



LAWS OF ALASKA

1972

Source

CSHB 563

Chapter No.

161

AN ACT

Insuring the security and privacy of criminal justice information systems; and providing for an effective date.

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

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

CHAPTER 62. CRIMINAL JUSTICE INFORMATION SYSTEMS SECURITY AND PRIVACY.

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

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

(b) No information collected under the provisions of any of the following titles of the Alaska Statutes, except for information related to criminal offenses under those titles, may be collected or stored in criminal justice information systems:

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

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

(b) Criminal justice information may be made available to qualified persons for research related to law enforcement under regulations established by the commission. These regulations must include procedures to assure the security of information and the privacy of individuals about whom information is released.

(c) A person shall have the right to inspect criminal justice information which refers to him. If a person believes the information to be inaccurate, incomplete or misleading, he may request the criminal justice agency having custody or control of the records to purge, modify or supplement them. If the agency declines to do so, or if the person believes the agency's decision to be otherwise unsatisfactory, the person may in writing request review by the commission within 60 days of the decision of the agency. The commission, its representative or agent shall, in a case in which it finds a basis for complaint, conduct a hearing at which the person may appear with counsel, present evidence, and examine and cross-examine witnesses. Written findings and conclusions shall be issued. If the record in question is found to be inaccurate, incomplete or misleading, the commission shall order it to be

appropriately purged, modified or supplemented by an explanatory notation. An agency or person in the state with custody, possession or control of the record shall promptly have every copy of the record altered in accordance with the commission's order. Notification of a deletion, amendment and supplementary notation shall be promptly disseminated by the commission to persons or agencies to which records in question have been communicated, as well as to the person whose records have been altered.

(d) An agency holding or receiving criminal justice information shall maintain, for a period determined by the commission to be appropriate, a listing of the agencies to which it has released or communicated the information. These listings shall be reviewed from time to time by the commission or staff members of the commission to determine whether the provisions of this chapter or any applicable regulations have been violated.

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

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

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

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

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

(3) include operating procedures approved by the commission which are designed to assure that information concerning an individual shall be removed from the records, based on considerations of age, nature of record, and reasonable interval following the last entry of information indicating that the individual is still under the jurisdiction of a law enforcement agency.

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

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

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

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

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

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

Sec. 12.62.070. DEFINITIONS. In this chapter

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

(2) "criminal justice information" means information concerning an individual in a criminal justice information system and indexed under the individual's name, or

retrievable by reference to the individual by name or otherwise and which is collected or stored in a criminal justice information system;

(3) "commission" means the Governor's Commission on the Administration of Justice established under AS 44.-19.746 - 44.19.758;

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

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

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

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

(a) All peace officers in the state or any municipality or subdivision shall cooperate with the Department of Public Safety in creating and maintaining its files, and all information shall be classified upon standard forms and kept available for the detection of crime and the identification of criminals. Criminal justice information collected and maintained under this section is subject to the provisions of AS 12.62.

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