Chapter 10.97 RCW
WASHINGTON STATE CRIMINAL RECORDS PRIVACY ACT

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RCW 10.97.010 Declaration of policy. The legislature declares that it is the policy of the state of Washington to provide for the completeness, accuracy, confidentiality, and security of criminal history record information and victim, witness, and complainant record information as defined in this chapter. [1977 ex.s. c 314 s 1.]

RCW 10.97.020 Short title. This chapter may be cited as the Washington State Criminal Records Privacy Act. [1977 ex.s. c 314 s 2.]

Reviser's note: The phrase "This 1977 amendatory act" has been changed to "This chapter." This 1977 amendatory act [1977 ex.s. c 314] consists of chapter 10.97 RCW and the amendments of RCW 42.17.310, 43.43.705, 43.43.710, 43.43.730, and 43.43.810.

RCW 10.97.030 Definitions. For purposes of this chapter, the definitions of terms in this section shall apply.

(1) "The administration of criminal justice" means performance of any of the following activities: Detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The term also includes criminal identification activities and the collection, storage, dissemination of criminal history record information, and the compensation of victims of crime.

(2) "Conviction or other disposition adverse to the subject" means any disposition of charges other than: (a) A decision not to prosecute; (b) a dismissal; or (c) acquittal; with the following exceptions, which shall be considered dispositions adverse to the subject: An acquittal due to a finding of not guilty by reason of insanity and a dismissal by reason of incompetency, pursuant to chapter 10.77 RCW; and a dismissal entered after a period of probation, suspension, or deferral of sentence.

(3) "Conviction record" means criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the subject.

(4) "Criminal history record information" means information contained in records collected by criminal justice agencies, other than courts, on individuals, consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, including acquittals by reason of insanity, dismissals based on lack of competency, sentences, correctional supervision, and release.

The term includes any issued certificates of restoration of opportunities and any information contained in records maintained by or obtained from criminal justice agencies, other than courts, which records provide individual identification of a person together with any portion of the individual's record of involvement in the criminal justice system as an alleged or convicted offender, except:

(a) Posters, announcements, or lists for identifying or apprehending fugitives or wanted persons;

(b) Original records of entry maintained by criminal justice agencies to the extent that such records are compiled and maintained chronologically and are accessible only on a chronological basis;

(c) Court indices and records of public judicial proceedings, court decisions, and opinions, and information disclosed during public judicial proceedings;

(d) Records of traffic violations which are not punishable by a maximum term of imprisonment of more than ninety days;

(e) Records of any traffic offenses as maintained by the department of licensing for the purpose of regulating the issuance, suspension, revocation, or renewal of drivers' or other operators' licenses and pursuant to RCW 46.52.130;

(f) Records of any aviation violations or offenses as maintained by the department of transportation for the purpose of regulating pilots or other aviation operators, and pursuant to RCW 47.68.330;

(g) Announcements of executive clemency;

(h) Intelligence, analytical, or investigative reports and files.

(5) "Criminal justice agency" means: (a) A court; or (b) a government agency which performs the administration of criminal justice pursuant to a statute or executive order and which allocates a substantial part of its annual budget to the administration of criminal justice.

(6) "Disposition" means the formal conclusion of a criminal proceeding at whatever stage it occurs in the criminal justice system.

(7) "Dissemination" means disclosing criminal history record information or disclosing the absence of criminal history record information to any person or agency outside the agency possessing the information, subject to the following exceptions:

(a) When criminal justice agencies jointly participate in the maintenance of a single recordkeeping department as an alternative to maintaining separate records, the furnishing of information by that

department to personnel of any participating agency is not a dissemination;

(b) The furnishing of information by any criminal justice agency to another for the purpose of processing a matter through the criminal justice system, such as a police department providing information to a prosecutor for use in preparing a charge, is not a dissemination;

(c) The reporting of an event to a recordkeeping agency for the purpose of maintaining the record is not a dissemination.

