

Original sponsor: Rules Committee by
request of the Governor

Offered: 5/10/72
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 563

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act insuring the security and privacy of criminal
7 justice information systems; and providing for an
8 effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 12 is amended by adding a new chapter to read:

11 CHAPTER 62. CRIMINAL JUSTICE INFORMATION SYSTEMS
12 SECURITY AND PRIVACY.

13 Sec. 12.62.010. REGULATIONS. The Governor's Commission on the
14 Administration of Justice established under AS 44.19.746 - 44.19.758
15 is authorized, after appropriate consultation with representatives of
16 state and local law enforcement agencies participating in information
17 systems covered by this chapter, to establish rules, regulations, and
18 procedures considered necessary to facilitate and regulate the exchange
19 of criminal justice information and to insure the security and privacy
20 of criminal justice information systems. The notice and hearing
21 requirements of the Administrative Procedure Act (AS 44.62), relating
22 to the adoption of regulations, apply to regulations adopted under
23 this chapter.

24 Sec. 12.62.020. COLLECTION AND STORAGE. (a) The commission
25 shall establish regulations concerning the specific classes of criminal
26 justice information which may be collected and stored in criminal
27 justice information systems.

28 (b) No information collected under the provisions of any of the
29 following titles of the Alaska Statutes, except for information related

1 to criminal offenses under those titles, may be collected or stored in
2 criminal justice information systems:

- 3 (1) AS 02, except chs. 20, 30 and 35;
- 4 (2) AS 03 - 04;
- 5 (3) AS 05, except chs. 20, 25, 30 and 35;
- 6 (4) AS 06 - 10;
- 7 (5) AS 13 - 15;
- 8 (6) AS 17;
- 9 (7) AS 18, except AS 18.60.120 - 18.60.175 and ch. 65;
- 10 (8) AS 19 - 27;
- 11 (9) AS 29 - 32;
- 12 (10) AS 34 - 46; and
- 13 (11) AS 47, except ch. 10.

14 Sec. 12.62.030. ACCESS AND USE. (a) Except as provided in
15 (b) and (c) of this section, access to specified classes of criminal
16 justice information in criminal justice information systems is avail-
17 able only to individual law enforcement agencies according to the
18 specific needs of the agency under regulations established by the
19 commission under sec. 10 of this chapter. Criminal justice information
20 may be used only for law enforcement purposes or for those additional
21 lawful purposes necessary to the proper enforcement or administration
22 of other provisions of law as the commission may prescribe by regula-
23 tions established under sec. 10 of this chapter. No criminal justice
24 information may be disseminated to an agency before the commission
25 determines the agency's eligibility to receive that information.

26 (b) Criminal justice information may be made available to quali-
27 fied persons for research related to law enforcement under regulations
28 established by the commission. These regulations must include pro-
29 cedures to assure the security of information and the privacy of

1 individuals about whom information is released.

2 (c) A person shall have the right to inspect criminal justice
3 information which refers to him. If a person believes the information
4 to be inaccurate, incomplete or misleading, he may request the
5 criminal justice agency having custody or control of the records to
6 purge, modify or supplement them. If the agency declines to do so,
7 or if the person believes the agency's decision to be otherwise unsatis-
8 factory, the person may in writing request review by the commission
9 within 60 days of the decision of the agency. The commission, its
10 representative or agent shall, in a case in which it finds a basis for
11 complaint, conduct a hearing at which the person may appear with
12 counsel, present evidence, and examine and cross-examine witnesses.
13 Written findings and conclusions shall be issued. If the record in
14 question is found to be inaccurate, incomplete or misleading, the com-
15 mission shall order it to be appropriately purged, modified or supple-
16 mented by an explanatory notation. An agency or person in the state
17 with custody, possession or control of the record shall promptly have
18 every copy of the record altered in accordance with the commission's
19 order. Notification of a deletion, amendment and supplementary notation
20 shall be promptly disseminated by the commission to persons or agencies
21 to which records in question have been communicated, as well as to the
22 person whose records have been altered.

23 (d) An agency holding or receiving criminal justice information
24 shall maintain, for a period determined by the commission to be appro-
25 priate, a listing of the agencies to which it has released or communi-
26 cated the information. These listings shall be reviewed from time to
27 time by the commission or staff members of the commission to determine
28 whether the provisions of this chapter or any applicable regulations
29 have been violated.

1 (e) Reasonable hours and places of inspection, and any additional
2 restrictions, including fingerprinting, that are reasonably necessary
3 both to assure the record's security and to verify the identities of
4 those who seek to inspect them may be prescribed by published rules.
5 Fingerprints taken under this subsection may not be transferred to
6 another agency or used for any other purpose.

7 (f) A person or agency aggrieved by an order or decision of the
8 commission under (c) of this section may appeal the order or decision
9 to the superior court. The court shall in each case conduct a de novo
10 hearing and may order the relief it determines to be necessary. If a
11 person about whom information is maintained by an agency challenges
12 that information in an action under this subsection as being inaccurate,
13 incomplete or misleading, the burden is on the agency to prove that
14 the information is not inaccurate, incomplete or misleading.

