

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 30
CRIMINAL HISTORY RECORDS AND CRIME INFORMATION

67-3001. DEFINITIONS. As used in this chapter:

(1) "Administration of criminal justice" means performance of any of the following activities: detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage and dissemination of criminal history record information.

(2) "Bureau" means the bureau of criminal identification in the Idaho state police.

(3) "Court" means any court created by the constitution and laws of the state of Idaho; and clerks of the district court.

(4) "Criminal history records" means physical and automated information on individuals collected and maintained by the Idaho state police as a result of arrest or the initiation of a criminal proceeding by felony summons or information. A criminal history record includes, as defined by department rule, any or all of the following information relating to each event that is subject to fingerprinting under section [67-3004](#), Idaho Code:

- (a) Information relating to offenders;
- (b) Information relating to arrests;
- (c) Information relating to prosecutions;
- (d) Information relating to the disposition of cases by courts;
- (e) Information relating to sentencing;
- (f) Information relating to probation and parole status; and
- (g) Information relating to offenders received by a correctional agency, facility or other institution.

The term shall not include statistical or analytical records, reports in which individuals are not identified and from which their identities are not ascertainable, criminal intelligence information or criminal investigative information, and source information or records maintained by and held at another criminal justice agency or the court.

(5) "Criminal justice agency" means a governmental agency or subdivision of a government entity that performs the administration of criminal justice pursuant to a statute, and that allocates a substantial portion of its budget to the administration of criminal justice.

(6) "Department" means the Idaho state police.

(7) "Director" means the director of the Idaho state police.

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

(9) "Fingerprints" means the fingerprint impressions submitted to and compiled by the bureau, in a manual or automated form, pursuant to section [67-3004](#), Idaho Code.

(10) "Pecuniary benefit" means any benefit to a person or member of his household in the form of money, property or commercial interests, the primary significance of which is economic gain.

(11) "Retainable offense" means:

- (a) A felony; or

(b) A serious misdemeanor as defined by rule adopted under section [67-3003](#) (2), Idaho Code.

(12) "Subject of record" means the person who is or may be the primary subject of a record of criminal justice information or any representative of the person designated by power of attorney or notarized authorization.

(13) "Working day" means each day except Saturday, Sunday, or a legal state holiday.

[67-3001, added 1999, ch. 249, sec. 2, p. 638; am. 2000, ch. 469, sec. 135, p. 1595.]

67-3002. POSITIVE IDENTIFICATION -- FINGERPRINTS REQUIRED. To ensure positive identification and system integrity, criminal history records shall be supported by fingerprints, which may be maintained manually, electronically or on optical disk. The records shall be linked to an automated fingerprint identification system. For the purpose of including prescribed information categories, the system may be linked with databases maintained by other state agencies. Whenever possible, the reporting of information by criminal justice agencies relating to the categories identified in section [67-3001](#) (4), Idaho Code, shall be conducted electronically or by magnetic medium. Any technology used in this process will conform to the standards, guidelines and conventions established by the Idaho technology authority.

[67-3002, added 1999, ch. 249, sec. 2, p. 640; am. 2014, ch. 97, sec. 36, p. 291; am. 2015, ch. 244, sec. 53, p. 1036.]

67-3003. DUTIES OF THE DEPARTMENT. (1) The department shall establish a bureau of criminal identification to:

(a) Serve as the state's central repository of criminal history records;

(b) Conduct criminal background checks as authorized by law or rule and provide fingerprint identification services;

(c) Obtain and electronically file information relating to in-state stolen vehicles and in-state wanted persons;

(d) Establish and maintain an automated fingerprint identification system;

(e) Establish a uniform crime reporting system for the periodic collection and reporting of crimes, and compile and publish statistics and other information on the nature and extent of crime in the state;

(f) Maintain, pursuant to department rule, other identification information, which may include, but is not limited to, palm prints and photographs;

(g) Cooperate with other criminal justice agencies of the state, state and federal courts, the criminal records repositories of other states, the federal bureau of investigation criminal justice information services, the national law enforcement telecommunications system, and other appropriate agencies and systems, in the operation of an effective interstate and national system of criminal identification, records and statistics;

(h) Develop and implement a training program to assist criminal justice agencies with the recordkeeping and reporting requirements of this chapter; and

(i) Obtain and electronically transmit to the national instant criminal background check system (NICS), in accordance with federal law, in-

formation relating to eligibility to receive or possess a firearm pursuant to state or federal law. Upon notification to the department that the basis for which any such information previously transmitted to the NICS does not apply or no longer applies, the department shall, as soon as practicable, notify the NICS of such change and shall update, correct, modify or remove such information from the NICS database.

(2) In accordance with [chapter 52, title 67](#), Idaho Code, the department may adopt rules necessary to implement the provisions of this chapter. Rules relating to information maintained and reported by the court shall be made after consultation with and approval by the Idaho supreme court.

[67-3003, added 1999, ch. 249, sec. 2, p. 640; am. 2010, ch. 267, sec. 2, p. 675.]

67-3004. FINGERPRINTING AND IDENTIFICATION -- SHIELDING OF RECORDS FROM DISCLOSURE. (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) 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.