(8) "Nonconviction data" consists of all criminal history record information relating to an incident which has not led to a conviction or other disposition adverse to the subject, and for which proceedings are no longer actively pending. There shall be a rebuttable presumption that proceedings are no longer actively pending if more than one year has elapsed since arrest, citation, charge, or service of warrant and no disposition has been entered. [2016 c 81 s 4; 2012 c 125 s 1; 1999 c 49 s 1; 1998 c 297 s 49; 1990 c 3 s 128; 1979 ex.s. c 36 s 1; 1979 c 158 s 5; 1977 ex.s. c 314 s 3.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Finding—Conflict with federal requirements—2016 c 81: See notes following RCW 9.97.010.

Effective dates—Severability—Intent—1998 c 297: See notes following RCW 71.05.010.

RCW 10.97.040 Information required—Exceptions. No criminal justice agency shall disseminate criminal history record information pertaining to an arrest, detention, indictment, information, or other formal criminal charge made after December 31, 1977, unless the record disseminated states the disposition of such charge to the extent dispositions have been made at the time of the request for the information: PROVIDED, HOWEVER, That if a disposition occurring within ten days immediately preceding the dissemination has not been reported to the agency disseminating the criminal history record information, or if information has been received by the agency within the seventy-two hours immediately preceding the dissemination, that information shall not be required to be included in the dissemination: PROVIDED FURTHER, That when another criminal justice agency requests criminal history record information, the disseminating agency may disseminate specific facts and incidents which are within its direct knowledge without furnishing disposition data as otherwise required by this section, unless the disseminating agency has received such disposition data from either: (1) the state patrol, or (2) the court or other criminal justice agency required to furnish disposition data pursuant to RCW 10.97.045.

No criminal justice agency shall disseminate criminal history record information which shall include information concerning a felony or gross misdemeanor without first making inquiry of the identification section of the Washington state patrol for the purpose of obtaining the most current and complete information available, unless one or more of the following circumstances exists:

(1) The information to be disseminated is needed for a purpose in the administration of criminal justice for which time is of the

essence and the identification section is technically or physically incapable of responding within the required time;

(2) The full information requested and to be disseminated relates to specific facts or incidents which are within the direct knowledge of the agency which disseminates the information;

(3) The full information requested and to be disseminated is contained in a criminal history record information summary received from the identification section by the agency which is to make the dissemination not more than thirty days preceding the dissemination to be made;

(4) The statute, executive order, court rule, or court order pursuant to which the information is to be disseminated refers solely to information in the files of the agency which makes the dissemination;

(5) The information requested and to be disseminated is for the express purpose of research, evaluative, or statistical activities to be based upon information maintained in the files of the agency or agencies from which the information is directly sought; or

(6) A person who is the subject of the record requests the information and the agency complies with the requirements in RCW 10.97.080 as now or hereafter amended. [1979 ex.s. c 36 s 2; 1977 ex.s. c 314 s 4.]

RCW 10.97.045 Disposition data to initiating agency and state patrol. Whenever a court or other criminal justice agency reaches a disposition of a criminal proceeding, the court or other criminal justice agency shall furnish the disposition data to the agency initiating the criminal history record for that charge and to the identification section of the Washington state patrol as required under RCW 43.43.745. [1979 ex.s. c 36 s 6.]

RCW 10.97.050 Restricted, unrestricted information—Records. (1) Conviction records may be disseminated without restriction.

(2) Any criminal history record information which pertains to an incident that occurred within the last twelve months for which a person is currently being processed by the criminal justice system, including the entire period of correctional supervision extending through final discharge from parole, when applicable, may be disseminated without restriction.

(3) Criminal history record information which includes nonconviction data may be disseminated by a criminal justice agency to another criminal justice agency for any purpose associated with the administration of criminal justice, or in connection with the employment of the subject of the record by a criminal justice or juvenile justice agency, except as provided under RCW 13.50.260. A criminal justice agency may respond to any inquiry from another criminal justice agency without any obligation to ascertain the purpose for which the information is to be used by the agency making the inquiry.

