

SENATE, No. 1517

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED SEPTEMBER 14, 2000

Sponsored by:

Senator WILLIAM L. GORMLEY

District 2 (Atlantic)

Senator EDWARD T. O'CONNOR, JR.

District 31 (Hudson)

Co-Sponsored by:

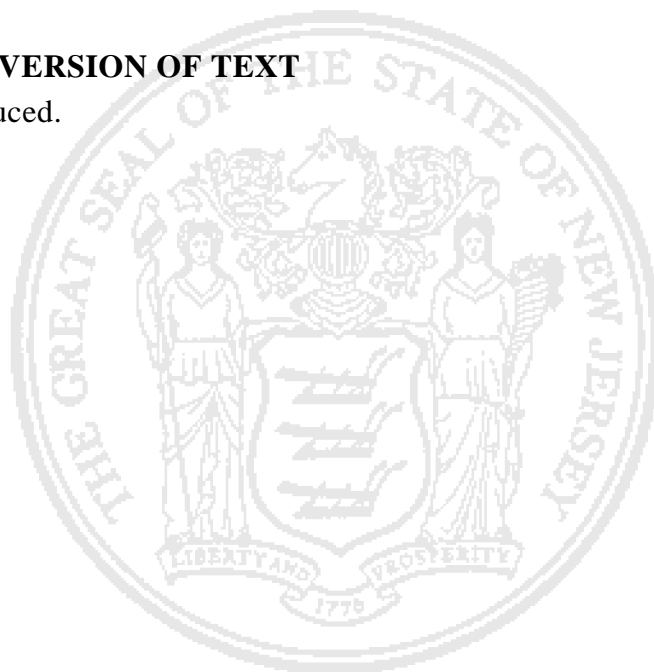
**Senators Zane, Kosco, Cafiero, Matheussen, Assemblywoman Quigley,
Assemblyman Felice, Assemblywoman Buono, Assemblymen Blee and
Arnone**

SYNOPSIS

Ratifies New Jersey's participation in "National Crime Prevention and Privacy Compact."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/4/2002)

1 AN ACT providing for a federal-state partnership regarding a national
2 decentralized criminal record system between this State, other
3 states and the federal government.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. The Contracting Parties agree to the following:

9 OVERVIEW

10 (a) IN GENERAL.--This Compact organizes an electronic
11 information sharing system among the Federal Government and the
12 States to exchange criminal history records for noncriminal justice
13 purposes authorized by Federal or State law, such as background
14 checks for governmental licensing and employment.

15 (b) OBLIGATIONS OF PARTIES.--Under this Compact, the FBI
16 and the Party States agree to maintain detailed databases of their
17 respective criminal history records, including arrests and dispositions,
18 and to make them available to the Federal Government and to Party
19 States for authorized purposes. The FBI shall also manage the Federal
20 data facilities that provide a significant part of the infrastructure for
21 the system.

22
23 ARTICLE I--DEFINITIONS

24
25 In this Compact:

26 (1) ATTORNEY GENERAL.--The term "Attorney General" means
27 the Attorney General of the United States.

28 (2) COMPACT OFFICER.--The term "Compact officer" means--

29 (A) with respect to the Federal Government, an official so
30 designated by the Director of the FBI; and

31 (B) with respect to a Party State, the chief administrator of the
32 State's criminal history record repository or a designee of the chief
33 administrator who is a regular full-time employee of the repository.

34 (3) COUNCIL.--The term "Council" means the Compact Council
35 established under Article VI.

36 (4) CRIMINAL HISTORY RECORDS.--The term "criminal
37 history records"--

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

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

46 (5) CRIMINAL HISTORY RECORD REPOSITORY.--The term

1 "criminal history record repository" means the State agency designated
2 by the Governor or other appropriate executive official or the
3 legislature of a State to perform centralized recordkeeping functions
4 for criminal history records and services in the State.

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

12 (7) CRIMINAL JUSTICE AGENCY.--The term "criminal justice
13 agency"--

14 (A) means--

15 (i) courts; and

16 (ii) a governmental agency or any subunit thereof that--

17 (I) performs the administration of criminal justice pursuant to a
18 statute or Executive order; and

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

21 (B) includes Federal and State inspectors general offices.

22 (8) CRIMINAL JUSTICE SERVICES.--The term "criminal
23 justice services" means services provided by the FBI to criminal justice
24 agencies in response to a request for information about a particular
25 individual or as an update to information previously provided for
26 criminal justice purposes.

27 (9) CRITERION OFFENSE.--The term "criterion offense" means
28 any felony or misdemeanor offense not included on the list of
29 nonserious offenses published periodically by the FBI.

30 (10) DIRECT ACCESS.--The term "direct access" means access
31 to the National Identification Index by computer terminal or other
32 automated means not requiring the assistance of or intervention by
33 any other party or agency.

34 (11) EXECUTIVE ORDER.--The term "Executive order" means
35 an order of the President of the United States or the chief executive
36 officer of a State that has the force of law and that is promulgated in
37 accordance with applicable law.

38 (12) FBI.--The term "FBI" means the Federal Bureau of
39 Investigation.

40 (13) INTERSTATE IDENTIFICATION SYSTEM.--The term
41 "Interstate Identification Index System" or "III System"--

42 (A) means the cooperative Federal-State system for the exchange
43 of criminal history records; and

44 (B) includes the National Identification Index, the National
45 Fingerprint File and, to the extent of their participation in such system,
46 the criminal history record repositories of the States and the FBI.

1 (14) NATIONAL FINGERPRINT FILE.--The term "National
2 Fingerprint File" means a database of fingerprints, or other uniquely
3 personal identifying information, relating to an arrested or charged
4 individual maintained by the FBI to provide positive identification of
5 record subjects indexed in the III System.

6 (15) NATIONAL IDENTIFICATION INDEX.--The term
7 "National Identification Index" means an index maintained by the FBI
8 consisting of names, identifying numbers, and other descriptive
9 information relating to record subjects about whom there are criminal
10 history records in the III System.

11 (16) NATIONAL INDICES.--The term "National indices" means
12 the National Identification Index and the National Fingerprint File.

13 (17) NONPARTY STATE.--The term "Nonparty State" means a
14 State that has not ratified this Compact.

15 (18) NONCRIMINAL JUSTICE PURPOSES.--The term
16 "noncriminal justice purposes" means uses of criminal history records
17 for purposes authorized by Federal or State law other than purposes
18 relating to criminal justice activities, including employment suitability,
19 licensing determinations, immigration and naturalization matters, and
20 national security clearances.

21 (19) PARTY STATE.--The term "Party State" means a State that
22 has ratified this Compact.

23 (20) POSITIVE IDENTIFICATION.--The term "positive
24 identification" means a determination, based upon a comparison of
25 fingerprints or other equally reliable biometric identification
26 techniques, that the subject of a record search is the same person as
27 the subject of a criminal history record or records indexed in the III
28 System. Identifications based solely upon a comparison of subjects
29 names or other nonunique identification characteristics or numbers, or
30 combinations thereof, shall not constitute positive identification.

31 (21) SEALED RECORD INFORMATION.--The term "sealed
32 record information" means--

33 (A) with respect to adults, that portion of a record that is--

34 (i) not available for criminal justice uses;

35 (ii) not supported by fingerprints or other accepted means of
36 positive identification; or

37 (iii) subject to restrictions on dissemination for noncriminal justice
38 purposes pursuant to a court order related to a particular subject or
39 pursuant to a Federal or State statute that requires action on a sealing
40 petition filed by a particular record subject; and

41 (B) with respect to juveniles, whatever each State determines is
42 a sealed record under its own law and procedure.

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

1 ARTICLE II--PURPOSES

2

3 The purposes of this Compact are to--

4 (1) provide a legal framework for the establishment of a
5 cooperative Federal- State system for the interstate and Federal-State
6 exchange of criminal history records for noncriminal justice uses;

7 (2) require the FBI to permit use of the National Identification
8 Index and the National Fingerprint File by each Party State, and to
9 provide, in a timely fashion, Federal and State criminal history records
10 to requesting States, in accordance with the terms of this Compact and
11 with rules, procedures, and standards established by the Council under
12 Article VI;

13 (3) require Party States to provide information and records for the
14 National Identification Index and the National Fingerprint File and to
15 provide criminal history records, in a timely fashion, to criminal history
16 record repositories of other States and the Federal Government for
17 noncriminal justice purposes, in accordance with the terms of this
18 Compact and with rules, procedures, and standards established by the
19 Council under Article VI;

20 (4) provide for the establishment of a Council to monitor III
21 System operations and to prescribe system rules and procedures for
22 the effective and proper operation of the III System for noncriminal
23 justice purposes; and

24 (5) require the FBI and each Party State to adhere to III System
25 standards concerning record dissemination and use, response times,
26 system security, data quality, and other duly established standards,
27 including those that enhance the accuracy and privacy of such records.

