

IN THE SENATE

SENATE BILL NO. 1314, As Amended

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO CRIMINAL HISTORY RECORDS; AMENDING SECTION 67-3004, IDAHO CODE,
2 TO PROVIDE FOR THE EXPUNGEMENT OF FINGERPRINT AND CRIMINAL HISTORY
3 RECORDS IN CERTAIN INSTANCES, TO PROVIDE THAT A COURT FILE MAY BE SEALED
4 IN CERTAIN INSTANCES AND TO PROVIDE AN EXCEPTION.
5

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

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

9 67-3004. FINGERPRINTING AND IDENTIFICATION. (1) The bureau shall:

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

13 (b) Accept fingerprints and other identifying data taken by a law en-
14 forcement agency for the purpose of identification or conducting a
15 records review for criminal justice purposes; and

16 (c) Process latent fingerprints generated from crime scenes, evidence
17 and law enforcement agencies through the automated fingerprint identi-
18 fication system for prospective identification.

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

21 (3) When a person is arrested for a retainable offense, with or with-
22 out a warrant, fingerprints of the person shall be taken by the law enforce-
23 ment agency making the arrest. A law enforcement agency may contract or make
24 arrangements with a jail or correctional facility or other criminal justice
25 agency to take the required fingerprints from a person who is arrested by the
26 law enforcement agency.

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

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

37 (6) When a defendant is convicted or otherwise adjudicated for a felony
38 offense for which the defendant has not been previously fingerprinted, the
39 court shall order, upon notice from the prosecuting attorney, a law enforce-
40 ment agency to fingerprint the defendant as a condition of sentence, proba-
41 tion or release.

1 (7) When a person is received by a state correctional facility, the de-
2 partment of correction shall ensure that legible fingerprints of the person
3 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 ef-
6 fort to confirm within five (5) working days the identity of the person
7 fingerprinted. In an emergency situation when an immediate positive identi-
8 fication is needed, a criminal justice agency may request the department to
9 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 were
12 taken is notified by the bureau that fingerprints taken under this section
13 are not legible, the officer, agency or facility shall make a reasonable ef-
14 fort to obtain a legible set of fingerprints. If legible fingerprints can-
15 not be obtained within a reasonable period of time, and if illegible finger-
16 prints were taken under a court order, the officer or agency shall inform the
17 court, which shall order the defendant to submit to fingerprinting again.

18 (10) Any person who was arrested or served a criminal summons and who
19 subsequently was not charged by indictment or information within one (1)
20 year of the arrest or summons and any person who was acquitted of all of-
21 fenses arising from an arrest or criminal summons, or who has had all charges
22 dismissed, may have the fingerprint and criminal history record taken in
23 connection with the incident expunged pursuant to the person's written re-
24 quest directed to the department and may have the official court file thereof
25 sealed. This provision shall not apply to any dismissal granted pursuant to
26 section 19-2604(1), Idaho Code.