

CHAPTER 59

CRIMINAL HISTORY RECORD BACKGROUND CHECKS FOR NON-CRIMINAL MATTERS

Authority

N.J.S.A. 53:1-12 through 1-20.7.

Source and Effective Date

R.1995 d.463, effective July 28, 1995.
See: 27 N.J.R. 2103(a), 27 N.J.R. 3201(b).

Executive Order No. 66(1978) Expiration Date

Chapter 59, Criminal History Record Background Checks for Non-Criminal Matters, expires on July 28, 2000.

Chapter Historical Note

Chapter 59, Criminal History Record Background Checks for Non-Criminal Matters, became effective September 16, 1985. See: 17 N.J.R. 1743(a), 17 N.J.R. 2282(b). Pursuant to Executive Order No. 66(1978), Chapter 59 was readopted as R.1990 d.425, effective July 30, 1990. See: 22 N.J.R. 1869(a), 22 N.J.R. 2530(b). Chapter 59 was readopted as R.1995 d.463, effective July 28, 1995. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

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SUBCHAPTER 1. USER FEES

13:59-1.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

“Access” means to instruct, communicate with, store data in, gain entry into, retrieve data from, disseminate, or otherwise make use of any computer, computer system or computer network.

“Administration of criminal justice or criminal justice purpose” includes:

1. The detection, apprehension, detention, pretrial and post-trial release, prosecution, adjudication, correction, supervision or rehabilitation of accused persons or criminal offenders;

2. The hiring of persons for employment by criminal justice agencies; and

3. Criminal identification activities, including the accessing of the New Jersey Criminal Justice Information System, the National Law Enforcement Telecommunications System (NLETS) or other states’ computerized repositories containing criminal history record information, by criminal justice agencies for the purposes set forth in paragraphs 1 and 2 of this definition.

“Attorney General” includes the Attorney General of New Jersey and, when authorized by the Attorney General to access Criminal History Record Information, his or her Assistants and Deputies.

“Authorized requester” means any person, agency or entity, including national requesters, authorized by Federal or State statute, rule or regulation, executive order, administrative code, local ordinance, resolution or by this chapter, to obtain dissemination of Criminal History Record Information accessed from the computerized databases of the New Jersey Criminal Justice Information System, the National Law Enforcement Telecommunications System (NLETS) or other states’ computerized repositories containing criminal history record information for non-criminal justice purposes, including licensing and/or employment.

“Criminal History Record Information” or “CHRI” means information collected by criminal justice agencies concerning persons and stored in the computerized databases of the New Jersey State Police SBI Criminal History Information System, the National Law Enforcement Telecommunications System (NLETS) or other states’ computerized repositories containing criminal history record information consisting of identifiable descriptions and notations of arrests, indictments, or other formal criminal charges, and any dispositions arising therefrom, including convictions, dismissals, acquittals, sentencing, correctional supervision and release.

“Criminal justice agency” means:

1. The courts of the State of New Jersey; and
2. A governmental entity of the State of New Jersey which performs functions pertaining to the administration of criminal justice pursuant to statute, ordinance, resolution or regulation, and which allocates a substantial portion of its budget to the administration of criminal justice.

“Dissemination of Criminal History Record Information” means the process whereby the State Bureau of Identification accesses the criminal history record databases of the New Jersey State Police SBI Criminal Justice Information System, the National Law Enforcement Telecommunications System (NLETS) or other states’ computerized repositories containing criminal history record information to compare

sets of classified fingerprints or to conduct name search requests to determine if New Jersey, Federal or out-of-State criminal history record information exists for persons identified by authorized requesters, and includes:

1. The dissemination by the State Bureau of Identification to authorized requesters, other than national requesters, of all records of convictions in New Jersey State courts and all records of pending arrests and charges for violations of New Jersey laws, regardless of their age, unless such records have been expunged pursuant to law; or

2. The dissemination by the State Bureau of Identification to authorized national requesters of all criminal history record information from the databases of the New Jersey State Police SBI Criminal Justice Information System, the National Law Enforcement Telecommunications System (NLETS) or other states' computerized repositories containing criminal history record information, unless such records have been expunged by law.