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

(8) When the bureau receives fingerprints of a person in connection with an arrest or incarceration, the bureau shall make a reasonable effort to confirm within five (5) working days the identity of the person

fingerprinted. In an emergency situation when an immediate positive identification is needed, a criminal justice agency may request the department to provide immediate identification service.

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

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

(11)(a) In addition to the remedies set forth in subsection (10) of this section, any person arrested for, prosecuted for, or convicted of a misdemeanor that is not an assaultive or violent misdemeanor listed in paragraph (b) of this subsection or arrested for, prosecuted for, or convicted of felony possession of a controlled substance under section [37-2732](#)(a), (c), or (e), Idaho Code, in this state may petition the court to have the person's record be shielded from disclosure in accordance with rules adopted by the Idaho supreme court and within the capabilities of its record-keeping system. Upon the filing of the petition, the court shall set a date for a hearing and shall notify the prosecuting attorney of the date of the hearing. Upon receipt of such notification from the court, the prosecuting attorney shall provide to any readily identifiable crime victim whatever notifications are required under section 22, article I of the constitution of the state of Idaho. The court, in its discretion, may hear testimony at the hearing from any person who has relevant information about the petitioner.

(b) Assaultive or violent misdemeanors shall include:

- (i) Assault ([18-901](#), Idaho Code);
- (ii) Battery ([18-903](#), Idaho Code);
- (iii) Domestic battery ([18-918](#), Idaho Code);
- (iv) Stalking in the second degree ([18-7906](#), Idaho Code);
- (v) Violation of a protection order or no contact order ([18-7907](#) and [18-920](#), Idaho Code);
- (vi) Telephone harassment ([18-6710](#), Idaho Code);
- (vii) Vehicular manslaughter ([18-4006](#)(3)(c), Idaho Code);
- (viii) Excessive driving under the influence ([18-8004C](#), Idaho Code);
- (ix) Domestic assault ([18-918](#)(3)(a), Idaho Code);
- (x) Battery upon law enforcement ([18-915](#)(1)(b), Idaho Code);
- (xi) Injury to children ([18-1501](#), Idaho Code);
- (xii) Sexual battery ([18-924](#), Idaho Code); and
- (xiii) Indecent exposure ([18-4116](#), Idaho Code).

(c) To be eligible to have records shielded from disclosure under this subsection, a petitioner must file a petition to shield records of the conviction no earlier than five (5) years after completing the petitioner's sentence, including all ordered probation, parole, fines, and restitution; provided that during such five (5) year period and until the time of a hearing on the petition, the petitioner has not had any subsequent felony or misdemeanor convictions and is not on probation or parole for a subsequent conviction, has no misdemeanor or felony cases pending against him, and has no restraining orders against him in effect at the time of filing the petition to shield the records.

(d) If the court finds, after a hearing, that the petitioner is eligible to have his records shielded from disclosure pursuant to this subsection and further finds to its satisfaction that the petitioner has been held accountable and that shielding the petitioner's record from disclosure would not compromise public safety or the safety of any victims, the court shall order all records in the petitioner's case in the custody of the court to be shielded from disclosure and unavailable for public viewing. Upon such a shielding from disclosure of the petitioner's records, the court shall notify the Idaho state police of the shielding and, upon receipt of the notification, the Idaho state police shall make any law enforcement investigatory reports and fingerprint records unavailable for public viewing. A special index of the shielding proceedings and records shall be kept by the court ordering the shielding of records, which shall not be available to the public unless otherwise ordered by a court of competent jurisdiction. Except as provided in paragraphs (i) and (j) of this subsection and other than in a judicial proceeding or as part of the licensing process for peace officers, upon the entry of the order, the proceedings in the petitioner's case shall be deemed never to have occurred, and the petitioner may lawfully reply accordingly to any inquiry in the matter.

(e) A proceeding to shield records from disclosure under the provisions of this subsection shall occur in the underlying criminal case.

(f) A court ordering records to be shielded from disclosure pursuant to this subsection shall notify the supreme court of the shielding, and the supreme court shall, within the capabilities of its record-keeping system, maintain a record of all records shielded, searchable by the name of the person whose records are shielded. To the extent not prohibited by federal law, it shall be the policy of the state of Idaho that the records shielded from disclosure shall not be available to the public but may be accessed at any time by the subject of the petition, by law enforcement personnel, and by court officers to the extent permitted by operative court rules. The record shall otherwise remain shielded from disclosure to the public. Nothing in this paragraph shall be construed to limit a law enforcement agency or court officer from accessing any records or databases created or maintained by law enforcement or prosecutors.

(g) A person whose records are shielded from disclosure pursuant to this subsection:

(i) Shall, upon a subsequent felony conviction and upon request by the prosecutor, have such shielding from disclosure revoked by the court as part of his sentencing; and

(ii) May, upon a subsequent misdemeanor conviction and upon request by the prosecutor, have such shielding revoked by the court as part of his sentencing.

(h) A law enforcement agency, prosecuting attorney, or the court shall not incur any civil or criminal liability for the unintentional or negligent release, or the release by a third party, of a record shielded from disclosure pursuant to this subsection.