(4) Criminal history record information which includes nonconviction data may be disseminated by a criminal justice agency to implement a statute, ordinance, executive order, or a court rule, decision, or order which expressly refers to records of arrest, charges, or allegations of criminal conduct or other nonconviction

data and authorizes or directs that it be available or accessible for a specific purpose.

(5) Criminal history record information which includes nonconviction data may be disseminated to individuals and agencies pursuant to a contract with a criminal justice agency to provide services related to the administration of criminal justice. Such contract must specifically authorize access to criminal history record information, but need not specifically state that access to nonconviction data is included. The agreement must limit the use of the criminal history record information to stated purposes and insure the confidentiality and security of the information consistent with state law and any applicable federal statutes and regulations.

(6) Criminal history record information which includes nonconviction data may be disseminated to individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency. Such agreement must authorize the access to nonconviction data, limit the use of that information which identifies specific individuals to research, evaluative, or statistical purposes, and contain provisions giving notice to the person or organization to which the records are disseminated that the use of information obtained therefrom and further dissemination of such information are subject to the provisions of this chapter and applicable federal statutes and regulations, which shall be cited with express reference to the penalties provided for a violation thereof.

(7) Criminal history record information that includes nonconviction data may be disseminated to the state auditor solely for the express purpose of conducting a process compliance audit procedure and review of any deadly force investigation pursuant to RCW 43.101.460. Dissemination or use of nonconviction data for purposes other than authorized in this subsection is prohibited.

(8) Criminal history record information that includes nonconviction data may be disseminated to bailiffs of the supreme court solely for the express purpose of investigations under RCW 2.04.260 and to bailiffs of the court of appeals solely for the express purpose of investigations under RCW 2.06.170. Dissemination or use of nonconviction data for purposes other than authorized in this subsection is prohibited.

(9) Every criminal justice agency that maintains and disseminates criminal history record information must maintain information pertaining to every dissemination of criminal history record information except a dissemination to the effect that the agency has no record concerning an individual. Information pertaining to disseminations shall include:

(a) An indication of to whom (agency or person) criminal history record information was disseminated;

(b) The date on which the information was disseminated;

(c) The individual to whom the information relates; and

(d) A brief description of the information disseminated.

The information pertaining to dissemination required to be maintained shall be retained for a period of not less than one year.

(10) In addition to the other provisions in this section allowing dissemination of criminal history record information, RCW 4.24.550 governs dissemination of information concerning offenders who commit sex offenses as defined by RCW 9.94A.030. Criminal justice agencies, their employees, and officials shall be immune from civil liability for dissemination on criminal history record information concerning

sex offenders as provided in RCW 4.24.550. [2026 c 111 s 2; 2024 c 303 s 2; 2023 c 26 s 1; 2020 c 184 s 2; 2012 c 125 s 2; 2005 c 421 s 9; 1990 c 3 s 129; 1977 ex.s. c 314 s 5.]

Retroactive application—Effective date—2020 c 184: See notes following RCW 13.50.260.

RCW 10.97.060 Deletion of certain information, conditions. Criminal history record information which consists of nonconviction data only shall be subject to deletion from criminal justice agency files which are available and generally searched for the purpose of responding to inquiries concerning the criminal history of a named or otherwise identified individual when two years or longer have elapsed since the record became nonconviction data as a result of the entry of a disposition favorable to the defendant, or upon the passage of three years from the date of arrest or issuance of a citation or warrant for an offense for which a conviction was not obtained unless the defendant is a fugitive, or the case is under active prosecution according to a current certification made by the prosecuting attorney.

Such criminal history record information consisting of nonconviction data shall be deleted upon the request of the person who is the subject of the record: PROVIDED, HOWEVER, That the criminal justice agency maintaining the data may, at its option, refuse to make the deletion if:

(1) The disposition was a deferred prosecution or similar diversion of the alleged offender;

(2) The person who is the subject of the record has had a prior conviction for a felony or gross misdemeanor;

(3) The individual who is the subject of the record has been arrested for or charged with another crime during the intervening period.