28

29 ARTICLE III--RESPONSIBILITIES OF COMPACT PARTIES

30

31 (a) FBI RESPONSIBILITIES.--The Director of the FBI shall--

32 (1) appoint an FBI Compact officer who shall--

33 (A) administer this Compact within the Department of Justice and
34 among Federal agencies and other agencies and organizations that
35 submit search requests to the FBI pursuant to Article V(c);

36 (B) ensure that Compact provisions and rules, procedures, and
37 standards prescribed by the Council under Article VI are complied
38 with by the Department of Justice and the Federal agencies and other
39 agencies and organizations referred to in Article III(1)(A); and

40 (C) regulate the use of records received by means of the III
41 System from Party States when such records are supplied by the FBI
42 directly to other Federal agencies;

43 (2) provide to Federal agencies and to State criminal history
44 record repositories, criminal history records maintained in its database
45 for the noncriminal justice purposes described in Article IV, including--

46 (A) information from Nonparty States; and

- 1 (B) information from Party States that is available from the FBI
2 through the III System, but is not available from the Party State
3 through the III System;
- 4 (3) provide a telecommunications network and maintain
5 centralized facilities for the exchange of criminal history records for
6 both criminal justice purposes and the noncriminal justice purposes
7 described in Article IV, and ensure that the exchange of such records
8 for criminal justice purposes has priority over exchange for
9 noncriminal justice purposes; and
- 10 (4) modify or enter into user agreements with Nonparty State
11 criminal history record repositories to require them to establish record
12 request procedures conforming to those prescribed in Article V.
- 13 (b) STATE RESPONSIBILITIES.--Each Party State shall--
- 14 (1) appoint a Compact officer who shall--
- 15 (A) administer this Compact within that State;
- 16 (B) ensure that Compact provisions and rules, procedures, and
17 standards established by the Council under Article VI are complied
18 with in the State; and
- 19 (C) regulate the in-State use of records received by means of the
20 III System from the FBI or from other Party States;
- 21 (2) establish and maintain a criminal history record repository,
22 which shall provide--
- 23 (A) information and records for the National Identification Index
24 and the National Fingerprint File; and
- 25 (B) the State's III System-indexed criminal history records for
26 noncriminal justice purposes described in Article IV;
- 27 (3) participate in the National Fingerprint File; and
- 28 (4) provide and maintain telecommunications links and related
29 equipment necessary to support the services set forth in this Compact.
- 30 (c) COMPLIANCE WITH III SYSTEM STANDARDS.--In
31 carrying out their responsibilities under this Compact, the FBI and
32 each Party State shall comply with III System rules, procedures, and
33 standards duly established by the Council concerning record
34 dissemination and use, response times, data quality, system security,
35 accuracy, privacy protection, and other aspects of III System
36 operation.
- 37 (d) MAINTENANCE OF RECORD SERVICES.--
- 38 (1) Use of the III System for noncriminal justice purposes
39 authorized in this Compact shall be managed so as not to diminish the
40 level of services provided in support of criminal justice purposes.
- 41 (2) Administration of Compact provisions shall not reduce the
42 level of service available to authorized noncriminal justice users on the
43 effective date of this Compact.

1 ARTICLE IV--AUTHORIZED RECORD DISCLOSURES

2
3 (a) STATE CRIMINAL HISTORY RECORD REPOSITORIES.--

4 To the extent authorized by section 552a of title 5, United States Code
5 (commonly known as the "Privacy Act of 1974"), the FBI shall
6 provide on request criminal history records (excluding sealed records)
7 to State criminal history record repositories for noncriminal justice
8 purposes allowed by Federal statute, Federal Executive order, or a
9 State statute that has been approved by the Attorney General and that
10 authorizes national indices checks.

11 (b) CRIMINAL JUSTICE AGENCIES AND OTHER
12 GOVERNMENTAL OR NONGOVERNMENTAL AGENCIES.--The
13 FBI, to the extent authorized by section 552a of title 5, United States
14 Code (commonly known as the "Privacy Act of 1974"), and State
15 criminal history record repositories shall provide criminal history
16 records (excluding sealed records) to criminal justice agencies and
17 other governmental or nongovernmental agencies for noncriminal
18 justice purposes allowed by Federal statute, Federal Executive order,
19 or a State statute that has been approved by the Attorney General, that
20 authorizes national indices checks.

21 (c) PROCEDURES.--Any record obtained under this Compact
22 may be used only for the official purposes for which the record was
23 requested. Each Compact officer shall establish procedures, consistent
24 with this Compact, and with rules, procedures, and standards
25 established by the Council under Article VI, which procedures shall
26 protect the accuracy and privacy of the records, and shall--

27 (1) ensure that records obtained under this Compact are used only
28 by authorized officials for authorized purposes;

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

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

35
36 ARTICLE V--RECORD REQUEST PROCEDURES

37
38 (a) POSITIVE IDENTIFICATION.--Subject fingerprints or other
39 approved forms of positive identification shall be submitted with all
40 requests for criminal history record checks for noncriminal justice
41 purposes.

42 (b) SUBMISSION OF STATE REQUESTS.--Each request for a
43 criminal history record check utilizing the national indices made under
44 any approved State statute shall be submitted through that State's
45 criminal history record repository. A State criminal history record
46 repository shall process an interstate request for noncriminal justice

1 purposes through the national indices only if such request is
2 transmitted through another State criminal history record repository
3 or the FBI.

4 (c) SUBMISSION OF FEDERAL REQUESTS.--Each request for
5 criminal history record checks utilizing the national indices made under
6 Federal authority shall be submitted through the FBI or, if the State
7 criminal history record repository consents to process fingerprint
8 submissions, through the criminal history record repository in the State
9 in which such request originated. Direct access to the National
10 Identification Index by entities other than the FBI and State criminal
11 history records repositories shall not be permitted for noncriminal
12 justice purposes.

13 (d) FEES.--A State criminal history record repository or the FBI--

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

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

20 (e) ADDITIONAL SEARCH.--

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

26 (2) If, with respect to a request forwarded by a State criminal
27 history record repository under paragraph (1), the FBI positively
28 identifies the subject as having a III System-indexed record or records--

29 (A) the FBI shall so advise the State criminal history record
30 repository; and

31 (B) the State criminal history record repository shall be entitled to
32 obtain the additional criminal history record information from the FBI
33 or other State criminal history record repositories.

34

35 ARTICLE VI--ESTABLISHMENT OF COMPACT COUNCIL

36

37 (a) ESTABLISHMENT.--

38 (1) IN GENERAL.--There is established a council to be known as
39 the "Compact Council", which shall have the authority to promulgate
40 rules and procedures governing the use of the III System for
41 noncriminal justice purposes, not to conflict with FBI administration
42 of the III System for criminal justice purposes.

43 (2) ORGANIZATION.--The Council shall--

44 (A) continue in existence as long as this Compact remains in
45 effect;

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

1 (C) be organized and hold its first meeting as soon as practicable
2 after the effective date of this Compact.

3 (b) MEMBERSHIP.--The Council shall be composed of 15
4 members, each of whom shall be appointed by the Attorney General,
5 as follows:

6 (1) Nine members, each of whom shall serve a 2-year term, who
7 shall be selected from among the Compact officers of Party States
8 based on the recommendation of the Compact officers of all Party
9 States, except that, in the absence of the requisite number of Compact
10 officers available to serve, the chief administrators of the criminal
11 history record repositories of Nonparty States shall be eligible to serve
12 on an interim basis.

13 (2) Two at-large members, nominated by the Director of the FBI,
14 each of whom shall serve a 3-year term, of whom--

15 (A) 1 shall be a representative of the criminal justice agencies of
16 the Federal Government and may not be an employee of the FBI; and

17 (B) 1 shall be a representative of the noncriminal justice agencies
18 of the Federal Government.

19 (3) Two at-large members, nominated by the Chairman of the
20 Council, once the Chairman is elected pursuant to Article VI(c), each
21 of whom shall serve a 3- year term, of whom--

22 (A) 1 shall be a representative of State or local criminal justice
23 agencies; and

24 (B) 1 shall be a representative of State or local noncriminal justice
25 agencies.

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

30 (5) One member, nominated by the Director of the FBI, who shall
31 serve a 3- year term, and who shall be an employee of the FBI.

32 (c) CHAIRMAN AND VICE CHAIRMAN.--

33 (1) IN GENERAL.--From its membership, the Council shall elect
34 a Chairman and a Vice Chairman of the Council, respectively. Both
35 the Chairman and Vice Chairman of the Council--

36 (A) shall be a Compact officer, unless there is no Compact officer
37 on the Council who is willing to serve, in which case the Chairman ma
38 be an at- large member; and

39 (B) shall serve a 2-year term and may be reelected to only 1
40 additional 2- year term.

41 (2) DUTIES OF VICE CHAIRMAN.--The Vice Chairman of the
42 Council shall serve as the Chairman of the Council in the absence of
43 the Chairman.

44 (d) MEETINGS.--

45 (1) IN GENERAL.--The Council shall meet at least once each
46 year at the call of the Chairman. Each meeting of the Council shall be

1 open to the public. The Council shall provide prior public notice in the
2 Federal Register of each meeting of the Council, including the matters
3 to be addressed at such meeting.

4 (2) QUORUM.--A majority of the Council or any committee of
5 the Council shall constitute a quorum of the Council or of such
6 committee, respectively, for the conduct of business. A lesser number
7 may meet to hold hearings, take testimony, or conduct any business
8 not requiring a vote.

9 (e) RULES, PROCEDURES, AND STANDARDS.--The Council
10 shall make available for public inspection and copying at the Council
11 office within the FBI, and shall publish in the Federal Register, any
12 rules, procedures, or standards established by the Council.

13 (f) ASSISTANCE FROM FBI.--The Council may request from the
14 FBI such reports, studies, statistics, or other information or materials
15 as the Council determines to be necessary to enable the Council to
16 perform its duties under this Compact. The FBI, to the extent
17 authorized by law, may provide such assistance or information upon
18 such a request.

19 (g) COMMITTEES.--The Chairman may establish committees as
20 necessary to carry out this Compact and may prescribe their
21 membership, responsibilities, and duration.