(i) The shielding from disclosure of records under this subsection shall have no effect on the operation of sections [18-310](#) and [18-3316](#), Idaho Code.

(j) To the extent permitted by operative court rules, a POST-certified peace officer or prosecuting attorney shall have complete access to and use of all records shielded from disclosure pursuant to this subsection for purposes including but not be limited to communicating with crime victims, all in-court purposes and hearings, investigations, and enhancements.

(k) A person may have only one (1) petition granted during such person's lifetime to have one (1) of the crimes eligible under this subsection, or more than one (1) eligible crime under this subsection if committed in a single incident or transaction, shielded from disclosure pursuant to this subsection.

(l) The procedures set forth in this subsection, including the specific processes established that affect access to court records, are subject to the rules of the Idaho supreme court.

[67-3004, added 1999, ch. 249, sec. 2, p. 640; am. 2010, ch. 33, sec. 1, p. 63; am. 2018, ch. 286, sec. 1, p. 674; am. 2023, ch. 108, sec. 1, p. 315.]

67-3005. RECORDS AND REPORTING -- DUTIES OF OTHER CRIMINAL JUSTICE AGENCIES AND THE COURT. (1) Each criminal justice agency shall:

(a) Transmit to the department, when and in the manner prescribed by this chapter or any rules adopted pursuant thereto, all information required by section [67-3001](#) (4), Idaho Code, for inclusion in the criminal history records;

(b) Provide the department and its accredited agents access to source records and files for the purpose of assessing the accuracy, completeness and timeliness of the criminal history records maintained by the department; and

(c) Cooperate with the department so that it may properly perform the duties that are mandated by this chapter.

(2) When a law enforcement agency or jail facility fingerprints a person as required by section [67-3004](#), Idaho Code, the agency or facility shall initiate the reporting process by transmitting to the department the authorized and fully completed arrest fingerprint card and identification information within ten (10) working days after the arrest, arraignment or court-ordered fingerprinting. A law enforcement agency or jail facility required to take fingerprints shall ensure that the process control number on the arrest fingerprint card is transmitted to the appropriate court clerk for recording in the court's automated information system. When appropriate, the law enforcement agency or jail facility shall report, in a manner and in a form prescribed by the department, the disposition relating to the charge or arrest.

(3) The clerk of the court exercising jurisdiction over a case relating to a retainable offense shall report the court disposition of the case to the department, in a manner and format determined by the department after consultation with and approval by the Idaho supreme court.

(4) The department of correction shall report, in a manner and on a form prescribed by the department, information on an individual committed to and released from a state correctional facility.

(5) The department of correction shall report, in a manner and on a form prescribed by the department, information on an individual committed to and released from its supervision as a result of probation, parole or other judicial action.

(6) With the approval of the department, a criminal justice agency or the court may report required information by electronic medium either directly to the department or indirectly through a sharing of information via the linkage of automated systems or databases.

[67-3005, added 1999, ch. 249, sec. 2, p. 642.]

67-3006. REPORTING OF UNIFORM CRIME INFORMATION. A law enforcement agency shall submit to the department, at the time, in the manner, and in the form prescribed by the department, data regarding crimes committed within that agency's jurisdiction. The department shall publish an annual report, available no later than July 1 of the following year, containing the statistical information gathered under this section that relates to the number and nature of criminal offenses, arrests, and clearances, and any other data the director determines to be appropriate relating to the method, frequency, cause and prevention of crime.

[67-3006, added 1999, ch. 249, sec. 2, p. 642.]

67-3007. COMPLETENESS, ACCURACY AND SECURITY OF CRIMINAL HISTORY RECORDS. (1) The department shall:

- (a) Adopt reasonable procedures to ensure that criminal justice information it maintains is accurate and complete;
- (b) Notify a criminal justice agency or persons known to have received information of a material nature that is inaccurate or incomplete;
- (c) Provide adequate procedures and facilities to protect criminal justice information from unauthorized access and from accidental or deliberate damage; and
- (d) Provide procedures for screening, supervising and disciplining department personnel in order to minimize the risk of security violations.

(2) The department shall, by rule, adopt procedures for a person to review and challenge the accuracy and completeness of an Idaho criminal history record pertaining to that person. The rules shall provide for administrative review of any challenge and the necessary correction of inaccurate and incomplete information.

(3) The department of health and welfare shall furnish monthly to the department without fee a listing showing the name, date of birth, and social security number of each Idaho resident who has died during the preceding month. The listing shall be used only for the administration of criminal justice and shall not be disseminated by the department.

(4) The department shall review each year a sample of records held by randomly selected agencies to verify adherence to the requirements of this chapter and other applicable state and federal laws.

(5) The department is immune from any civil or criminal liability arising from the accuracy or completeness of any records it receives from the federal bureau of investigation or another state central repository, if the department acts in good faith.

[67-3007, added 1999, ch. 249, sec. 2, p. 643.]

67-3008. RELEASE OF CRIMINAL HISTORY RECORD INFORMATION. (1) All units of state, city and local governments, as well as any agency of the state created by the legislature which require by statute, rule, or local or county ordinance, fingerprinting of applicants or licensees, are authorized to submit fingerprints to the bureau for examination and further submission, if necessary, to the federal bureau of investigation. The bureau shall be the state's sole source of fingerprint submissions for criminal justice and applicant or licensing purposes to the federal bureau of investigation.

