

**(6) State**

The term “State” means any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 105–251, title II, §213, Oct. 9, 1998, 112 Stat. 1874.)

## CODIFICATION

Section was formerly classified to section 14612 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

**§ 40313. Enactment and consent of the United States**

The National Crime Prevention and Privacy Compact, as set forth in section 40316 of this title, is enacted into law and entered into by the Federal Government. The consent of Congress is given to States to enter into the Compact.

(Pub. L. 105–251, title II, §214, Oct. 9, 1998, 112 Stat. 1875.)

## CODIFICATION

Section was formerly classified to section 14613 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

**§ 40314. Effect on other laws****(a) Privacy Act of 1974**

Nothing in the Compact shall affect the obligations and responsibilities of the FBI under section 552a of title 5 (commonly known as the “Privacy Act of 1974”).

**(b) Access to certain records not affected**

Nothing in the Compact shall interfere in any manner with—

(1) access, direct or otherwise, to records pursuant to—

(A) section 9101 of title 5;

(B) the National Child Protection Act<sup>1</sup> [34 U.S.C. 40101 et seq.];

(C) the Brady Handgun Violence Prevention Act (Public Law 103–159; 107 Stat. 1536);

(D) the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 2074) or any amendment made by that Act;

(E) the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); or

(F) the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); or

(2) any direct access to Federal criminal history records authorized by law.

**(c) Authority of FBI under Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973**

Nothing in the Compact shall be construed to affect the authority of the FBI under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92–544 (86 Stat. 1115)).

**(d) Federal Advisory Committee Act**

The Council shall not be considered to be a Federal advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

**(e) Members of Council not Federal officers or employees**

Members of the Council (other than a member from the FBI or any at-large member who may be a Federal official or employee) shall not, by virtue of such membership, be deemed—

(1) to be, for any purpose other than to effect the Compact, officers or employees of the United States (as defined in sections 2104 and 2105 of title 5); or

(2) to become entitled by reason of Council membership to any compensation or benefit payable or made available by the Federal Government to its officers or employees.

(Pub. L. 105–251, title II, §215, Oct. 9, 1998, 112 Stat. 1875.)

## REFERENCES IN TEXT

The Privacy Act of 1974, referred to in subsec. (a), is Pub. L. 93–579, Dec. 31, 1974, 88 Stat. 1896, which enacted section 552a of Title 5, Government Organization and Employees, and provisions set out as notes under section 552a of Title 5. For complete classification of this Act to the Code, see Short Title note set out under section 552a of Title 5 and Tables.

The National Child Protection Act, referred to in subsec. (b)(1)(B), probably means the National Child Protection Act of 1993, Pub. L. 103–209, Dec. 20, 1993, 107 Stat. 2490, which is classified principally to chapter 401 (§40101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1993 Act note set out under section 10101 of this title and Tables.

The Brady Handgun Violence Prevention Act, referred to in subsec. (b)(1)(C), is title I of Pub. L. 103–159, Nov. 30, 1993, 107 Stat. 1536, which enacted section 925A of Title 18, Crimes and Criminal Procedure, amended sections 921, 922, and 924 of Title 18 and former section 3759 of Title 42, The Public Health and Welfare, and enacted provisions set out as notes under sections 921 and 922 of Title 18. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 921 of Title 18 and Tables.

The Violent Crime Control and Law Enforcement Act of 1994, referred to in subsec. (b)(1)(D), is Pub. L. 103–322, Sept. 13, 1994, 108 Stat. 1796. For complete classification of this Act to the Code, see Short Title of 1994 Act note set out under section 10101 of this title and Tables.

The United States Housing Act of 1937, referred to in subsec. (b)(1)(E), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of Title 42 and Tables.

The Native American Housing Assistance and Self-Determination Act of 1996, referred to in subsec. (b)(1)(F), is Pub. L. 104–330, Oct. 26, 1996, 110 Stat. 4016, which is classified principally to chapter 43 (§4101 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 25 and Tables.

The Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973, referred to in subsec. (c), is Pub. L. 92–544, Oct. 25, 1972, 86 Stat. 1109. For complete classification of this Act to the Code, see Tables.

The Federal Advisory Committee Act, referred to in subsec. (d), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

## CODIFICATION

Section was formerly classified to section 14614 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

<sup>1</sup> See References in Text note below.

**§ 40315. Enforcement and implementation**

All departments, agencies, officers, and employees of the United States shall enforce the Compact and cooperate with one another and with all Party States in enforcing the Compact and effectuating its purposes. For the Federal Government, the Attorney General shall make such rules, prescribe such instructions, and take such other actions as may be necessary to carry out the Compact and this subchapter.

(Pub. L. 105-251, title II, §216, Oct. 9, 1998, 112 Stat. 1875.)

## CODIFICATION

Section was formerly classified to section 14615 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

**§ 40316. National Crime Prevention and Privacy Compact**

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.