22

23 ARTICLE VII--RATIFICATION OF COMPACT

24

25 This Compact shall take effect upon being entered into by 2 or
26 more States as between those States and the Federal Government.
27 Upon subsequent entering into this Compact by additional States, it
28 shall become effective among those States and the Federal
29 Government and each Party State that has previously ratified it. When
30 ratified, this Compact shall have the full force and effect of law within
31 the ratifying jurisdictions. The form of ratification shall be in
32 accordance with the laws of the executing State.

33

34 ARTICLE VIII--MISCELLANEOUS PROVISIONS

35

36 (a) RELATION OF COMPACT TO CERTAIN FBI
37 ACTIVITIES.--Administration of this Compact shall not interfere with
38 the management and control of the Director of the FBI over the FBI's
39 collection and dissemination of criminal history records and the
40 advisory function of the FBI's advisory policy board chartered under
41 the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes
42 other than noncriminal justice.

43 (b) NO AUTHORITY FOR NONAPPROPRIATED
44 EXPENDITURES.--Nothing in this Compact shall require the FBI to
45 obligate or expend funds beyond those appropriated to the FBI.

46 (c) RELATING TO PUBLIC LAW 92-544.--Nothing in this

1 Compact shall diminish or lessen the obligations, responsibilities, and
2 authorities of any State, whether a Party State or a Nonparty State, or
3 of any criminal history record repository or other subdivision or
4 component thereof, under the Departments of State, Justice, and
5 Commerce, the Judiciary, and Related Agencies Appropriation Act,
6 1973 (Public Law 92-544), or regulations and guidelines promulgated
7 thereunder, including the rules and procedures promulgated by the
8 Council under Article VI(a), regarding the use and dissemination of
9 criminal history records and information.

10
11 ARTICLE IX--RENUNCIATION

12
13 (a) IN GENERAL.--This Compact shall bind each Party State
14 until renounced by the Party State.

15 (b) EFFECT.--Any renunciation of this Compact by a Party State
16 shall--

17 (1) be effected in the same manner by which the Party State
18 ratified this Compact; and

19 (2) become effective 180 days after written notice of renunciation
20 is provided by the Party State to each other Party State and to the
21 Federal Government.

22
23 ARTICLE X--SEVERABILITY

24
25 The provisions of this Compact shall be severable, and if any
26 phrase, clause, sentence, or provision of this Compact is declared to
27 be contrary to the constitution of any participating State, or to the
28 Constitution of the United States, or the applicability thereof to any
29 government, agency, person, or circumstance is held invalid, the
30 validity of the remainder of this Compact and the applicability thereof
31 to any government, agency, person, or circumstance shall not be
32 affected thereby. If a portion of this Compact is held contrary to the
33 constitution of any Party State, all other portions of this Compact shall
34 remain in full force and effect as to the remaining Party States and in
35 full force and effect as to the Party State affected, as to all other
36 provisions.

37
38 ARTICLE XI--ADJUDICATION OF DISPUTES

39
40 (a) IN GENERAL.--The Council shall--

41 (1) have initial authority to make determinations with respect to
42 any dispute regarding--

43 (A) interpretation of this Compact;

44 (B) any rule or standard established by the Council pursuant to
45 Article V; and

46 (C) any dispute or controversy between any parties to this

1 Compact; and

2 (2) hold a hearing concerning any dispute described in paragraph
3 (1) at a regularly scheduled meeting of the Council and only render a
4 decision based upon a majority vote of the members of the Council.
5 Such decision shall be published pursuant to the requirements of
6 Article VI(e).

7 (b) DUTIES OF FBI.--The FBI shall exercise immediate and
8 necessary action to preserve the integrity of the III System, maintain
9 system policy and standards, protect the accuracy and privacy of
10 records, and to prevent abuses, until the Council holds a hearing on
11 such matters.

12 (c) RIGHT OF APPEAL.--The FBI or a Party State may appeal
13 any decision of the Council to the Attorney General, and thereafter
14 may file suit in the appropriate district court of the United States,
15 which shall have original jurisdiction of all cases or controversies
16 arising under this Compact. Any suit arising under this Compact and
17 initiated in a State court shall be removed to the appropriate district
18 court of the United States in the manner provided by section 1446 of
19 title 28, United States Code, or other statutory authority.

20

21 2. This act shall take effect immediately.

22

23

24

STATEMENT

25

26 This bill would ratify New Jersey's participation in "National Crime
27 Prevention and Privacy Compact," a new federal-state partnership to
28 create a national, decentralized criminal record system established to
29 facilitate the conduct of criminal background searches and checks.

30 There are two types of criminal record checks. There are record
31 checks for criminal justice purposes and record checks for
32 background. Both types of checks involve state-federal record
33 searches. In 1980, the Federal Bureau of Investigation (FBI)
34 established the Interstate Identification Index (III), a decentralized
35 system designed to handle these state-federal record searches.

36 Although virtually all states permit unrestricted access to records
37 for criminal justice purposes, many impose significant restrictions on
38 access to records for non-criminal background checks. As a result, the
39 III system is limited to use solely for criminal justice purposes.

40 To meet the growing need for non-criminal background checks, the
41 federal government enacted the "National Crime Prevention and
42 Privacy Compact" in 1998. The compact is designed as a national,
43 decentralized federal-state partnership.

44 The compact: (1) Binds the FBI and the ratifying states to
45 participate in a III civil access program; (2) Re-authorizes uses by
46 current users of FBI record files; (3) Requires participating states to

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1 make all unsealed criminal history records available in response to
2 authorized non-criminal requests; (4) Bases all civil access to the
3 system on fingerprints to ensure positive identification; (5) Requires
4 that the laws of the receiving states govern release of information (In
5 turn, this provision requires that states screen responses and delete any
6 information that cannot legally be released); and (6) Establishes a
7 council of federal and state officials and other members representing
8 user interests to establish operating policies for civil uses of the III
9 system and to resolve disputes.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 1517

STATE OF NEW JERSEY

DATED: JANUARY 22, 2001

The Senate Law and Public Safety Committee reports favorably Senate Bill No. 1517.

This bill ratifies New Jersey's participation in "National Crime Prevention and Privacy Compact," a new federal-state partnership to create a national, decentralized criminal record system established to facilitate the conduct of criminal background searches and checks.

There are two types of criminal record checks. There are record checks for criminal justice purposes and record checks for background. Both types of checks involve state-federal record searches. In 1980, the Federal Bureau of Investigation (FBI) established the Interstate Identification Index (III), a decentralized system designed to handle these state-federal record searches.

Although virtually all states permit unrestricted access to records for criminal justice purposes, many impose significant restrictions on access to records for non-criminal background checks. As a result, the III system is limited to use solely for criminal justice purposes.

To meet the growing need for non-criminal background checks, the federal government enacted the "National Crime Prevention and Privacy Compact" in 1998. Designed as a national, decentralized federal-state partnership, the compact: (1) binds the FBI and the ratifying states to participate in a III civil access program; (2) re-authorizes uses by current users of FBI record files; (3) requires participating states to make all unsealed criminal history records available in response to authorized non-criminal requests; (4) bases all civil access to the system on fingerprints to ensure positive identification; (5) requires that the laws of the receiving states govern release of information (in turn, this provision requires that states screen responses and delete any information that cannot legally be released); and (6) establishes a council of federal and state officials and other members representing user interests to establish operating policies for civil uses of the III system and to resolve disputes.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 1517

STATE OF NEW JERSEY

DATED: DECEMBER 13, 2001

The Assembly Law and Public Safety Committee reports favorably Senate Bill No. 1517.

Senate, No.1517 would ratify New Jersey's participation in the "National Crime Prevention and Privacy Compact," a new federal-state partnership to create a national, decentralized criminal record system to facilitate the conduct of criminal background checks and searches.

There are two types of criminal record checks. There are record checks for criminal justice purposes and record non-criminal checks for background. Both types of checks involve state-federal record searches. In 1980, the Federal Bureau of Investigation (FBI) established the Interstate Identification Index (III), a decentralized system designed to handle these state-federal record searches.

Although virtually all states permit unrestricted access to records for criminal justice purposes, many impose significant restrictions on access to records for non-criminal background checks. As a result, the III system is limited to use solely for criminal justice purposes.

To meet the growing need for non-criminal background checks, the federal government enacted the "National Crime Prevention and Privacy Compact" in 1998. The compact is designed as a national, decentralized federal-state partnership.

The compact: (1) Binds the FBI and the ratifying states to participate in an III civil access program; (2) Re-authorizes uses by current users of FBI record files; (3) Requires participating states to make all unsealed criminal history records available in response to authorized non-criminal requests; (4) Bases all civil access to the system on fingerprints to ensure positive identification; (5) Requires that the laws of the receiving states govern release of information (In turn, this provision requires that states screen responses and delete any information that cannot legally be released); and (6) Establishes a council of federal and state officials and other members representing user interests to establish operating policies for civil uses of the III system and to resolve disputes.

As reported by the committee, Senate No.1517 is identical to Assembly No. 2194 which was also reported by the committee on December 13, 2001.