(2) The department shall provide copies of or communicate information from criminal history records to the following:

(a) Criminal justice agencies and the court;

(b) A person or public or private agency, upon written application on a form approved by the director and provided by the department, subject to the following restrictions:

(i) A request for criminal history records must be submitted in writing or as provided by rule. However, the department shall accept a request presented in person by the subject of the record; and

(ii) The request must identify a specific person by name and date of birth. Fingerprints of the person named may be required to establish positive identification; and

(iii) Responding to the request does not interfere with the secure and orderly conduct of the department and would not substantially prejudice or prevent the carrying out of the functions of the department; and

(iv) A record of an arrest that does not contain a disposition after twelve (12) months from the date of arrest may only be disseminated by the department to criminal justice agencies, to the subject of the record, or to a person requesting the criminal history information with a signed release from the subject of the record; and

(v) Any release of criminal history data by the department shall prominently display the statement: "AN ARREST WITHOUT DISPOSITION IS NOT AN INDICATION OF GUILT."

(3) Judicial review of the department's denial of a request for records shall be in accordance with the provisions of section [74-115](#), Idaho Code.

(4) A request for a criminal history record by a criminal justice agency or a court shall take precedence over all other requests. The department shall adopt rules to set forth the manner by which criminal justice agencies and courts without direct access to the public safety and security information system established by section [19-5202](#), Idaho Code, may request Idaho criminal history record information.

(5) Unless otherwise provided by law, access authorized under this section to criminal history records does not create a duty upon a person,

employer, private agency, or public agency to examine the criminal history record of an applicant, employee or volunteer.

(6) A person or private agency, or public agency, other than the department, shall not disseminate criminal history record information obtained from the department to a person or agency that is not a criminal justice agency or a court without a signed release of the subject of record or unless otherwise provided by law.

(7) Direct access to criminal history record information is regulated by [chapter 52, title 19](#), Idaho Code, and the rules adopted pursuant to that chapter.

[67-3008, added 1999, ch. 249, sec. 2, p. 643; am. 2005, ch. 115, sec. 7, p. 375; am. 2015, ch. 141, sec. 171, p. 514.]

67-3009. CRIMINAL PENALTIES. (1) It is unlawful for a person for personal gain to request, obtain, or attempt to obtain criminal history records under false pretenses or willfully communicate or attempt to communicate criminal history records to any agency or person not authorized to receive the information by law. A violation of this subsection is a misdemeanor.

(2) It is unlawful for a person to willfully solicit, accept or agree to accept from another any pecuniary benefit as consideration for either willfully falsifying criminal history records or for willfully requesting, obtaining, or seeking to obtain criminal history records for a purpose not authorized by law. A violation of this subsection is a felony, and the punishment shall be a fine up to ten thousand dollars (\$10,000) and imprisonment in a state prison not exceeding five (5) years.

[67-3009, added 1999, ch. 249, sec. 2, p. 644.]

67-3010. FEES AUTHORIZED. The department, by rule, shall establish and collect fees for taking fingerprints and for processing a request for criminal record review of state and federal files when the purpose is other than the administration of criminal justice. The department may also collect and account for fees charged by the federal bureau of investigation for processing fingerprints forwarded to the federal bureau of investigation by the department.

[67-3010, added 1999, ch. 249, sec. 2, p. 645; am. 2008, ch. 48, sec. 1, p. 120.]

67-3011. NONCOMPLIANCE WITH REPORTING REQUIREMENTS. (1) If any criminal justice agency subject to the fingerprinting and reporting requirements under section [67-3005](#), Idaho Code, fails to comply with such requirements, the director may order the bureau to deny the agency access to criminal history records until the agency comes into compliance with reporting requirements prescribed by this chapter.

(2) On the request of a criminal justice agency, the department may provide the agency with technical staff assistance to achieve or maintain compliance with reporting requirements.

[67-3011, added 1999, ch. 249, sec. 2, p. 645.]

67-3012. NATIONAL CRIME PREVENTION AND PRIVACY COMPACT. (1) Findings. The legislature finds that there is a need to improve the quality and com-

pleteness of criminal history records made available to a state when it conducts national fingerprint-based record checks for applicant or noncriminal justice purposes. Criminal history records automated and held at the state level are the most complete and accurate sources for fingerprint-based records checks for authorized agencies or organizations screening persons seeking positions of trust. Ratification of the "National Crime Prevention and Privacy Compact" will provide direct access to criminal history records maintained in other member states.

(2) Enactment. The national crime prevention and privacy compact is hereby enacted into law and entered into with all other jurisdictions legally joined therein in the form substantially as follows:

The contracting parties agree to the following:

Overview

(a) In general. This compact organizes an electronic information sharing system among the federal government and the states to exchange criminal history records for noncriminal justice purposes authorized by federal or state law, such as background checks for governmental licensing and employment.

