECORDS.

22 (H) "CRIMINAL JUSTICE AGENCY":

23 (1) MEANS:

24 (I) COURTS; AND

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

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

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

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

31 (I) "CRIMINAL JUSTICE SERVICES" MEANS SERVICES PROVIDED BY THE FBI
32 TO CRIMINAL JUSTICE AGENCIES IN RESPONSE TO A REQUEST FOR INFORMATION
33 ABOUT A PARTICULAR INDIVIDUAL OR AS AN UPDATE TO INFORMATION PREVIOUSLY
34 PROVIDED FOR CRIMINAL JUSTICE PURPOSES.

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

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

7 (L) "EXECUTIVE ORDER" MEANS AN ORDER OF THE PRESIDENT OF THE
8 UNITED STATES OR THE CHIEF EXECUTIVE OFFICER OF A STATE THAT HAS THE
9 FORCE OF LAW AND THAT IS PROMULGATED IN ACCORDANCE WITH APPLICABLE
10 LAW.

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

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

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

15 (2) INCLUDES THE NATIONAL IDENTIFICATION INDEX, THE NATIONAL
16 FINGERPRINT FILE AND, TO THE EXTENT OF THEIR PARTICIPATION IN SUCH
17 SYSTEM, THE CRIMINAL HISTORY RECORD REPOSITORIES OF THE STATES AND THE
18 FBI.

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

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

27 (Q) "NATIONAL INDICES" MEANS THE NATIONAL IDENTIFICATION INDEX AND
28 THE NATIONAL FINGERPRINT FILE.

29 (R) "NONPARTY STATE" MEANS A STATE THAT HAS NOT RATIFIED THIS
30 COMPACT.

31 (S) "NONCRIMINAL JUSTICE PURPOSES" MEANS USES OF CRIMINAL HISTORY
32 RECORDS FOR PURPOSES AUTHORIZED BY FEDERAL OR STATE LAW OTHER THAN
33 PURPOSES RELATING TO CRIMINAL JUSTICE ACTIVITIES, INCLUDING EMPLOYMENT
34 SUITABILITY, LICENSING DETERMINATIONS, IMMIGRATION AND NATURALIZATION
35 MATTERS, AND NATIONAL SECURITY CLEARANCES.

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

1 (U) "POSITIVE IDENTIFICATION" MEANS A DETERMINATION, BASED UPON A
2 COMPARISON OF FINGERPRINTS OR OTHER EQUALLY RELIABLE BIOMETRIC
3 IDENTIFICATION TECHNIQUES, THAT THE SUBJECT OF A RECORD SEARCH IS THE
4 SAME PERSON AS THE SUBJECT OF A CRIMINAL HISTORY RECORD OR RECORDS
5 INDEXED IN THE III SYSTEM. IDENTIFICATIONS BASED SOLELY UPON A COMPARISON
6 OF SUBJECTS' NAMES OR OTHER NONUNIQUE IDENTIFICATION CHARACTERISTICS
7 OR NUMBERS, OR COMBINATIONS THEREOF, SHALL NOT CONSTITUTE POSITIVE
8 IDENTIFICATION.

9 (V) "SEALED RECORD INFORMATION" MEANS:

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

11 (I) NOT AVAILABLE FOR CRIMINAL JUSTICE USES;

12 (II) NOT SUPPORTED BY FINGERPRINTS OR OTHER ACCEPTED
13 MEANS OF POSITIVE IDENTIFICATION; OR

14 (III) SUBJECT TO RESTRICTIONS ON DISSEMINATION FOR
15 NONCRIMINAL JUSTICE PURPOSES PURSUANT TO A COURT ORDER RELATED TO A
16 PARTICULAR SUBJECT OR PURSUANT TO A FEDERAL OR STATE STATUTE THAT
17 REQUIRES ACTION ON A SEALING PETITION FILED BY A PARTICULAR RECORD
18 SUBJECT; AND

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

21 (W) "STATE" MEANS ANY STATE, TERRITORY, OR POSSESSION OF THE UNITED
22 STATES, THE DISTRICT OF COLUMBIA, AND THE COMMONWEALTH OF PUERTO RICO.
23 10-240.