ASSEMBLY, No. 2194

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED MARCH 6, 2000

Sponsored by:

Assemblywoman JOAN M. QUIGLEY

District 32 (Bergen and Hudson)

Assemblyman NICHOLAS R. FELICE

District 40 (Bergen and Passaic)

Co-Sponsored by:

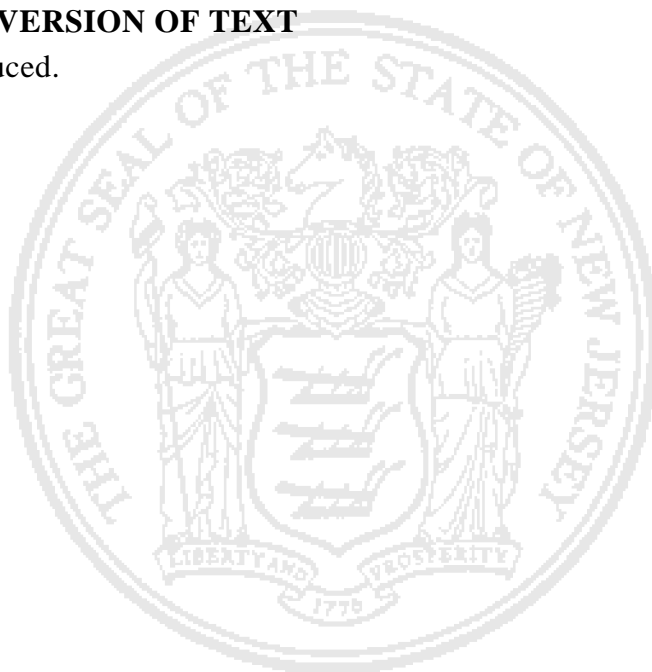
Assemblywoman Buono, Assemblymen Blee and Arnone

SYNOPSIS

Ratifies New Jersey's participation in "National Crime Prevention and Privacy Compact."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/2/2000)

1 AN ACT providing for a federal-state partnership regarding a national
2 decentralized criminal record system between this State, other
3 states and the federal government.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. The Contracting Parties agree to the following:

9 OVERVIEW

10 (a) IN GENERAL.--This Compact organizes an electronic
11 information sharing system among the Federal Government and the
12 States to exchange criminal history records for noncriminal justice
13 purposes authorized by Federal or State law, such as background
14 checks for governmental licensing and employment.

15 (b) OBLIGATIONS OF PARTIES.--Under this Compact, the FBI
16 and the Party States agree to maintain detailed databases of their
17 respective criminal history records, including arrests and dispositions,
18 and to make them available to the Federal Government and to Party
19 States for authorized purposes. The FBI shall also manage the Federal
20 data facilities that provide a significant part of the infrastructure for
21 the system.

22
23 ARTICLE I--DEFINITIONS

24
25 In this Compact:

26 (1) ATTORNEY GENERAL.--The term "Attorney General" means
27 the Attorney General of the United States.

28 (2) COMPACT OFFICER.--The term "Compact officer" means--

29 (A) with respect to the Federal Government, an official so
30 designated by the Director of the FBI; and

31 (B) with respect to a Party State, the chief administrator of the
32 State's criminal history record repository or a designee of the chief
33 administrator who is a regular full-time employee of the repository.

34 (3) COUNCIL.--The term "Council" means the Compact Council
35 established under Article VI.

36 (4) CRIMINAL HISTORY RECORDS.--The term "criminal
37 history records"--

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

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

46 (5) CRIMINAL HISTORY RECORD REPOSITORY.--The term

1 "criminal history record repository" means the State agency designated
2 by the Governor or other appropriate executive official or the
3 legislature of a State to perform centralized recordkeeping functions
4 for criminal history records and services in the State.

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

12 (7) CRIMINAL JUSTICE AGENCY.--The term "criminal justice
13 agency"--

14 (A) means--

15 (i) courts; and

16 (ii) a governmental agency or any subunit thereof that--

17 (I) performs the administration of criminal justice pursuant to a
18 statute or Executive order; and

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

21 (B) includes Federal and State inspectors general offices.

22 (8) CRIMINAL JUSTICE SERVICES.--The term "criminal
23 justice services" means services provided by the FBI to criminal justice
24 agencies in response to a request for information about a particular
25 individual or as an update to information previously provided for
26 criminal justice purposes.

27 (9) CRITERION OFFENSE.--The term "criterion offense" means
28 any felony or misdemeanor offense not included on the list of
29 nonserious offenses published periodically by the FBI.

30 (10) DIRECT ACCESS.--The term "direct access" means access
31 to the National Identification Index by computer terminal or other
32 automated means not requiring the assistance of or intervention by
33 any other party or agency.

34 (11) EXECUTIVE ORDER.--The term "Executive order" means
35 an order of the President of the United States or the chief executive
36 officer of a State that has the force of law and that is promulgated in
37 accordance with applicable law.

38 (12) FBI.--The term "FBI" means the Federal Bureau of
39 Investigation.

40 (13) INTERSTATE IDENTIFICATION SYSTEM.--The term
41 "Interstate Identification Index System" or "III System"--

42 (A) means the cooperative Federal-State system for the exchange
43 of criminal history records; and

44 (B) includes the National Identification Index, the National
45 Fingerprint File and, to the extent of their participation in such system,
46 the criminal history record repositories of the States and the FBI.

1 (14) NATIONAL FINGERPRINT FILE.--The term "National
2 Fingerprint File" means a database of fingerprints, or other uniquely
3 personal identifying information, relating to an arrested or charged
4 individual maintained by the FBI to provide positive identification of
5 record subjects indexed in the III System.

6 (15) NATIONAL IDENTIFICATION INDEX.--The term
7 "National Identification Index" means an index maintained by the FBI
8 consisting of names, identifying numbers, and other descriptive
9 information relating to record subjects about whom there are criminal
10 history records in the III System.

11 (16) NATIONAL INDICES.--The term "National indices" means
12 the National Identification Index and the National Fingerprint File.

13 (17) NONPARTY STATE.--The term "Nonparty State" means a
14 State that has not ratified this Compact.

15 (18) NONCRIMINAL JUSTICE PURPOSES.--The term
16 "noncriminal justice purposes" means uses of criminal history records
17 for purposes authorized by Federal or State law other than purposes
18 relating to criminal justice activities, including employment suitability,
19 licensing determinations, immigration and naturalization matters, and
20 national security clearances.

21 (19) PARTY STATE.--The term "Party State" means a State that
22 has ratified this Compact.

23 (20) POSITIVE IDENTIFICATION.--The term "positive
24 identification" means a determination, based upon a comparison of
25 fingerprints or other equally reliable biometric identification
26 techniques, that the subject of a record search is the same person as
27 the subject of a criminal history record or records indexed in the III
28 System. Identifications based solely upon a comparison of subjects
29 names or other nonunique identification characteristics or numbers, or
30 combinations thereof, shall not constitute positive identification.

31 (21) SEALED RECORD INFORMATION.--The term "sealed
32 record information" means--

33 (A) with respect to adults, that portion of a record that is--

34 (i) not available for criminal justice uses;

35 (ii) not supported by fingerprints or other accepted means of
36 positive identification; or

37 (iii) subject to restrictions on dissemination for noncriminal justice
38 purposes pursuant to a court order related to a particular subject or
39 pursuant to a Federal or State statute that requires action on a sealing
40 petition filed by a particular record subject; and

41 (B) with respect to juveniles, whatever each State determines is
42 a sealed record under its own law and procedure.

43 (22) STATE.--The term "State" means any State, territory, or
44 possession of the United States, the District of Columbia, and the
45 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 justice 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(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

- 1 (B) information from Party States that is available from the FBI
2 through the III System, but is not available from the Party State
3 through the III System;
- 4 (3) provide a telecommunications network and maintain
5 centralized facilities for the exchange of criminal history records for
6 both criminal justice purposes and the noncriminal justice purposes
7 described in Article IV, and ensure that the exchange of such records
8 for criminal justice purposes has priority over exchange for
9 noncriminal justice purposes; and
- 10 (4) modify or enter into user agreements with Nonparty State
11 criminal history record repositories to require them to establish record
12 request procedures conforming to those prescribed in Article V.
- 13 (b) STATE RESPONSIBILITIES.--Each Party State shall--
- 14 (1) appoint a Compact officer who shall--
- 15 (A) administer this Compact within that State;
- 16 (B) ensure that Compact provisions and rules, procedures, and
17 standards established by the Council under Article VI are complied
18 with in the State; and
- 19 (C) regulate the in-State use of records received by means of the
20 III System from the FBI or from other Party States;
- 21 (2) establish and maintain a criminal history record repository,
22 which shall provide--
- 23 (A) information and records for the National Identification Index
24 and the National Fingerprint File; and
- 25 (B) the State's III System-indexed criminal history records for
26 noncriminal justice purposes described in Article IV;
- 27 (3) participate in the National Fingerprint File; and
- 28 (4) provide and maintain telecommunications links and related
29 equipment necessary to support the services set forth in this Compact.
- 30 (c) COMPLIANCE WITH III SYSTEM STANDARDS.--In
31 carrying out their responsibilities under this Compact, the FBI and
32 each Party State shall comply with III System rules, procedures, and
33 standards duly established by the Council concerning record
34 dissemination and use, response times, data quality, system security,
35 accuracy, privacy protection, and other aspects of III System
36 operation.
- 37 (d) MAINTENANCE OF RECORD SERVICES.--
- 38 (1) Use of the III System for noncriminal justice purposes
39 authorized in this Compact shall be managed so as not to diminish the
40 level of services provided in support of criminal justice purposes.
- 41 (2) Administration of Compact provisions shall not reduce the
42 level of service available to authorized noncriminal justice users on the
43 effective date of this Compact.