(b) Obligations of parties. Under this compact, the FBI and the party states agree to maintain detailed databases of their respective criminal history records, including arrests and dispositions, and to make them available to the federal government and to party states for authorized purposes. The FBI shall also manage the federal data facilities that provide a significant part of the infrastructure for the system.

ARTICLE I

DEFINITIONS

In this compact:

(1) Attorney general. The term "attorney general" means the attorney general of the United States.

(2) Compact officer. The term "compact officer" means:

(A) With respect to the federal government, an official so designated by the director of the FBI; and

(B) With respect to a party state, the chief administrator of the state's criminal history record repository or a designee of the chief administrator who is a regular full-time employee of the repository.

(3) Council. The term "council" means the compact council established under article VI.

(4) Criminal history records. The term "criminal history records":

(A) Means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release; and

(B) Does not include identification information such as fingerprint records if such information does not indicate involvement of the individual with the criminal justice system.

(5) Criminal history record repository. The term "criminal history record repository" means the state agency designated by the governor or other appropriate executive official or the legislature of a state to perform centralized recordkeeping functions for criminal history records and services in the state.

(6) Criminal justice. The term "criminal justice" includes activities relating to the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.

(7) Criminal justice agency. The term "criminal justice agency":

(A) Means:

(i) Courts; and

(ii) A governmental agency or any subunit thereof that:

(I) Performs the administration of criminal justice pursuant to a statute or executive order; and

(II) Allocates a substantial part of its annual budget to the administration of criminal justice; and

(B) Includes federal and state inspectors general offices.

(8) Criminal justice services. The term "criminal justice services" means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.

(9) Criterion offense. The term "criterion offense" means any felony or misdemeanor offense not included on the list of nonserious offenses published periodically by the FBI.

(10) Direct access. The term "direct access" means access to the national identification index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.

(11) Executive order. The term "executive order" means an order of the president of the United States or the chief executive officer of a state that has the force of law and that is promulgated in accordance with applicable law.

(12) FBI. The term "FBI" means the federal bureau of investigation.

(13) Interstate identification system. The term "interstate identification index system" or "III system":

(A) Means the cooperative federal-state system for the exchange of criminal history records; and

(B) Includes the national identification index, the national fingerprint file and, to the extent of their participation in such system, the criminal history record repositories of the states and the FBI.

(14) National fingerprint file. The term "national fingerprint file" means a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III system.

(15) National identification index. The term "national identification index" means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III system.

(16) National indices. The term "national indices" means the national identification index and the national fingerprint file.

(17) Nonparty state. The term "nonparty state" means a state that has not ratified this compact.

(18) Noncriminal justice purposes. The term "noncriminal justice purposes" means uses of criminal history records for purposes authorized by federal or state law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.

(19) Party state. The term "party state" means a state that has ratified this compact.

(20) Positive identification. The term "positive identification" means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III system. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification.

(21) Sealed record information. The term "sealed record information" means:

(A) With respect to adults, that portion of a record that is:

- (i) Not available for criminal justice uses;
- (ii) Not supported by fingerprints or other accepted means of positive identification; or
- (iii) Subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a federal or state statute that requires action on a sealing petition filed by a particular record subject; and

(B) With respect to juveniles, whatever each state determines is a sealed record under its own law and procedure.

(22) State. The term "state" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

ARTICLE II

PURPOSES

The purposes of this compact are to:

(1) Provide a legal framework for the establishment of a cooperative federal-state system for the interstate and federal-state exchange of criminal history records for noncriminal justice uses;

(2) Require the FBI to permit use of the national identification index and the national fingerprint file by each party state, and to provide, in a timely fashion, federal and state criminal history records to requesting states, in accordance with the terms of this compact and with rules, procedures, and standards established by the council under article VI;

(3) Require party states to provide information and records for the national identification index and the national fingerprint file and to provide criminal history records, in a timely fashion, to criminal history record repositories of other states and the federal government for noncriminal jus-

tice purposes, in accordance with the terms of this compact and with rules, procedures, and standards established by the council under article VI;

(4) Provide for the establishment of a council to monitor III system operations and to prescribe system rules and procedures for the effective and proper operation of the III system for noncriminal justice purposes; and

(5) Require the FBI and each party state to adhere to III system standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

ARTICLE III

RESPONSIBILITIES OF COMPACT PARTIES

(a) FBI responsibilities. The director of the FBI shall:

(1) Appoint an FBI compact officer who shall:

(A) Administer this compact within the department of justice and among federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to article V(c);

(B) Ensure that compact provisions and rules, procedures, and standards prescribed by the council under article VI are complied with by the department of justice and the federal agencies and other agencies and organizations referred to in article III(a) (1) (A); and

(C) Regulate the use of records received by means of the III system from party states when such records are supplied by the FBI directly to other federal agencies;

(2) Provide to federal agencies and to state criminal history record repositories, criminal history records maintained in its database for the noncriminal justice purposes described in article IV, including:

(A) Information from nonparty states; and

(B) Information from party states that is available from the FBI through the III system, but is not available from the party state through the III system;

(3) Provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in article IV, and ensure that the exchange of such records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and

(4) Modify or enter into user agreements with nonparty state criminal history record repositories to require them to establish record request procedures conforming to those prescribed in article V.

