

SUBCHAPTER II—EXCHANGE OF CRIMINAL HISTORY RECORDS FOR NONCRIMINAL JUSTICE PURPOSES

§ 40311. Findings

Congress finds that—

(1) both the Federal Bureau of Investigation and State criminal history record repositories maintain fingerprint-based criminal history records;

(2) these criminal history records are shared and exchanged for criminal justice purposes through a Federal-State program known as the Interstate Identification Index System;

(3) although these records are also exchanged for legally authorized, noncriminal justice uses, such as governmental licensing and employment background checks, the purposes for and procedures by which they are exchanged vary widely from State to State;

(4) an interstate and Federal-State compact is necessary to facilitate authorized interstate criminal history record exchanges for non-criminal justice purposes on a uniform basis, while permitting each State to effectuate its own dissemination policy within its own borders; and

(5) such a compact will allow Federal and State records to be provided expeditiously to governmental and nongovernmental agencies that use such records in accordance with pertinent Federal and State law, while simultaneously enhancing the accuracy of the records and safeguarding the information contained therein from unauthorized disclosure or use.

(Pub. L. 105-251, title II, §212, Oct. 9, 1998, 112 Stat. 1874.)

CODIFICATION

Section was formerly classified to section 14611 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 40312. Definitions

In this subchapter:

(1) **Attorney General**

The term “Attorney General” means the Attorney General of the United States.

(2) **Compact**

The term “Compact” means the National Crime Prevention and Privacy Compact set forth in section 40316 of this title.

(3) **Council**

The term “Council” means the Compact Council established under Article VI of the Compact.

(4) **FBI**

The term “FBI” means the Federal Bureau of Investigation.

(5) **Party State**

The term “Party State” means a State that has ratified the Compact.

(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

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