1 ARTICLE IV--AUTHORIZED RECORD DISCLOSURES

2

3 (a) STATE CRIMINAL HISTORY RECORD REPOSITORIES.--

4 To the extent authorized by section 552a of title 5, United States Code
5 (commonly known as the "Privacy Act of 1974"), the FBI shall
6 provide on request criminal history records (excluding sealed records)
7 to State criminal history record repositories for noncriminal justice
8 purposes allowed by Federal statute, Federal Executive order, or a
9 State statute that has been approved by the Attorney General and that
10 authorizes national indices checks.

11 (b) CRIMINAL JUSTICE AGENCIES AND OTHER

12 GOVERNMENTAL OR NONGOVERNMENTAL AGENCIES.--The

13 FBI, to the extent authorized by section 552a of title 5, United States
14 Code (commonly known as the "Privacy Act of 1974"), and State
15 criminal history record repositories shall provide criminal history
16 records (excluding sealed records) to criminal justice agencies and
17 other governmental or nongovernmental agencies for noncriminal
18 justice purposes allowed by Federal statute, Federal Executive order,
19 or a State statute that has been approved by the Attorney General, that
20 authorizes national indices checks.

21 (c) PROCEDURES.--Any record obtained under this Compact

22 may be used only for the official purposes for which the record was
23 requested. Each Compact officer shall establish procedures, consistent
24 with this Compact, and with rules, procedures, and standards
25 established by the Council under Article VI, which procedures shall
26 protect the accuracy and privacy of the records, and shall--

27 (1) ensure that records obtained under this Compact are used only
28 by authorized officials for authorized purposes;

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

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

35

36 ARTICLE V--RECORD REQUEST PROCEDURES

37

38 (a) POSITIVE IDENTIFICATION.--Subject fingerprints or other

39 approved forms of positive identification shall be submitted with all
40 requests for criminal history record checks for noncriminal justice
41 purposes.

42 (b) SUBMISSION OF STATE REQUESTS.--Each request for a

43 criminal history record check utilizing the national indices made under
44 any approved State statute shall be submitted through that State's
45 criminal history record repository. A State criminal history record
46 repository shall process an interstate request for noncriminal justice

1 purposes through the national indices only if such request is
2 transmitted through another State criminal history record repository
3 or the FBI.

4 (c) SUBMISSION OF FEDERAL REQUESTS.--Each request for
5 criminal history record checks utilizing the national indices made under
6 Federal authority shall be submitted through the FBI or, if the State
7 criminal history record repository consents to process fingerprint
8 submissions, through the criminal history record repository in the State
9 in which such request originated. Direct access to the National
10 Identification Index by entities other than the FBI and State criminal
11 history records repositories shall not be permitted for noncriminal
12 justice purposes.

13 (d) FEES.--A State criminal history record repository or the FBI--

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

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

20 (e) ADDITIONAL SEARCH.--

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

26 (2) If, with respect to a request forwarded by a State criminal
27 history record repository under paragraph (1), the FBI positively
28 identifies the subject as having a III System-indexed record or records--

29 (A) the FBI shall so advise the State criminal history record
30 repository; and

31 (B) the State criminal history record repository shall be entitled to
32 obtain the additional criminal history record information from the FBI
33 or other State criminal history record repositories.

34

35 ARTICLE VI--ESTABLISHMENT OF COMPACT COUNCIL

36

37 (a) ESTABLISHMENT.--

38 (1) IN GENERAL.--There is established a council to be known as
39 the "Compact Council", which shall have the authority to promulgate
40 rules and procedures governing the use of the III System for
41 noncriminal justice purposes, not to conflict with FBI administration
42 of the III System for criminal justice purposes.

43 (2) ORGANIZATION.--The Council shall--

44 (A) continue in existence as long as this Compact remains in
45 effect;

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

1 (C) be organized and hold its first meeting as soon as practicable
2 after the effective date of this Compact.

3 (b) MEMBERSHIP.--The Council shall be composed of 15
4 members, each of whom shall be appointed by the Attorney General,
5 as follows:

6 (1) Nine members, each of whom shall serve a 2-year term, who
7 shall be selected from among the Compact officers of Party States
8 based on the recommendation of the Compact officers of all Party
9 States, except that, in the absence of the requisite number of Compact
10 officers available to serve, the chief administrators of the criminal
11 history record repositories of Nonparty States shall be eligible to serve
12 on an interim basis.

13 (2) Two at-large members, nominated by the Director of the FBI,
14 each of whom shall serve a 3-year term, of whom--

15 (A) 1 shall be a representative of the criminal justice agencies of
16 the Federal Government and may not be an employee of the FBI; and

17 (B) 1 shall be a representative of the noncriminal justice agencies
18 of the Federal Government.

19 (3) Two at-large members, nominated by the Chairman of the
20 Council, once the Chairman is elected pursuant to Article VI(c), each
21 of whom shall serve a 3- year term, of whom--

22 (A) 1 shall be a representative of State or local criminal justice
23 agencies; and

24 (B) 1 shall be a representative of State or local noncriminal justice
25 agencies.

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

30 (5) One member, nominated by the Director of the FBI, who shall
31 serve a 3- year term, and who shall be an employee of the FBI.

32 (c) CHAIRMAN AND VICE CHAIRMAN.--

33 (1) IN GENERAL.--From its membership, the Council shall elect
34 a Chairman and a Vice Chairman of the Council, respectively. Both
35 the Chairman and Vice Chairman of the Council--

36 (A) shall be a Compact officer, unless there is no Compact officer
37 on the Council who is willing to serve, in which case the Chairman ma
38 be an at- large member; and

39 (B) shall serve a 2-year term and may be reelected to only 1
40 additional 2- year term.

41 (2) DUTIES OF VICE CHAIRMAN.--The Vice Chairman of the
42 Council shall serve as the Chairman of the Council in the absence of
43 the Chairman.

44 (d) MEETINGS.--

45 (1) IN GENERAL.--The Council shall meet at least once each
46 year at the call of the Chairman. Each meeting of the Council shall be

1 open to the public. The Council shall provide prior public notice in the
2 Federal Register of each meeting of the Council, including the matters
3 to be addressed at such meeting.

4 (2) QUORUM.--A majority of the Council or any committee of
5 the Council shall constitute a quorum of the Council or of such
6 committee, respectively, for the conduct of business. A lesser number
7 may meet to hold hearings, take testimony, or conduct any business
8 not requiring a vote.

9 (e) RULES, PROCEDURES, AND STANDARDS.--The Council
10 shall make available for public inspection and copying at the Council
11 office within the FBI, and shall publish in the Federal Register, any
12 rules, procedures, or standards established by the Council.

13 (f) ASSISTANCE FROM FBI.--The Council may request from the
14 FBI such reports, studies, statistics, or other information or materials
15 as the Council determines to be necessary to enable the Council to
16 perform its duties under this Compact. The FBI, to the extent
17 authorized by law, may provide such assistance or information upon
18 such a request.

19 (g) COMMITTEES.--The Chairman may establish committees as
20 necessary to carry out this Compact and may prescribe their
21 membership, responsibilities, and duration.

22

23 ARTICLE VII--RATIFICATION OF COMPACT

24

25 This Compact shall take effect upon being entered into by 2 or
26 more States as between those States and the Federal Government.
27 Upon subsequent entering into this Compact by additional States, it
28 shall become effective among those States and the Federal
29 Government and each Party State that has previously ratified it. When
30 ratified, this Compact shall have the full force and effect of law within
31 the ratifying jurisdictions. The form of ratification shall be in
32 accordance with the laws of the executing State.

33

34 ARTICLE VIII--MISCELLANEOUS PROVISIONS

35

36 (a) RELATION OF COMPACT TO CERTAIN FBI
37 ACTIVITIES.--Administration of this Compact shall not interfere with
38 the management and control of the Director of the FBI over the FBI's
39 collection and dissemination of criminal history records and the
40 advisory function of the FBI's advisory policy board chartered under
41 the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes
42 other than noncriminal justice.

43 (b) NO AUTHORITY FOR NONAPPROPRIATED
44 EXPENDITURES.--Nothing in this Compact shall require the FBI to
45 obligate or expend funds beyond those appropriated to the FBI.

46 (c) RELATING TO PUBLIC LAW 92-544.--Nothing in this

1 Compact shall diminish or lessen the obligations, responsibilities, and
2 authorities of any State, whether a Party State or a Nonparty State, or
3 of any criminal history record repository or other subdivision or
4 component thereof, under the Departments of State, Justice, and
5 Commerce, the Judiciary, and Related Agencies Appropriation Act,
6 1973 (Public Law 92-544), or regulations and guidelines promulgated
7 thereunder, including the rules and procedures promulgated by the
8 Council under Article VI(a), regarding the use and dissemination of
9 criminal history records and information.

10
11 ARTICLE IX--RENUNCIATION

12
13 (a) IN GENERAL.--This Compact shall bind each Party State
14 until renounced by the Party State.

15 (b) EFFECT.--Any renunciation of this Compact by a Party State
16 shall--

17 (1) be effected in the same manner by which the Party State
18 ratified this Compact; and

19 (2) become effective 180 days after written notice of renunciation
20 is provided by the Party State to each other Party State and to the
21 Federal Government.

22
23 ARTICLE X--SEVERABILITY

24
25 The provisions of this Compact shall be severable, and if any
26 phrase, clause, sentence, or provision of this Compact is declared to
27 be contrary to the constitution of any participating State, or to the
28 Constitution of the United States, or the applicability thereof to any
29 government, agency, person, or circumstance is held invalid, the
30 validity of the remainder of this Compact and the applicability thereof
31 to any government, agency, person, or circumstance shall not be
32 affected thereby. If a portion of this Compact is held contrary to the
33 constitution of any Party State, all other portions of this Compact shall
34 remain in full force and effect as to the remaining Party States and in
35 full force and effect as to the Party State affected, as to all other
36 provisions.