Nothing in this chapter is intended to restrict the authority of any court, through appropriate judicial proceedings, to order the modification or deletion of a record in a particular cause or concerning a particular individual or event. [1977 ex.s. c 314 s 6.]

RCW 10.97.070 Disclosure of suspect's identity to victim. (1) Criminal justice agencies may, in their discretion, disclose to persons who have suffered physical loss, property damage, or injury compensable through civil action, the identity of persons suspected as being responsible for such loss, damage, or injury together with such information as the agency reasonably believes may be of assistance to the victim in obtaining civil redress. Such disclosure may be made without regard to whether the suspected offender is an adult or a juvenile, whether charges have or have not been filed, or a prosecuting authority has declined to file a charge or a charge has been dismissed.

(2) Unless the agency determines release would interfere with an ongoing criminal investigation, in any action brought pursuant to this chapter, criminal justice agencies shall disclose identifying information, including photographs of suspects, if the acts are alleged by the plaintiff or victim to be a violation of RCW 9A.50.020.

(3) The disclosure by a criminal justice agency of investigative information pursuant to subsection (1) of this section shall not

establish a duty to disclose any additional information concerning the same incident or make any subsequent disclosure of investigative information, except to the extent an additional disclosure is compelled by legal process. [1993 c 128 s 10; 1977 ex.s. c 314 s 7.]

Effective date—1993 c 128: See RCW 9A.50.902.

RCW 10.97.080 Inspection of information by subject—Challenges and corrections. All criminal justice agencies shall permit an individual who is, or who believes that he or she may be, the subject of a criminal record maintained by that agency, to appear in person during normal business hours of that criminal justice agency and request to see the criminal history record information held by that agency pertaining to the individual. The individual's right to access and review of criminal history record information shall not extend to data contained in intelligence, investigative, or other related files, and shall not be construed to include any information other than that defined as criminal history record information by this chapter.

Every criminal justice agency shall adopt rules and make available forms to facilitate the inspection and review of criminal history record information by the subjects thereof, which rules may include requirements for identification, the establishment of reasonable periods of time to be allowed an individual to examine the record, and for assistance by an individual's counsel, interpreter, or other appropriate persons.

No person shall be allowed to retain or mechanically reproduce any nonconviction data except for the person who is the subject of the record. Such person may retain a copy of their personal nonconviction data information on file, if the criminal justice agency has verified the identities of those who seek to inspect them. Criminal justice agencies may impose such additional restrictions, including fingerprinting, as are reasonably necessary both to assure the record's security and to verify the identities of those who seek to inspect them. The criminal justice agency may charge a reasonable fee for fingerprinting or providing a copy of the personal nonconviction data information pursuant to this section. The provisions of chapter 42.56 RCW shall not be construed to require or authorize copying of nonconviction data for any other purpose.

The Washington state patrol shall establish rules for the challenge of records which an individual declares to be inaccurate or incomplete, and for the resolution of any disputes between individuals and criminal justice agencies pertaining to the accuracy and completeness of criminal history record information. The Washington state patrol shall also adopt rules for the correction of criminal history record information and the dissemination of corrected information to agencies and persons to whom inaccurate or incomplete information was previously disseminated. Such rules may establish time limitations of not less than ninety days upon the requirement for disseminating corrected information. [2012 c 125 s 3; 2010 c 8 s 1093; 2005 c 274 s 206; 1979 ex.s. c 36 s 3; 1977 ex.s. c 314 s 8.]

RCW 10.97.090 Administration by state patrol. The Washington state patrol is hereby designated the agency of state government responsible for the administration of the 1977 Washington State

Criminal Records Privacy Act. The Washington state patrol may adopt any rules and regulations necessary for the performance of the administrative functions provided for in this chapter.

