

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 443

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO CRIMINAL HISTORY RECORDS AND CRIME INFORMATION; AMENDING SECTION 67-3004, IDAHO CODE, TO REVISE PROVISIONS RELATING TO FINGERPRINTING AND IDENTIFICATION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 67-3004, Idaho Code, be, and the same is hereby amended to read as follows:

67-3004. FINGERPRINTING AND IDENTIFICATION. (1) The bureau shall:

(a) Obtain and file fingerprints, physical descriptions and any other available identifying data on persons who have been arrested or served a criminal summons in this state for a retainable offense;

(b) Accept fingerprints and other identifying data taken by a law enforcement agency for the purpose of identification or conducting a records review for criminal justice purposes; and

(c) ~~Have the capacity to conduct crime scene investigations for the detection and identification of latent fingerprints~~ Process latent fingerprints generated from crime scenes, evidence and law enforcement agencies through the automated fingerprint identification system for prospective identification.

(2) The bureau shall establish policy regarding an arrest fingerprint card and procedures for the taking of fingerprints under this section.

(3) When a person is arrested for a retainable offense, with or without a warrant, fingerprints of the person shall be taken by the law enforcement agency making the arrest. A law enforcement agency may contract or make arrangements with a jail or correctional facility or other criminal justice agency to take the required fingerprints from a person who is arrested by the law enforcement agency.

(4) If a person was arrested and is in the custody of a law enforcement agency, jail or correctional facility and a felony summons or information is filed for an offense separate from the offense for which the person is in custody, the agency, jail or correctional facility shall take the fingerprints of the person in connection with the new offense.

(5) At the initial court appearance or arraignment of a person for an offense pursuant to a felony summons or information, the court, upon notice from the prosecuting attorney, shall order a law enforcement agency to fingerprint the person if he has not been previously fingerprinted for the same offense.

(6) When a defendant is convicted or otherwise adjudicated for a felony offense for which the defendant has not been previously fingerprinted, the court shall order, upon notice from the prosecuting attorney, a law enforcement agency to fingerprint the defendant as a condition of sentence, probation or release.

1 (7) When a person is received by a state correctional facility, the
2 department of correction shall ensure that legible fingerprints of the
3 person are taken and submitted to the bureau.

4 (8) When the bureau receives fingerprints of a person in connection
5 with an arrest or incarceration, the bureau shall make a reasonable
6 effort to confirm within five (5) working days the identity of the person
7 fingerprinted. In an emergency situation when an immediate positive
8 identification is needed, a criminal justice agency may request the
9 department to provide immediate identification service.

10 (9) If the arresting officer, the law enforcement agency that employs
11 the officer, or the jail or correctional facility where fingerprints
12 were taken is notified by the bureau that fingerprints taken under this
13 section are not legible, the officer, agency or facility shall make a
14 reasonable effort to obtain a legible set of fingerprints. If legible
15 fingerprints cannot be obtained within a reasonable period of time, and
16 if illegible fingerprints were taken under a court order, the officer or
17 agency shall inform the court, which shall order the defendant to submit to
18 fingerprinting again.

19 (10) Any person who was arrested or served a criminal summons and who
20 subsequently was not charged by indictment or information within one (1)
21 year of the arrest or summons and any person who was acquitted of all offenses
22 arising from an arrest or criminal summons may have the fingerprint and
23 criminal history record taken in connection with the incident expunged
24 pursuant to the person's written request directed to the department.