37
38 ARTICLE XI--ADJUDICATION OF DISPUTES

39
40 (a) IN GENERAL.--The Council shall--

41 (1) have initial authority to make determinations with respect to
42 any dispute regarding--

43 (A) interpretation of this Compact;

44 (B) any rule or standard established by the Council pursuant to
45 Article V; and

46 (C) any dispute or controversy between any parties to this

1 Compact; and

2 (2) hold a hearing concerning any dispute described in paragraph
3 (1) at a regularly scheduled meeting of the Council and only render a
4 decision based upon a majority vote of the members of the Council.
5 Such decision shall be published pursuant to the requirements of
6 Article VI(e).

7 (b) DUTIES OF FBI.--The FBI shall exercise immediate and
8 necessary action to preserve the integrity of the III System, maintain
9 system policy and standards, protect the accuracy and privacy of
10 records, and to prevent abuses, until the Council holds a hearing on
11 such matters.

12 (c) RIGHT OF APPEAL.--The FBI or a Party State may appeal
13 any decision of the Council to the Attorney General, and thereafter
14 may file suit in the appropriate district court of the United States,
15 which shall have original jurisdiction of all cases or controversies
16 arising under this Compact. Any suit arising under this Compact and
17 initiated in a State court shall be removed to the appropriate district
18 court of the United States in the manner provided by section 1446 of
19 title 28, United States Code, or other statutory authority.

20

21 2. This act shall take effect immediately.

22

23

24

STATEMENT

25

26 This bill would ratify New Jersey's participation in "National Crime
27 Prevention and Privacy Compact," a new federal-state partnership to
28 create a national, decentralized criminal record system established to
29 facilitate the conduct of criminal background searches and checks.

30 There are two types of criminal record checks. There are record
31 checks for criminal justice purposes and record checks for
32 background. Both types of checks involve state-federal record
33 searches. In 1980, the Federal Bureau of Investigation (FBI)
34 established the Interstate Identification Index (III), a decentralized
35 system designed to handle these state-federal record searches.

36 Although virtually all states permit unrestricted access to records
37 for criminal justice purposes, many impose significant restrictions on
38 access to records for non-criminal background checks. As a result, the
39 III system is limited to use solely for criminal justice purposes.

40 To meet the growing need for non-criminal background checks, the
41 federal government enacted the "National Crime Prevention and
42 Privacy Compact" in 1998. The compact is designed as a national,
43 decentralized federal-state partnership.

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45 participate in a III civil access program; (2) Re-authorizes uses by
46 current users of FBI record files; (3) Requires participating states to

A2194 QUIGLEY, FELICE

13

1 make all unsealed criminal history records available in response to
2 authorized non-criminal requests; (4) Bases all civil access to the
3 system on fingerprints to ensure positive identification; (5) Requires
4 that the laws of the receiving states govern release of information (In
5 turn, this provision requires that states screen responses and delete any
6 information that cannot legally be released); and (6) Establishes a
7 council of federal and state officials and other members representing
8 user interests to establish operating policies for civil uses of the III
9 system and to resolve disputes.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2194

STATE OF NEW JERSEY

DATED: DECEMBER 13, 2001

The Assembly Law and Public Safety Committee reports favorably Assembly Bill No. 2194.

Assembly, No. 2194 would ratify New Jersey's participation in the "National Crime Prevention and Privacy Compact," a new federal-state partnership to create a national, decentralized criminal record system to facilitate the conduct of criminal background checks and searches.

There are two types of criminal record checks. There are record checks for criminal justice purposes and non-criminal record checks for background. Both types of checks involve state-federal record searches. In 1980, the Federal Bureau of Investigation (FBI) established the Interstate Identification Index (III), a decentralized system designed to handle these state-federal record searches.

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As reported by the committee, Assembly No.2194 is identical to Senate No. 1517 which was also reported by the committee on December 13, 2001.

P.L. 2001, CHAPTER 331, *approved January 5, 2002*
Senate, No. 1517

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2 decentralized criminal record system between this State, other
3 states and the federal government.

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12 States to exchange criminal history records for noncriminal justice
13 purposes authorized by Federal or State law, such as background
14 checks for governmental licensing and employment.

15 (b) **OBLIGATIONS OF PARTIES.**--Under this Compact, the FBI
16 and the Party States agree to maintain detailed databases of their
17 respective criminal history records, including arrests and dispositions,
18 and to make them available to the Federal Government and to Party
19 States for authorized purposes. The FBI shall also manage the Federal
20 data facilities that provide a significant part of the infrastructure for
21 the system.

22

23

ARTICLE I--DEFINITIONS

24

25 In this Compact:

26 (1) **ATTORNEY GENERAL.**--The term "Attorney General" means
27 the Attorney General of the United States.

28 (2) **COMPACT OFFICER.**--The term "Compact officer" means--

29 (A) with respect to the Federal Government, an official so
30 designated by the Director of the FBI; and

31 (B) with respect to a Party State, the chief administrator of the
32 State's criminal history record repository or a designee of the chief
33 administrator who is a regular full-time employee of the repository.

34 (3) **COUNCIL.**--The term "Council" means the Compact Council
35 established under Article VI.

36 (4) **CRIMINAL HISTORY RECORDS.**--The term "criminal
37 history records"--

38 (A) means information collected by criminal justice agencies on
39 individuals consisting of identifiable descriptions and notations of
40 arrests, detentions, indictments, or other formal criminal charges, and

1 any disposition arising therefrom, including acquittal, sentencing,
2 correctional supervision, or release; and

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

6 (5) CRIMINAL HISTORY RECORD REPOSITORY.--The term
7 "criminal history record repository" means the State agency designated
8 by the Governor or other appropriate executive official or the
9 legislature of a State to perform centralized recordkeeping functions
10 for criminal history records and services in the State.

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

18 (7) CRIMINAL JUSTICE AGENCY.--The term "criminal justice
19 agency"--

20 (A) means--

21 (i) courts; and

22 (ii) a governmental agency or any subunit thereof that--

23 (I) performs the administration of criminal justice pursuant to a
24 statute or Executive order; and

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

27 (B) includes Federal and State inspectors general offices.

28 (8) CRIMINAL JUSTICE SERVICES.--The term "criminal
29 justice services" means services provided by the FBI to criminal justice
30 agencies in response to a request for information about a particular
31 individual or as an update to information previously provided for
32 criminal justice purposes.

33 (9) CRITERION OFFENSE.--The term "criterion offense" means
34 any felony or misdemeanor offense not included on the list of
35 nonserious offenses published periodically by the FBI.

36 (10) DIRECT ACCESS.--The term "direct access" means access
37 to the National Identification Index by computer terminal or other
38 automated means not requiring the assistance of or intervention by
39 any other party or agency.

40 (11) EXECUTIVE ORDER.--The term "Executive order" means
41 an order of the President of the United States or the chief executive
42 officer of a State that has the force of law and that is promulgated in
43 accordance with applicable law.

44 (12) FBI.--The term "FBI" means the Federal Bureau of
45 Investigation.

46 (13) INTERSTATE IDENTIFICATION SYSTEM.--The term

1 "Interstate Identification Index System" or "III System"--

2 (A) means the cooperative Federal-State system for the exchange
3 of criminal history records; and

4 (B) includes the National Identification Index, the National
5 Fingerprint File and, to the extent of their participation in such system,
6 the criminal history record repositories of the States and the FBI.

7 (14) NATIONAL FINGERPRINT FILE.--The term "National
8 Fingerprint File" means a database of fingerprints, or other uniquely
9 personal identifying information, relating to an arrested or charged
10 individual maintained by the FBI to provide positive identification of
11 record subjects indexed in the III System.

12 (15) NATIONAL IDENTIFICATION INDEX.--The term
13 "National Identification Index" means an index maintained by the FBI
14 consisting of names, identifying numbers, and other descriptive
15 information relating to record subjects about whom there are criminal
16 history records in the III System.

17 (16) NATIONAL INDICES.--The term "National indices" means
18 the National Identification Index and the National Fingerprint File.

19 (17) NONPARTY STATE.--The term "Nonparty State" means a
20 State that has not ratified this Compact.

21 (18) NONCRIMINAL JUSTICE PURPOSES.--The term
22 "noncriminal justice purposes" means uses of criminal history records
23 for purposes authorized by Federal or State law other than purposes
24 relating to criminal justice activities, including employment suitability,
25 licensing determinations, immigration and naturalization matters, and
26 national security clearances.

27 (19) PARTY STATE.--The term "Party State" means a State that
28 has ratified this Compact.

29 (20) POSITIVE IDENTIFICATION.--The term "positive
30 identification" means a determination, based upon a comparison of
31 fingerprints or other equally reliable biometric identification
32 techniques, that the subject of a record search is the same person as
33 the subject of a criminal history record or records indexed in the III
34 System. Identifications based solely upon a comparison of subjects
35 names or other nonunique identification characteristics or numbers, or
36 combinations thereof, shall not constitute positive identification.