The Washington state patrol shall have the following specific administrative duties:

(1) To establish by rule and regulation standards for the security of criminal history information systems in order that such systems and the data contained therein be adequately protected from fire, theft, loss, destruction, other physical hazard, or unauthorized access;

(2) To establish by rule and regulation standards for personnel employed by criminal justice of other state and local government agencies in positions with responsibility for maintenance and dissemination of criminal history record information; and

(3) To contract with the Washington state auditor or other public or private agency, organization, or individual to perform audits of criminal history record information systems. [1979 ex.s. c 36 s 4; 1977 ex.s. c 314 s 9.]

RCW 10.97.100 Fees. Criminal justice agencies shall be authorized to establish and collect reasonable fees for the dissemination of criminal history record information to agencies and persons other than criminal justice agencies. [1977 ex.s. c 314 s 10.]

RCW 10.97.110 Civil remedies—Criminal prosecution not affected. Any person may maintain an action to enjoin a continuance of any act or acts in violation of any of the provisions of this chapter, and if injured thereby, for the recovery of damages and for the recovery of reasonable attorneys' fees. If, in such action, the court shall find that the defendant is violating or has violated any of the provisions of this chapter, it shall enjoin the defendant from a continuance thereof, and it shall not be necessary that actual damages to the plaintiff be alleged or proved. In addition to such injunctive relief, the plaintiff in said action shall be entitled to recover from the defendant the amount of the actual damages, if any, sustained by him or her if actual damages to the plaintiff are alleged and proved. In any suit brought to enjoin a violation of this chapter, the prevailing party may be awarded reasonable attorneys' fees, including fees incurred upon appeal. Commencement, pendency, or conclusion of a civil action for injunction or damages shall not affect the liability of a person or agency to criminal prosecution for a violation of this chapter. [2010 c 8 s 1094; 1979 ex.s. c 36 s 5; 1977 ex.s. c 314 s 11.]

RCW 10.97.120 Criminal penalties—Civil action not affected. Violation of the provisions of this chapter shall constitute a misdemeanor, and any person whether as principal, agent, officer, or director for himself or herself or for another person, or for any firm or corporation, public or private, or any municipality who or which shall violate any of the provisions of this chapter shall be guilty of a misdemeanor for each single violation. Any criminal prosecution shall not affect the right of any person to bring a civil action as

authorized by this chapter or otherwise authorized by law. [2010 c 8 s 1095; 1977 ex.s. c 314 s 12.]

RCW 10.97.130 Child victims of sexual assaults and commercial sexual exploitation, identification confidential. (1) Information revealing the specific details that describe the alleged or proven child victim of sexual assault or commercial sexual exploitation under age 18, or the identity or contact information of an alleged or proven child victim of sexual assault or commercial sexual exploitation under age 18 is confidential and not subject to release to the press or public without the permission of the child victim and the child's legal guardian. Identifying information includes the child victim's name, addresses, location, photographs, and in cases in which the child victim is a relative, stepchild, or stepsibling of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. Contact information includes phone numbers, email addresses, social media profiles, and user names and passwords. Contact information or information identifying the child victim of sexual assault or commercial sexual exploitation may be released to law enforcement, prosecutors, judges, defense attorneys, or private or governmental agencies that provide services to the child victim of sexual assault. Prior to release of any criminal history record information, the releasing agency shall delete any contact information or information identifying a child victim of sexual assault or commercial sexual exploitation from the information except as provided in this section.

(2) This section does not apply to court documents or other materials admitted in open judicial proceedings.

(3) For purposes of this section, "commercial sexual exploitation" has the same meaning as in RCW 7.105.010. [2024 c 298 s 20; 2019 c 300 s 2; 1992 c 188 s 8.]

Effective date—2024 c 298: See note following RCW 9A.40.100.

Findings—Intent—Severability—1992 c 188: See notes following RCW 7.69A.020.

RCW 10.97.140 Construction. Nothing in RCW 40.14.060 or 40.14.070 or chapter 42.56 RCW precludes dissemination of criminal history record information, including nonconviction data, for the purposes of this chapter. [2005 c 274 s 207; 1999 c 326 s 4.]