(b) State responsibilities. Each party state shall:

(1) Appoint a compact officer who shall:

(A) Administer this compact within that state;

(B) Ensure that compact provisions and rules, procedures, and standards established by the council under article VI are complied with in the state; and

(C) Regulate the in-state use of records received by means of the III system from the FBI or from other party states;

(2) Establish and maintain a criminal history record repository, which shall provide:

(A) Information and records for the national identification index and the national fingerprint file; and

(B) The state's III system-indexed criminal history records for noncriminal justice purposes described in article IV;

(3) Participate in the national fingerprint file; and

(4) Provide and maintain telecommunications links and related equipment necessary to support the services set forth in this compact.

(c) Compliance with III system standards. In carrying out their responsibilities under this compact, the FBI and each party state shall comply with III system rules, procedures, and standards duly established by the council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III system operation.

(d) Maintenance of record services.

(1) Use of the III system for noncriminal justice purposes authorized in this compact shall be managed so as not to diminish the level of services provided in support of criminal justice purposes.

(2) Administration of compact provisions shall not reduce the level of service available to authorized noncriminal justice users on the effective date of this compact.

ARTICLE IV

AUTHORIZED RECORD DISCLOSURES

(a) State criminal history record repositories. To the extent authorized by section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974"), the FBI shall provide on request criminal history records (excluding sealed records) to state criminal history record repositories for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the attorney general and that authorizes national indices checks.

(b) Criminal justice agencies and other governmental or nongovernmental agencies. The FBI, to the extent authorized by section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974"), and state criminal history record repositories shall provide criminal history records (excluding sealed records) to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the attorney general, that authorizes national indices checks.

(c) Procedures. Any record obtained under this compact may be used only for the official purposes for which the record was requested. Each compact officer shall establish procedures, consistent with this compact, and with rules, procedures, and standards established by the council under article VI, which procedures shall protect the accuracy and privacy of the records, and shall:

(1) Ensure that records obtained under this compact are used only by authorized officials for authorized purposes;

(2) Require that subsequent record checks are requested to obtain current information whenever a new need arises; and

(3) Ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate "no record" response is communicated to the requesting official.

ARTICLE V

RECORD REQUEST PROCEDURES

(a) Positive identification. Subject fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history record checks for noncriminal justice purposes.

(b) Submission of state requests. Each request for a criminal history record check utilizing the national indices made under any approved state statute shall be submitted through that state's criminal history record repository. A state criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if such request is transmitted through another state criminal history record repository or the FBI.

(c) Submission of federal requests. Each request for criminal history record checks utilizing the national indices made under federal authority shall be submitted through the FBI or, if the state criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the state in which such request originated. Direct access to the national identification index by entities other than the FBI and state criminal history records repositories shall not be permitted for noncriminal justice purposes.

(d) Fees. A state criminal history record repository or the FBI:

(1) May charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and

(2) May not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

(e) Additional search.

(1) If a state criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, shall be forwarded to the FBI for a search of the national indices.

(2) If, with respect to a request forwarded by a state criminal history record repository under paragraph (1) of this subsection, the FBI positively identifies the subject as having a III system-indexed record or records:

(A) The FBI shall so advise the state criminal history record repository; and

(B) The state criminal history record repository shall be entitled to obtain the additional criminal history record information from the FBI or other state criminal history record repositories.

ARTICLE VI

ESTABLISHMENT OF COMPACT COUNCIL

(a) Establishment.

(1) In general. There is established a council to be known as the "compact council," which shall have the authority to promulgate rules and procedures governing the use of the III system for noncriminal justice purposes, not to conflict with FBI administration of the III system for criminal justice purposes.

(2) Organization. The council shall:

(A) Continue in existence as long as this compact remains in effect;

(B) Be located, for administrative purposes, within the FBI; and

(C) Be organized and hold its first meeting as soon as practicable after the effective date of this compact.

(b) Membership. The council shall be composed of fifteen (15) members, each of whom shall be appointed by the attorney general, as follows:

(1) Nine (9) members, each of whom shall serve a two (2) year term, who shall be selected from among the compact officers of party states based on the recommendation of the compact officers of all party states, except that, in the absence of the requisite number of compact officers available to serve, the chief administrators of the criminal history record repositories of nonparty states shall be eligible to serve on an interim basis.

(2) Two (2) at-large members, nominated by the director of the FBI, each of whom shall serve a three (3) year term, of whom:

(A) One (1) shall be a representative of the criminal justice agencies of the federal government and may not be an employee of the FBI; and

(B) One (1) shall be a representative of the noncriminal justice agencies of the federal government.

(3) Two (2) at-large members, nominated by the chairman of the council, once the chairman is elected pursuant to article VI(c), each of whom shall serve a three (3) year term, of whom:

(A) One (1) shall be a representative of state or local criminal justice agencies; and

(B) One (1) shall be a representative of state or local noncriminal justice agencies.

(4) One (1) member, who shall serve a three (3) year term, and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board.

(5) One (1) member, nominated by the director of the FBI, who shall serve a three (3) year term, and who shall be an employee of the FBI.

(c) Chairman and vice chairman.