24 THE PURPOSES OF THIS COMPACT ARE TO:

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

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

34 (3) REQUIRE PARTY STATES TO PROVIDE INFORMATION AND RECORDS
35 FOR THE NATIONAL IDENTIFICATION INDEX AND THE NATIONAL FINGERPRINT FILE
36 AND TO PROVIDE CRIMINAL HISTORY RECORDS, IN A TIMELY FASHION, TO CRIMINAL
37 HISTORY RECORDS REPOSITORIES OF OTHER STATES AND THE FEDERAL
38 GOVERNMENT FOR NONCRIMINAL JUSTICE PURPOSES, IN ACCORDANCE WITH THE

1 TERMS OF THIS COMPACT AND WITH RULES, PROCEDURES, AND STANDARDS
2 ESTABLISHED BY THE COUNCIL UNDER SECTION 10-244 OF THIS SUBTITLE;

3 (4) PROVIDE FOR THE ESTABLISHMENT OF A COUNCIL TO MONITOR III
4 SYSTEM OPERATIONS AND TO PRESCRIBE SYSTEM RULES AND PROCEDURES FOR
5 THE EFFECTIVE AND PROPER OPERATION OF THE III SYSTEM FOR NONCRIMINAL
6 JUSTICE PURPOSES; AND

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

12 10-241.

13 (A) THE DIRECTOR OF THE FBI SHALL:

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

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

19 (II) ENSURE THAT COMPACT PROVISIONS AND RULES,
20 PROCEDURES, AND STANDARDS PRESCRIBED BY THE COUNCIL UNDER SECTION
21 10-244 OF THIS SUBTITLE ARE COMPLIED WITH BY THE DEPARTMENT OF JUSTICE
22 AND THE FEDERAL AGENCIES AND OTHER AGENCIES AND ORGANIZATIONS
23 REFERRED TO IN ITEM (I) OF THIS ITEM; AND

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

27 (2) PROVIDE TO FEDERAL AGENCIES AND TO STATE CRIMINAL HISTORY
28 RECORDS REPOSITORIES, CRIMINAL HISTORY RECORDS MAINTAINED IN ITS
29 DATABASE FOR THE NONCRIMINAL JUSTICE PURPOSES DESCRIBED IN SECTION
30 10-242 OF THIS SUBTITLE INCLUDING:

31 (I) INFORMATION FROM NONPARTY STATES; AND

32 (II) INFORMATION FROM PARTY STATES THAT IS AVAILABLE FROM
33 THE FBI THROUGH THE III SYSTEM, BUT IS NOT AVAILABLE FROM THE PARTY STATE
34 THROUGH THE III SYSTEM;

35 (3) PROVIDE A TELECOMMUNICATIONS NETWORK AND MAINTAIN
36 CENTRALIZED FACILITIES FOR THE EXCHANGE OF CRIMINAL HISTORY RECORDS FOR
37 BOTH CRIMINAL JUSTICE PURPOSES AND THE NONCRIMINAL JUSTICE PURPOSES
38 DESCRIBED IN SUBSECTION (B)(4) OF THIS SECTION, AND ENSURE THAT THE

1 EXCHANGE OF SUCH RECORDS FOR CRIMINAL JUSTICE PURPOSES HAS PRIORITY
2 OVER EXCHANGE FOR NONCRIMINAL JUSTICE PURPOSES; AND

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

7 (B) EACH PARTY STATE SHALL:

8 (1) APPOINT A COMPACT OFFICER WHO SHALL:

9 (I) ADMINISTER THIS COMPACT WITHIN THAT STATE;

10 (II) ENSURE THAT COMPACT PROVISIONS AND RULES,
11 PROCEDURES, AND STANDARDS ESTABLISHED BY THE COUNCIL UNDER SECTION
12 10-244 OF THIS SUBTITLE ARE COMPLIED WITH IN THE STATE; AND

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

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

17 (I) INFORMATION AND RECORDS FOR THE NATIONAL
18 IDENTIFICATION INDEX AND THE NATIONAL FINGERPRINT FILE; AND

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

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

23 (4) PROVIDE AND MAINTAIN TELECOMMUNICATIONS LINKS AND
24 RELATED EQUIPMENT NECESSARY TO SUPPORT THE SERVICES SET FORTH IN THIS
25 COMPACT.

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

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

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

1 10-242.

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

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

17 (C) ANY RECORD OBTAINED UNDER THIS COMPACT MAY BE USED ONLY FOR
18 THE OFFICIAL PURPOSES FOR WHICH THE RECORD WAS REQUESTED. EACH
19 COMPACT OFFICER SHALL ESTABLISH PROCEDURES, CONSISTENT WITH THIS
20 COMPACT, AND WITH RULES, PROCEDURES, AND STANDARDS ESTABLISHED BY THE
21 COUNCIL UNDER SECTION 10-244 OF THIS SUBTITLE, WHICH PROCEDURES SHALL
22 PROTECT THE ACCURACY AND PRIVACY OF THE RECORDS, AND SHALL:

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

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

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

32 10-243.