37 (21) SEALED RECORD INFORMATION.--The term "sealed
38 record information" means--

39 (A) with respect to adults, that portion of a record that is--

40 (i) not available for criminal justice uses;

41 (ii) not supported by fingerprints or other accepted means of
42 positive identification; or

43 (iii) subject to restrictions on dissemination for noncriminal justice
44 purposes pursuant to a court order related to a particular subject or
45 pursuant to a Federal or State statute that requires action on a sealing
46 petition filed by a particular record subject; and

1 (B) with respect to juveniles, whatever each State determines is
2 a sealed record under its own law and procedure.

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

6
7 ARTICLE II--PURPOSES

8
9 The purposes of this Compact are to--

10 (1) provide a legal framework for the establishment of a
11 cooperative Federal- State system for the interstate and Federal-State
12 exchange of criminal history records for noncriminal justice uses;

13 (2) require the FBI to permit use of the National Identification
14 Index and the National Fingerprint File by each Party State, and to
15 provide, in a timely fashion, Federal and State criminal history records
16 to requesting States, in accordance with the terms of this Compact and
17 with rules, procedures, and standards established by the Council under
18 Article VI;

19 (3) require Party States to provide information and records for the
20 National Identification Index and the National Fingerprint File and to
21 provide criminal history records, in a timely fashion, to criminal history
22 record repositories of other States and the Federal Government for
23 noncriminal justice purposes, in accordance with the terms of this
24 Compact and with rules, procedures, and standards established by the
25 Council under Article VI;

26 (4) provide for the establishment of a Council to monitor III
27 System operations and to prescribe system rules and procedures for
28 the effective and proper operation of the III System for noncriminal
29 justice purposes; and

30 (5) require the FBI and each Party State to adhere to III System
31 standards concerning record dissemination and use, response times,
32 system security, data quality, and other duly established standards,
33 including those that enhance the accuracy and privacy of such records.

34
35 ARTICLE III--RESPONSIBILITIES OF COMPACT PARTIES

36
37 (a) FBI RESPONSIBILITIES.--The Director of the FBI shall--

38 (1) appoint an FBI Compact officer who shall--

39 (A) administer this Compact within the Department of Justice and
40 among Federal agencies and other agencies and organizations that
41 submit search requests to the FBI pursuant to Article V(c);

42 (B) ensure that Compact provisions and rules, procedures, and
43 standards prescribed by the Council under Article VI are complied
44 with by the Department of Justice and the Federal agencies and other
45 agencies and organizations referred to in Article III(1)(A); and

46 (C) regulate the use of records received by means of the III

1 System from Party States when such records are supplied by the FBI
2 directly to other Federal agencies;

3 (2) provide to Federal agencies and to State criminal history
4 record repositories, criminal history records maintained in its database
5 for the noncriminal justice purposes described in Article IV, including--
6 (A) information from Nonparty States; and
7 (B) information from Party States that is available from the FBI
8 through the III System, but is not available from the Party State
9 through the III System;

10 (3) provide a telecommunications network and maintain
11 centralized facilities for the exchange of criminal history records for
12 both criminal justice purposes and the noncriminal justice purposes
13 described in Article IV, and ensure that the exchange of such records
14 for criminal justice purposes has priority over exchange for
15 noncriminal justice purposes; and

16 (4) modify or enter into user agreements with Nonparty State
17 criminal history record repositories to require them to establish record
18 request procedures conforming to those prescribed in Article V.

19 (b) STATE RESPONSIBILITIES.--Each Party State shall--

20 (1) appoint a Compact officer who shall--

21 (A) administer this Compact within that State;

22 (B) ensure that Compact provisions and rules, procedures, and
23 standards established by the Council under Article VI are complied
24 with in the State; and

25 (C) regulate the in-State use of records received by means of the
26 III System from the FBI or from other Party States;

27 (2) establish and maintain a criminal history record repository,
28 which shall provide--

29 (A) information and records for the National Identification Index
30 and the National Fingerprint File; and

31 (B) the State's III System-indexed criminal history records for
32 noncriminal justice purposes described in Article IV;

33 (3) participate in the National Fingerprint File; and

34 (4) provide and maintain telecommunications links and related
35 equipment necessary to support the services set forth in this Compact.

36 (c) COMPLIANCE WITH III SYSTEM STANDARDS.--In
37 carrying out their responsibilities under this Compact, the FBI and
38 each Party State shall comply with III System rules, procedures, and
39 standards duly established by the Council concerning record
40 dissemination and use, response times, data quality, system security,
41 accuracy, privacy protection, and other aspects of III System
42 operation.

43 (d) MAINTENANCE OF RECORD SERVICES.--

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

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

4
5 ARTICLE IV--AUTHORIZED RECORD DISCLOSURES

6
7 (a) STATE CRIMINAL HISTORY RECORD REPOSITORIES.--
8 To the extent authorized by section 552a of title 5, United States Code
9 (commonly known as the "Privacy Act of 1974"), the FBI shall
10 provide on request criminal history records (excluding sealed records)
11 to State criminal history record repositories for noncriminal justice
12 purposes allowed by Federal statute, Federal Executive order, or a
13 State statute that has been approved by the Attorney General and that
14 authorizes national indices checks.

15 (b) CRIMINAL JUSTICE AGENCIES AND OTHER
16 GOVERNMENTAL OR NONGOVERNMENTAL AGENCIES.--The
17 FBI, to the extent authorized by section 552a of title 5, United States
18 Code (commonly known as the "Privacy Act of 1974"), and State
19 criminal history record repositories shall provide criminal history
20 records (excluding sealed records) to criminal justice agencies and
21 other governmental or nongovernmental agencies for noncriminal
22 justice purposes allowed by Federal statute, Federal Executive order,
23 or a State statute that has been approved by the Attorney General, that
24 authorizes national indices checks.

25 (c) PROCEDURES.--Any record obtained under this Compact
26 may be used only for the official purposes for which the record was
27 requested. Each Compact officer shall establish procedures, consistent
28 with this Compact, and with rules, procedures, and standards
29 established by the Council under Article VI, which procedures shall
30 protect the accuracy and privacy of the records, and shall--

31 (1) ensure that records obtained under this Compact are used only
32 by authorized officials for authorized purposes;

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

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

39
40 ARTICLE V--RECORD REQUEST PROCEDURES

41
42 (a) POSITIVE IDENTIFICATION.--Subject fingerprints or other
43 approved forms of positive identification shall be submitted with all
44 requests for criminal history record checks for noncriminal justice
45 purposes.

46 (b) SUBMISSION OF STATE REQUESTS.--Each request for a

1 criminal history record check utilizing the national indices made under
2 any approved State statute shall be submitted through that State's
3 criminal history record repository. A State criminal history record
4 repository shall process an interstate request for noncriminal justice
5 purposes through the national indices only if such request is
6 transmitted through another State criminal history record repository
7 or the FBI.

8 (c) SUBMISSION OF FEDERAL REQUESTS.--Each request for
9 criminal history record checks utilizing the national indices made under
10 Federal authority shall be submitted through the FBI or, if the State
11 criminal history record repository consents to process fingerprint
12 submissions, through the criminal history record repository in the State
13 in which such request originated. Direct access to the National
14 Identification Index by entities other than the FBI and State criminal
15 history records repositories shall not be permitted for noncriminal
16 justice purposes.

17 (d) FEES.--A State criminal history record repository or the FBI--

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

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

24 (e) ADDITIONAL SEARCH.--

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

30 (2) If, with respect to a request forwarded by a State criminal
31 history record repository under paragraph (1), the FBI positively
32 identifies the subject as having a III System-indexed record or records--

33 (A) the FBI shall so advise the State criminal history record
34 repository; and

35 (B) the State criminal history record repository shall be entitled to
36 obtain the additional criminal history record information from the FBI
37 or other State criminal history record repositories.

38

39 ARTICLE VI--ESTABLISHMENT OF COMPACT COUNCIL

40

41 (a) ESTABLISHMENT.--

42 (1) IN GENERAL.--There is established a council to be known as
43 the "Compact Council", which shall have the authority to promulgate
44 rules and procedures governing the use of the III System for
45 noncriminal justice purposes, not to conflict with FBI administration
46 of the III System for criminal justice purposes.

- 1 (2) ORGANIZATION.--The Council shall--
- 2 (A) continue in existence as long as this Compact remains in
- 3 effect;
- 4 (B) be located, for administrative purposes, within the FBI; and
- 5 (C) be organized and hold its first meeting as soon as practicable
- 6 after the effective date of this Compact.
- 7 (b) MEMBERSHIP.--The Council shall be composed of 15
- 8 members, each of whom shall be appointed by the Attorney General,
- 9 as follows:
- 10 (1) Nine members, each of whom shall serve a 2-year term, who
- 11 shall be selected from among the Compact officers of Party States
- 12 based on the recommendation of the Compact officers of all Party
- 13 States, except that, in the absence of the requisite number of Compact
- 14 officers available to serve, the chief administrators of the criminal
- 15 history record repositories of Nonparty States shall be eligible to serve
- 16 on an interim basis.
- 17 (2) Two at-large members, nominated by the Director of the FBI,
- 18 each of whom shall serve a 3-year term, of whom--
- 19 (A) 1 shall be a representative of the criminal justice agencies of
- 20 the Federal Government and may not be an employee of the FBI; and
- 21 (B) 1 shall be a representative of the noncriminal justice agencies
- 22 of the Federal Government.
- 23 (3) Two at-large members, nominated by the Chairman of the
- 24 Council, once the Chairman is elected pursuant to Article VI(c), each
- 25 of whom shall serve a 3- year term, of whom--
- 26 (A) 1 shall be a representative of State or local criminal justice
- 27 agencies; and
- 28 (B) 1 shall be a representative of State or local noncriminal justice
- 29 agencies.
- 30 (4) One member, who shall serve a 3-year term, and who shall
- 31 simultaneously be a member of the FBI's advisory policy board on
- 32 criminal justice information services, nominated by the membership of
- 33 that policy board.
- 34 (5) One member, nominated by the Director of the FBI, who shall
- 35 serve a 3- year term, and who shall be an employee of the FBI.
- 36 (c) CHAIRMAN AND VICE CHAIRMAN.--
- 37 (1) IN GENERAL.--From its membership, the Council shall elect
- 38 a Chairman and a Vice Chairman of the Council, respectively. Both
- 39 the Chairman and Vice Chairman of the Council--
- 40 (A) shall be a Compact officer, unless there is no Compact officer
- 41 on the Council who is willing to serve, in which case the Chairman ma
- 42 be an at- large member; and
- 43 (B) shall serve a 2-year term and may be reelected to only 1
- 44 additional 2- year term.
- 45 (2) DUTIES OF VICE CHAIRMAN.--The Vice Chairman of the
- 46 Council shall serve as the Chairman of the Council in the absence of

1 the Chairman.