"Fee" means that cost established by law for processing all criminal history record requests for authorized requesters for noncriminal justice purposes, including licensing and/or employment.

"Governmental entities" include the State, any office, department, division, bureau, board, commission or agency of the State, and any county, municipality, district, public authority, public agency and any other political subdivision or public body within the State.

"National requesters" shall mean persons, agencies or entities authorized by Federal or State statute to obtain dissemination of Federal and out-of-State criminal history record information accessed by the State Bureau of Identification from the computerized databases of the New Jersey State Police SBI Criminal Justice Information System, the National Law Enforcement Telecommunications System (NLETS) and other states' computerized repositories containing criminal history record information.

"Non-criminal justice purpose" means any purpose, other than administration of criminal justice or criminal justice purpose, including employment and licensing, for which applicant fingerprints or name search requests are submitted by authorized requesters, as required or permitted by a Federal or State statute, rule or regulation, executive order, administrative code provision, local ordinance, resolution or by this chapter, to the State Bureau of Identification for the dissemination of criminal history record information.

"Public servant" means any officer or employee of State government or of any political subdivision or public body of the State, including any advisor or consultant retained by government to perform a governmental function.

"State Bureau of Identification, (S.B.I.)" means the State Bureau of Identification created by P.L. 1930, c.65 as a bureau within the Division of State Police.

"Superintendent" shall mean the Superintendent of the New Jersey Division of State Police (P.L. 1984, c.439, § 7).

Amended by R.1990 d.425, effective August 20, 1990.

See: 22 N.J.R. 1869(a), 22 N.J.R. 2530(b).

Amended "authorized agency" and "licensing and/or employment purpose."

Amended by R.1992 d.308, effective August 3, 1992.

See: 24 N.J.R. 1963(a), 24 N.J.R. 2735(a).

Amended by R.1994 d.601, effective December 5, 1994.

See: 26 N.J.R. 3595(a), 26 N.J.R. 4782(a).

13:59-1.2 Additional dissemination authorized by this chapter

(a) In addition to any other Federal or State laws, regulations, executive orders, ordinances or resolutions authorizing the dissemination of criminal history record information, the following requesters are authorized to obtain from the SBI all records of convictions in New Jersey State courts and, regardless of their age, all records of pending arrests and charges for violations of New Jersey laws, unless such records have been expunged pursuant to law:

1. Governmental entities of this State, the Federal government or any other state for any official governmental purposes, including, but not limited to, employment, licensing and the procurement of services;

2. A person or non-governmental entity of this State for purposes of determining a person's qualifications for employment, volunteer work or other performance of services;

3. Attorneys-at-law licensed by the State of New Jersey for use in any contested matters docketed in any State or Federal courts or administrative agencies of this State; and

4. Private detectives licensed by the Division of State Police pursuant to N.J.S.A. 45:19-8 et seq., for purposes of obtaining information in furtherance of the performance of their statutorily authorized functions, as specifically enumerated by N.J.S.A. 45:19-9(a)1 to 9.

(b) Requesters authorized by (a)1 and 2 above to obtain criminal history record information shall, on the completed forms or fingerprint cards prescribed pursuant to N.J.A.C. 13:59-1.4, obtain the signatures of the subjects of the requests. Requesters authorized by (a)1 and 2 and (a)4 above shall sign certifications on the forms prescribed by the Division of State Police. The signed certifications shall specify that:

1. The requesters are authorized to receive criminal history record information in conformity with (a) above;

2. That such records shall be used by the requesters solely for the purposes enumerated by the relevant provision of (a) above;

3. That such records will not be disseminated to persons for unauthorized purposes; and