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

36 (B) EACH REQUEST FOR A CRIMINAL HISTORY RECORDS CHECK UTILIZING
37 THE NATIONAL INDICES MADE UNDER ANY APPROVED STATE STATUTE SHALL BE
38 SUBMITTED THROUGH THAT STATE'S CRIMINAL HISTORY RECORDS REPOSITORY. A
39 STATE CRIMINAL HISTORY RECORDS REPOSITORY SHALL PROCESS AN INTERSTATE
40 REQUEST FOR NONCRIMINAL JUSTICE PURPOSES THROUGH THE NATIONAL INDICES

1 ONLY IF SUCH REQUEST IS TRANSMITTED THROUGH ANOTHER STATE CRIMINAL
2 HISTORY RECORDS REPOSITORY OR THE FBI.

3 (C) EACH REQUEST FOR A CRIMINAL HISTORY RECORDS CHECK UTILIZING
4 THE NATIONAL INDICES MADE UNDER FEDERAL AUTHORITY SHALL BE SUBMITTED
5 THROUGH THE FBI OR, IF THE STATE CRIMINAL HISTORY RECORDS REPOSITORY
6 CONSENTS TO PROCESS FINGERPRINT SUBMISSIONS, THROUGH THE CRIMINAL
7 HISTORY RECORDS REPOSITORY IN THE STATE IN WHICH SUCH REQUEST
8 ORIGINATED. DIRECT ACCESS TO THE NATIONAL IDENTIFICATION INDEX BY
9 ENTITIES OTHER THAN THE FBI AND STATE CRIMINAL HISTORY RECORDS
10 REPOSITORIES SHALL NOT BE PERMITTED FOR NONCRIMINAL JUSTICE PURPOSES.

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

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

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

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

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

27 (I) THE FBI SHALL SO ADVISE THE STATE CRIMINAL HISTORY
28 RECORDS REPOSITORY; AND

29 (II) THE STATE CRIMINAL HISTORY RECORDS REPOSITORY SHALL
30 BE ENTITLED TO OBTAIN THE ADDITIONAL CRIMINAL HISTORY RECORDS
31 INFORMATION FROM THE FBI OR OTHER STATE CRIMINAL HISTORY RECORDS
32 REPOSITORIES.

33 10-244.

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

39 (2) THE COUNCIL SHALL:

1 (I) CONTINUE IN EXISTENCE AS LONG AS THIS COMPACT REMAINS
2 IN EFFECT;

3 (II) BE LOCATED, FOR ADMINISTRATIVE PURPOSES, WITHIN THE
4 FBI; AND

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

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

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

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

18 (I) ONE SHALL BE A REPRESENTATIVE OF THE CRIMINAL JUSTICE
19 AGENCIES OF THE FEDERAL GOVERNMENT AND MAY NOT BE AN EMPLOYEE OF THE
20 FBI; AND

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

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

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

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

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

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

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

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

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

9 (2) THE VICE CHAIRMAN OF THE COUNCIL SHALL SERVE AS THE
10 CHAIRMAN OF THE COUNCIL IN THE ABSENCE OF THE CHAIRMAN.

11 (D) (1) THE COUNCIL SHALL MEET AT LEAST ONCE EACH YEAR AT THE CALL
12 OF THE CHAIRMAN. EACH MEETING OF THE COUNCIL SHALL BE OPEN TO THE
13 PUBLIC. THE COUNCIL SHALL PROVIDE PRIOR PUBLIC NOTICE IN THE FEDERAL
14 REGISTER OF EACH MEETING OF THE COUNCIL, INCLUDING THE MATTERS TO BE
15 ADDRESSED AT SUCH MEETING.

16 (2) A MAJORITY OF THE COUNCIL OR ANY COMMITTEE OF THE COUNCIL
17 SHALL CONSTITUTE A QUORUM OF THE COUNCIL OR OF SUCH COMMITTEE,
18 RESPECTIVELY, FOR THE CONDUCT OF BUSINESS. A LESSER NUMBER MAY MEET TO
19 HOLD HEARINGS, TAKE TESTIMONY, OR CONDUCT ANY BUSINESS NOT REQUIRING A
20 VOTE.