15 Sec. 12.62.040. SECURITY, UPDATING, AND PURGING. (a) Criminal
16 justice information systems shall

17 (1) be dedicated to law enforcement purposes and be under
18 the management and control of law enforcement agencies unless exempted
19 under regulations prescribed under sec. 10 of this chapter;

20 (2) include operating procedures approved by the commission
21 which are reasonably designed to assure the security of the information
22 contained in the system from unauthorized disclosure, and reasonably
23 designed to assure that criminal offender record information in the
24 system is regularly and accurately revised to include subsequently
25 furnished information;

26 (3) include operating procedures approved by the commission
27 which are designed to assure that information concerning an individual
28 shall be removed from the records, based on considerations of age,
29 nature of record, and reasonable interval following the last entry of

1 information indicating that the individual is still under the juris-
2 diction of a law enforcement agency.

3 (b) Notwithstanding any provision of this section, any criminal
4 justice information relating to minors which is maintained as part of a
5 criminal justice information system must be afforded at least the same
6 protection and is subject to the same procedural safeguards for the
7 benefit of the individual with respect to whom the information is
8 maintained, in matters relating to access, use and security as it would
9 be under AS 47.10.090.

10 Sec. 12.62.050. INTERSTATE SYSTEMS FOR THE EXCHANGE OF CRIMINAL
11 JUSTICE INFORMATION. (a) The commission shall regulate the participa-
12 tion by all state and local criminal justice agencies in an interstate
13 system for the exchange of criminal justice information, and shall be
14 responsible to assure the consistency of the participation with the
15 provisions and purposes of this chapter. The commission may not compel
16 any criminal justice agency to participate in an interstate system.

17 (b) Direct access to an interstate system for the exchange of
18 criminal justice information shall be limited to those criminal justice
19 agencies that are expressly designated for that purpose by the commis-
20 sion. When the system employs telecommunications access terminals, the
21 commission shall limit the number and placement of the terminals to
22 those for which adequate security measures may be taken and as to which
23 the commission may impose appropriate supervisory regulations.

24 Sec. 12.62.060. CIVIL AND CRIMINAL REMEDIES. (a) A person with
25 respect to whom criminal justice information has been wilfully main-
26 tained, disseminated, or used in violation of this chapter has a civil
27 cause of action against the person responsible for the violation and
28 shall be entitled to recover actual damages and reasonable attorney
29 fees and other reasonable litigation costs.

1 (b) A person who wilfully disseminates or uses criminal justice
2 information knowing such dissemination or use to be in violation of
3 this chapter, upon conviction, is punishable by a fine of not more
4 than \$1,000 or by imprisonment for not more than one year, or by both.

5 (c) A good faith reliance upon the provisions of this chapter or
6 of applicable law governing maintenance, dissemination, or use of
7 criminal justice information, or upon rules, regulations, or procedures
8 prescribed under this chapter is a complete defense to a civil or
9 criminal action brought under this chapter.

10 Sec. 12.62.070. DEFINITIONS. In this chapter

11 (1) "criminal justice information system" means a system,
12 including the equipment, facilities, procedures, agreements, and
13 organizations related to the system funded in whole or in part by the
14 Law Enforcement Assistance Administration, for the collection, process-
15 ing, or dissemination of criminal justice information;

16 (2) "criminal justice information" means information con-
17 cerning an individual in a criminal justice information system and
18 indexed under the individual's name, or retrievable by reference to
19 the individual by name or otherwise and which is collected or stored
20 in a criminal justice information system;

21 (3) "commission" means the Governor's Commission on the
22 Administration of Justice established under AS 44.19.746 - 44.19.758;

23 (4) "interstate systems" means agreements, arrangements and
24 systems for the interstate transmission and exchange of criminal justice
25 information, but does not include record keeping systems in the state
26 maintained or controlled by a state or local agency, or group of
27 agencies, even if the agency receives information through, or otherwise
28 participates in, systems for the interstate exchange of criminal justice
29 information;

1 (5) "law enforcement" means any activity relating to crime
2 prevention, control or reduction or the enforcement of the criminal
3 prevention, control or reduction or the enforcement of the criminal
4 law, including, but not limited to, police efforts to prevent, control
5 or reduce crime or to apprehend criminals, activities of criminal
6 prosecution, courts, public defender, corrections, probation or parole
7 authorities;

8 (6) "law enforcement agency" means a public agency which
9 performs as one of its principal functions activities pertaining to
10 law enforcement.

11 * Sec. 2. AS 18.65.060(a) is amended to read:

12 (a) All peace officers in the state or any municipality or sub-
13 division shall cooperate with the Department of Public Safety in
14 creating and maintaining its files, and all information shall be classi-
15 fied upon standard forms and kept available for the detection of crime
16 and the identification of criminals. Criminal justice information
17 collected and maintained under this section is subject to the provisions
18 of AS 12.62.

19 * Sec. 3. This Act takes effect October 1, 1972.
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