(1) In general. From its membership, the council shall elect a chairman and a vice chairman of the council, respectively. Both the chairman and vice chairman of the council:

(A) Shall be a compact officer, unless there is no compact officer on the council who is willing to serve, in which case the chairman may be an at-large member; and

(B) Shall serve a two (2) year term and may be reelected to only one (1) additional two (2) year term.

(2) Duties of vice chairman. The vice chairman of the council shall serve as the chairman of the council in the absence of the chairman.

(d) Meetings.

(1) In general. The council shall meet at least once each year at the call of the chairman. Each meeting of the council shall be open to the public. The council shall provide prior public notice in the federal register of each meeting of the council, including the matters to be addressed at such meeting.

(2) Quorum. A majority of the council or any committee of the council shall constitute a quorum of the council or of such committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

(e) Rules, procedures, and standards. The council shall make available for public inspection and copying at the council office within the FBI, and shall publish in the federal register, any rules, procedures, or standards established by the council.

(f) Assistance from FBI. The council may request from the FBI such reports, studies, statistics, or other information or materials as the council determines to be necessary to enable the council to perform its duties under this compact. The FBI, to the extent authorized by law, may provide such assistance or information upon such a request.

(g) Committees. The chairman may establish committees as necessary to carry out this compact and may prescribe their membership, responsibilities, and duration.

ARTICLE VII

RATIFICATION OF COMPACT

This compact shall take effect upon being entered into by two (2) or more states as between those states and the federal government. Upon subsequent entering into this compact by additional states, it shall become effective among those states and the federal government and each party state that has previously ratified it. When ratified, this compact shall have the full force and effect of law within the ratifying jurisdictions. The form of ratification shall be in accordance with the laws of the executing state.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

(a) Relation of compact to certain FBI activities. Administration of this compact shall not interfere with the management and control of the director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the federal advisory committee act (5 U.S.C. App.) for all purposes other than noncriminal justice.

(b) No authority for nonappropriated expenditures. Nothing in this compact shall require the FBI to obligate or expend funds beyond those appropriated to the FBI.

(c) Relating to public law 92-544. Nothing in this compact shall diminish or lessen the obligations, responsibilities, and authorities of any state, whether a party state or a nonparty state, or of any criminal history record repository or other subdivision or component thereof, under the departments of state, justice, and commerce, the judiciary, and related agencies appropriation act, 1973 (public law 92-544), or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the council under article VI(a), regarding the use and dissemination of criminal history records and information.

ARTICLE IX

RENUNCIATION

(a) In general. This compact shall bind each party state until renounced by the party state.

(b) Effect. Any renunciation of this compact by a party state shall:

- (1) Be effected in the same manner by which the party state ratified this compact; and
- (2) Become effective one hundred eighty (180) days after written notice of renunciation is provided by the party state to each other party state and to the federal government.

ARTICLE X

SEVERABILITY

The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state, or to the constitution of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If a portion of this compact is held contrary to the constitution of any party state, all other portions of this compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected, as to all other provisions.

ARTICLE XI

ADJUDICATION OF DISPUTES

(a) In general. The council shall:

- (1) Have initial authority to make determinations with respect to any dispute regarding:
 - (A) Interpretation of this compact;
 - (B) Any rule or standard established by the council pursuant to article VI; and

(C) Any dispute or controversy between any parties to this compact; and

(2) Hold a hearing concerning any dispute described in paragraph (1) of this subsection at a regularly scheduled meeting of the council and only render a decision based upon a majority vote of the members of the council. Such decision shall be published pursuant to the requirements of article VI(e).

(b) Duties of FBI. The FBI shall exercise immediate and necessary action to preserve the integrity of the III system, maintain system policy and standards, protect the accuracy and privacy of records, and to prevent abuses, until the council holds a hearing on such matters.

(c) Right of appeal. The FBI or a party state may appeal any decision of the council to the attorney general, and thereafter may file suit in the appropriate district court of the United States, which shall have original jurisdiction of all cases or controversies arising under this compact. Any suit arising under this compact and initiated in a state court shall be removed to the appropriate district court of the United States in the manner provided by section 1446 of title 28, United States Code, or other statutory authority.

[67-3012, added 2005, ch. 69, sec. 1, p. 234.]

67-3013. APPOINTMENT OF COMPACT OFFICER. The director of the Idaho state police shall appoint an Idaho state police employee as compact officer for the purpose of complying with article III of the national crime prevention and privacy compact, as set forth in section [67-3012](#), Idaho Code.

[67-3013, added 2005, ch. 69, sec. 2, p. 243.]

67-3014. EXPUNGEMENT FOR VICTIMS OF HUMAN TRAFFICKING. (1) The provisions of this section shall only apply to individuals who are victims of human trafficking as defined in section [18-8602](#), Idaho Code, and shall only apply to arrests, criminal prosecutions and convictions that are the result of acts induced by human traffickers.