21 (E) THE COUNCIL SHALL MAKE AVAILABLE FOR PUBLIC INSPECTION AND
22 COPYING AT THE COUNCIL OFFICE WITHIN THE FBI, AND SHALL PUBLISH IN THE
23 FEDERAL REGISTER, ANY RULES, PROCEDURES, OR STANDARDS ESTABLISHED BY
24 THE COUNCIL.

25 (F) THE COUNCIL MAY REQUEST FROM THE FBI SUCH REPORTS, STUDIES,
26 STATISTICS, OR OTHER INFORMATION OR MATERIALS AS THE COUNCIL DETERMINES
27 TO BE NECESSARY TO ENABLE THE COUNCIL TO PERFORM ITS DUTIES UNDER THIS
28 COMPACT. THE FBI, TO THE EXTENT AUTHORIZED BY LAW, MAY PROVIDE SUCH
29 ASSISTANCE OR INFORMATION UPON SUCH A REQUEST.

30 (G) THE CHAIRMAN MAY ESTABLISH COMMITTEES AS NECESSARY TO CARRY
31 OUT THIS COMPACT AND MAY PRESCRIBE THEIR MEMBERSHIP, RESPONSIBILITIES,
32 AND DURATION.

33 10-245.

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

1 (B) WHEN RATIFIED, THIS COMPACT SHALL HAVE THE FULL FORCE AND
2 EFFECT OF LAW WITHIN THE RATIFYING JURISDICTIONS. THE FORM OF
3 RATIFICATION SHALL BE IN ACCORDANCE WITH THE LAWS OF THE EXECUTING
4 STATE.

5 10-246.

6 (A) ADMINISTRATION OF THIS COMPACT SHALL NOT INTERFERE WITH THE
7 MANAGEMENT AND CONTROL OF THE DIRECTOR OF THE FBI OVER THE FBI'S
8 COLLECTION AND DISSEMINATION OF CRIMINAL HISTORY RECORDS AND THE
9 ADVISORY FUNCTION OF THE FBI'S ADVISORY POLICY BOARD (APB) CHARTERED
10 UNDER THE FEDERAL ADVISORY COMMITTEE ACT (5 U.S.C. APP.) FOR ALL PURPOSES
11 OTHER THAN NONCRIMINAL JUSTICE.

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

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

24 10-247.

25 (A) THIS COMPACT SHALL BIND EACH PARTY STATE UNTIL RENOUNCED BY
26 THE PARTY STATE.

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

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

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

33 10-248.

34 THE PROVISIONS OF THIS COMPACT SHALL BE SEVERABLE, AND IF ANY
35 PHRASE, CLAUSE, SENTENCE, OR PROVISION OF THIS COMPACT IS DECLARED TO BE
36 CONTRARY TO THE CONSTITUTION OF ANY PARTICIPATING STATE, OR TO THE
37 CONSTITUTION OF THE UNITED STATES, OR THE APPLICABILITY THEREOF TO ANY
38 GOVERNMENT, AGENCY, PERSON, OR CIRCUMSTANCE IS HELD INVALID, THE
39 VALIDITY OF THE REMAINDER OF THIS COMPACT AND THE APPLICABILITY THEREOF

1 TO ANY GOVERNMENT, AGENCY, PERSON, OR CIRCUMSTANCE SHALL NOT BE
2 AFFECTED THEREBY. IF A PORTION OF THIS COMPACT IS HELD CONTRARY TO THE
3 CONSTITUTION OF ANY PARTY STATE, ALL OTHER PORTIONS OF THIS COMPACT
4 SHALL REMAIN IN FULL FORCE AND EFFECT AS TO THE REMAINING PARTY STATES
5 AND IN FULL FORCE AND EFFECT AS TO THE PARTY STATE AFFECTED, AS TO ALL
6 OTHER PROVISIONS.

7 10-249.

8 (A) THE COUNCIL SHALL:

9 (1) HAVE INITIAL AUTHORITY TO MAKE DETERMINATIONS WITH
10 RESPECT TO ANY DISPUTE REGARDING:

11 (I) INTERPRETATION OF THIS COMPACT;

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

14 (III) ANY DISPUTE OR CONTROVERSY BETWEEN ANY PARTIES TO
15 THIS COMPACT; AND

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

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

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

33 10-250.

34 THE SECRETARY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL
35 SERVICES SHALL DESIGNATE A COMPACT OFFICER IN ACCORDANCE WITH SECTION
36 10-239 OF THIS SUBTITLE.

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