2 (d) MEETINGS.--

3 (1) IN GENERAL.--The Council shall meet at least once each
4 year at the call of the Chairman. Each meeting of the Council shall be
5 open to the public. The Council shall provide prior public notice in the
6 Federal Register of each meeting of the Council, including the matters
7 to be addressed at such meeting.

8 (2) QUORUM.--A majority of the Council or any committee of
9 the Council shall constitute a quorum of the Council or of such
10 committee, respectively, for the conduct of business. A lesser number
11 may meet to hold hearings, take testimony, or conduct any business
12 not requiring a vote.

13 (e) RULES, PROCEDURES, AND STANDARDS.--The Council
14 shall make available for public inspection and copying at the Council
15 office within the FBI, and shall publish in the Federal Register, any
16 rules, procedures, or standards established by the Council.

17 (f) ASSISTANCE FROM FBI.--The Council may request from the
18 FBI such reports, studies, statistics, or other information or materials
19 as the Council determines to be necessary to enable the Council to
20 perform its duties under this Compact. The FBI, to the extent
21 authorized by law, may provide such assistance or information upon
22 such a request.

23 (g) COMMITTEES.--The Chairman may establish committees as
24 necessary to carry out this Compact and may prescribe their
25 membership, responsibilities, and duration.

26

27 ARTICLE VII--RATIFICATION OF COMPACT

28

29 This Compact shall take effect upon being entered into by 2 or
30 more States as between those States and the Federal Government.
31 Upon subsequent entering into this Compact by additional States, it
32 shall become effective among those States and the Federal
33 Government and each Party State that has previously ratified it. When
34 ratified, this Compact shall have the full force and effect of law within
35 the ratifying jurisdictions. The form of ratification shall be in
36 accordance with the laws of the executing State.

37

38 ARTICLE VIII--MISCELLANEOUS PROVISIONS

39

40 (a) RELATION OF COMPACT TO CERTAIN FBI
41 ACTIVITIES.--Administration of this Compact shall not interfere with
42 the management and control of the Director of the FBI over the FBI's
43 collection and dissemination of criminal history records and the
44 advisory function of the FBI's advisory policy board chartered under
45 the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes
46 other than noncriminal justice.

1 (b) NO AUTHORITY FOR NONAPPROPRIATED
2 EXPENDITURES.--Nothing in this Compact shall require the FBI to
3 obligate or expend funds beyond those appropriated to the FBI.

4 (c) RELATING TO PUBLIC LAW 92-544.--Nothing in this
5 Compact shall diminish or lessen the obligations, responsibilities, and
6 authorities of any State, whether a Party State or a Nonparty State, or
7 of any criminal history record repository or other subdivision or
8 component thereof, under the Departments of State, Justice, and
9 Commerce, the Judiciary, and Related Agencies Appropriation Act,
10 1973 (Public Law 92-544), or regulations and guidelines promulgated
11 thereunder, including the rules and procedures promulgated by the
12 Council under Article VI(a), regarding the use and dissemination of
13 criminal history records and information.

14
15 ARTICLE IX--RENUNCIATION

16
17 (a) IN GENERAL.--This Compact shall bind each Party State
18 until renounced by the Party State.

19 (b) EFFECT.--Any renunciation of this Compact by a Party State
20 shall--

21 (1) be effected in the same manner by which the Party State
22 ratified this Compact; and

23 (2) become effective 180 days after written notice of renunciation
24 is provided by the Party State to each other Party State and to the
25 Federal Government.

26
27 ARTICLE X--SEVERABILITY

28
29 The provisions of this Compact shall be severable, and if any
30 phrase, clause, sentence, or provision of this Compact is declared to
31 be contrary to the constitution of any participating State, or to the
32 Constitution of the United States, or the applicability thereof to any
33 government, agency, person, or circumstance is held invalid, the
34 validity of the remainder of this Compact and the applicability thereof
35 to any government, agency, person, or circumstance shall not be
36 affected thereby. If a portion of this Compact is held contrary to the
37 constitution of any Party State, all other portions of this Compact shall
38 remain in full force and effect as to the remaining Party States and in
39 full force and effect as to the Party State affected, as to all other
40 provisions.

41
42 ARTICLE XI--ADJUDICATION OF DISPUTES

43
44 (a) IN GENERAL.--The Council shall--

45 (1) have initial authority to make determinations with respect to
46 any dispute regarding--

- 1 (A) interpretation of this Compact;
- 2 (B) any rule or standard established by the Council pursuant to
3 Article V; and
- 4 (C) any dispute or controversy between any parties to this
5 Compact; and
- 6 (2) hold a hearing concerning any dispute described in paragraph
7 (1) at a regularly scheduled meeting of the Council and only render a
8 decision based upon a majority vote of the members of the Council.
9 Such decision shall be published pursuant to the requirements of
10 Article VI(e).
- 11 (b) DUTIES OF FBI.--The FBI shall exercise immediate and
12 necessary action to preserve the integrity of the III System, maintain
13 system policy and standards, protect the accuracy and privacy of
14 records, and to prevent abuses, until the Council holds a hearing on
15 such matters.
- 16 (c) RIGHT OF APPEAL.--The FBI or a Party State may appeal
17 any decision of the Council to the Attorney General, and thereafter
18 may file suit in the appropriate district court of the United States,
19 which shall have original jurisdiction of all cases or controversies
20 arising under this Compact. Any suit arising under this Compact and
21 initiated in a State court shall be removed to the appropriate district
22 court of the United States in the manner provided by section 1446 of
23 title 28, United States Code, or other statutory authority.
- 24
- 25 2. This act shall take effect immediately.
- 26
- 27

28 STATEMENT

29

30 This bill would ratify New Jersey's participation in "National Crime
31 Prevention and Privacy Compact," a new federal-state partnership to
32 create a national, decentralized criminal record system established to
33 facilitate the conduct of criminal background searches and checks.

34 There are two types of criminal record checks. There are record
35 checks for criminal justice purposes and record checks for
36 background. Both types of checks involve state-federal record
37 searches. In 1980, the Federal Bureau of Investigation (FBI)
38 established the Interstate Identification Index (III), a decentralized
39 system designed to handle these state-federal record searches.

40 Although virtually all states permit unrestricted access to records
41 for criminal justice purposes, many impose significant restrictions on
42 access to records for non-criminal background checks. As a result, the
43 III system is limited to use solely for criminal justice purposes.

44 To meet the growing need for non-criminal background checks, the
45 federal government enacted the "National Crime Prevention and
46 Privacy Compact" in 1998. The compact is designed as a national,

1 decentralized federal-state partnership.

2 The compact: (1) Binds the FBI and the ratifying states to
3 participate in a III civil access program; (2) Re-authorizes uses by
4 current users of FBI record files; (3) Requires participating states to
5 make all unsealed criminal history records available in response to
6 authorized non-criminal requests; (4) Bases all civil access to the
7 system on fingerprints to ensure positive identification; (5) Requires
8 that the laws of the receiving states govern release of information (In
9 turn, this provision requires that states screen responses and delete any
10 information that cannot legally be released); and (6) Establishes a
11 council of federal and state officials and other members representing
12 user interests to establish operating policies for civil uses of the III
13 system and to resolve disputes.

14

15

16

17

18 Ratifies New Jersey's participation in "National Crime Prevention and
19 Privacy Compact."

CHAPTER 331

AN ACT providing for a federal-state partnership regarding a national decentralized criminal record system between this State, other states and the federal government.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.53:1-32 "National Crime Prevention and Privacy Compact."

1. 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 justice 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(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), 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 15 members, each of whom shall be appointed by the Attorney General, as follows:

(1) Nine members, each of whom shall serve a two-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 at-large members, nominated by the Director of the FBI, each of whom shall serve a three-year term, of whom--

(A) one 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 shall be a representative of the noncriminal justice agencies of the Federal Government.

(3) Two 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-year term, of whom--

(A) one shall be a representative of State or local criminal justice agencies; and

(B) one shall be a representative of State or local noncriminal justice agencies.

(4) One member, who shall serve a three-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 member, nominated by the Director of the FBI, who shall serve a three-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 maybe an at-large member; and

(B) shall serve a two-year term and may be reelected to only one additional two-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 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 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 V; and

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

(2) hold a hearing concerning any dispute described in paragraph (1) 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.

2. This act shall take effect immediately.

Approved January 5, 2002.