(2) Any person who was arrested, prosecuted and/or convicted of a violation of section [18-5613](#), Idaho Code, or any other offense determined by the court to be appropriate, except convictions for offenses for which a defense of coercion would not be available and that was committed during a period of time when the person was a victim of human trafficking and that was the result of acts required by the human trafficker, may bring a petition under the provisions of this section to vacate such conviction and/or to expunge the criminal history records taken in connection with the conviction, including the arrest and prosecution resulting in such conviction or to expunge any criminal history records related to any arrest or prosecution that resulted in a dismissal or acquittal. Actions brought under this section are civil actions and the petitioner shall not be entitled to the appointment of counsel. Jury trial shall not be available in actions brought under this section.

(3) Relief shall not be available under this section if the petitioner raised the affirmative defense of coercion at trial and was convicted.

(4) Any action brought under this section shall be filed within a reasonable time after the arrest, prosecution or conviction that is the subject of the action brought under this section, except that a petition to expunge an arrest that did not result in a prosecution shall not be brought until two (2) years after the arrest.

(5) If an action is filed under this section while a criminal case against the petitioner is pending and the charges in the criminal case are the same as the ones sought to be expunged or vacated in the action under this section, then the petition under this section shall be dismissed without prejudice.

(6) The petition filed in this action shall:

(a) Identify the petitioner, the case number and court in which any conviction or prosecution resulting in acquittal or dismissal occurred, the date and place of arrest and the agency that performed any arrest;

(b) Include a short, plain statement under oath of the facts demonstrating that the petitioner is entitled to relief under the provisions of this section, including the identity of the human trafficker to the best of the petitioner's knowledge; the approximate date, place and manner in which the petitioner became a victim of human trafficking; the petitioner's age at the time the petitioner became a victim of human trafficking; and how the petitioner became involved in the activities resulting in the arrest, prosecution and/or conviction; and

(c) Include a request for an order vacating the conviction and/or to expunge the criminal history records taken in connection with the arrest, conviction or prosecution.

(7) If the petition is in regard to a prosecution resulting in acquittal or dismissal or a prosecution resulting in a conviction, then the petitioner shall serve a copy of the petition on the prosecuting attorney's office that handled such prosecution. If the petition is in regard to an arrest that did not result in a prosecution, then the petitioner shall serve a copy of the petition on the police agency that effected the arrest. If such prosecuting attorney or police agency desires to contest the action under this section, an answer shall be filed in accordance with the Idaho rules of civil procedure.

(8) The pretrial in any action under this section shall be set not later than sixty (60) days after the petition is served.

(9) Evidence documenting the person's status as a victim of human trafficking at the time of the offense from a federal, state or local governmental agency shall create a rebuttable presumption that the person was a victim of human trafficking at the time of the offense but shall not be required to obtain relief under this section.

(10) If the court finds that the petitioner has demonstrated by a preponderance of the evidence that the petitioner's participation in the activities that resulted in the arrest, prosecution and/or conviction, that is the subject of the petition, occurred during a period of time when the petitioner was a victim of human trafficking and that the petitioner's participation in the activities that resulted in the arrest, prosecution and/or conviction was the result of acts required by the human trafficker, then the court shall vacate the conviction, if any, and order that the criminal history records taken in connection with the arrest, prosecution and conviction be expunged. The court shall send notice of the order of expungement to each public office or agency that the court has reason to believe may have a record pertaining to the arrest, prosecution and conviction that is the subject of the order of expungement.

(11) If the court enters an order of expungement, then the arrest and all other proceedings that are the subject of the order of expungement shall be considered not to have occurred and the criminal history records taken in connection with the conviction shall be expunged. The criminal history

records that are expunged shall not be used against the petitioner for any purpose.

(12) All pleadings and records filed with the court pursuant to the provisions of this section shall be sealed, and any hearing on an action under this section shall be closed to the public. Any information obtained in any pleading or other filing or at a hearing in an action under this section may be used to investigate and prosecute human traffickers.

(13) Upon the entry of an order of expungement under this section, the petitioner shall be deemed to have never been arrested, prosecuted or convicted with respect to the matters that are the subject of the order of expungement, and the petitioner may so swear under oath.

(14) The state of Idaho and any of its political subdivisions shall not be subject to any civil liability as a result of any arrest, conviction or prosecution that resulted in a dismissal or acquittal that is expunged pursuant to the provisions of this section.

(15) For the purposes of this section:

(a) "Convicted" or "conviction" means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

(b) "Expunge" or "expungement" means to destroy, delete or erase a criminal history record as appropriate for the record's physical or electronic form or characteristic so that the record is permanently irretrievable. Provided however, that all records in a petitioner's case conducted in accordance with the provisions of this section that are in the custody of the court shall be sealed, and all references to an arrest and/or prosecution resulting in dismissal or acquittal or conviction shall be removed from all indices and records available to the public. A special index of the expungement proceedings and records shall be kept by the court ordering expungement but shall not be available to the public and shall be revealed only to the petitioner or upon order of a court of competent jurisdiction.

(c) "Prosecuting attorney" has the same meaning as in section [18-6719](#), Idaho Code.

(d) "Victim of human trafficking" means a person who is or who was a victim of a violation of section [18-8602](#), Idaho Code, regardless of whether any person has been convicted of or pled guilty to a violation of section [18-8602](#), Idaho Code.

[67-3014, added 2015, ch. 308, sec. 1, p. 1212.]