

Editorial Notes

CODIFICATION

Section was formerly classified in a note under section 922 of Title 18, Crimes and Criminal Procedure, prior to editorial reclassification and renumbering as this section.

CHAPTER 411—ACCESS TO CRIMINAL HISTORY AND IDENTIFICATION RECORDS

Sec.

- 41101. Funds for exchange of identification records.
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- 41105. Criminal background checks for applicants for employment in nursing facilities and home health care agencies.
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Statutory Notes and Related Subsidiaries

REGULATIONS

Pub. L. 117-159, div. A, title II, §12004(h)(3), June 25, 2022, 136 Stat. 1331, provided that: “Not later than 90 days after the date of enactment of this Act [June 25, 2022], and without regard to chapter 5 of title 5, United States Code, the Attorney General shall promulgate regulations allowing a person licensed as an importer, manufacturer, or dealer of firearms under chapter 44 of title 18, United States Code, to receive access to records of stolen firearms maintained by the National Crime Information Center operated by the Federal Bureau of Investigation, solely for the purpose of voluntarily verifying whether firearms offered for sale to such licensees have been stolen.”

§ 41101. Funds for exchange of identification records

The funds provided for Salaries and Expenses, Federal Bureau of Investigation, may be used hereafter, in addition to those uses authorized thereunder, for the exchange of identification records with officials or federally chartered or insured banking institutions to promote or maintain the security of those institutions, and, if authorized by State or Tribal statute and approved by the Attorney General, to officials of State, Tribal, and local governments for purposes of employment and licensing, any such exchange to be made only for the official use of any such official and subject to the same restriction with respect to dissemination as that provided for under the aforementioned appropriation.

(Pub. L. 92-544, title II, Oct. 25, 1972, 86 Stat. 1115; Pub. L. 117-103, div. W, title VIII, §802(c), Mar. 15, 2022, 136 Stat. 898.)

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Section was formerly classified as a note under section 534 of Title 28, Judiciary and Judicial Procedure, prior to editorial reclassification and renumbering as this section.

Section is from the Department of Justice Appropriation Act, 1973, and also from the Departments of State,

Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973.

AMENDMENTS

2022—Pub. L. 117-103 inserted “or Tribal” after “if authorized by State” and “, Tribal,” before “and local governments”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117-103 not effective until Oct. 1 of the first fiscal year beginning after Mar. 15, 2022, see section 4(a) of div. W of Pub. L. 117-103, set out as an Effective Date note under section 6851 of Title 15, Commerce and Trade.

§ 41102. Parimutuel licensing simplification**(a) In general**

An association of State officials regulating parimutuel wagering, designated for the purpose of this section by the Attorney General, may submit fingerprints to the Attorney General on behalf of any applicant for State license to participate in parimutuel wagering. In response to such a submission, the Attorney General may, to the extent provided by law, exchange, for licensing and employment purposes, identification and criminal history records with the State governmental bodies to which such applicant has applied.

(b) Definition

As used in this section, the term “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(Pub. L. 100-413, §2, Aug. 22, 1988, 102 Stat. 1101.)

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Section was formerly classified in a note under section 534 of Title 28, Judiciary and Judicial Procedure, prior to editorial reclassification and renumbering as this section.

EFFECTIVE DATE

Pub. L. 100-413, §3, Aug. 22, 1988, 102 Stat. 1101, provided that: “This Act [enacting this section and provisions set out as a note under section 10101 of this title] shall take effect on July 1, 1989.”

§ 41103. Processing of name checks and background records for noncriminal employment, licensing, and humanitarian purposes by INTERPOL

For fiscal year 1990 and hereafter the Chief, United States National Central Bureau, INTERPOL, may establish and collect fees to process name checks and background records for noncriminal employment, licensing, and humanitarian purposes and, notwithstanding the provisions of section 3302 of title 31, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services.

(Pub. L. 101-162, title II, Nov. 21, 1989, 103 Stat. 995.)

Editorial Notes

CODIFICATION

Section was formerly classified as a note under section 509 of Title 28, Judiciary and Judicial Procedure, prior to editorial reclassification and renumbering as this section.

Section is from the Department of Justice Appropriations Act, 1990, and also from the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990.

§ 41104. Processing of fingerprint identification records and name checks by FBI

For fiscal year 1991 and hereafter the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records and name checks for non-criminal justice, non-law enforcement employment and licensing purposes and for certain employees of private sector contractors with classified Government contracts, and notwithstanding the provisions of section 3302 of title 31, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services, and that the Director of the Federal Bureau of Investigation may establish such fees at a level to include an additional amount to establish a fund to remain available until expended to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs.

(Pub. L. 101-515, title II, Nov. 5, 1990, 104 Stat. 2112; Pub. L. 104-91, title I, §101(a), Jan. 6, 1996, 110 Stat. 11, amended Pub. L. 104-99, title II, §211, Jan. 26, 1996, 110 Stat. 37.)

Editorial Notes

CODIFICATION

Section was formerly classified as a note under section 534 of Title 28, Judiciary and Judicial Procedure, prior to editorial reclassification and renumbering as this section.

Section is from the Department of Justice Appropriations Act, 1991, and also from the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991.

Amendment by Pub. L. 104-91 is based on section 113 of H.R. 2076, One Hundred Fourth Congress, as passed by the House of Representatives on Dec. 6, 1995, which was enacted into law by Pub. L. 104-91.

AMENDMENTS

1996—Pub. L. 104-91, as amended by Pub. L. 104-99, which directed the amendment of this section by inserting “and criminal justice information” after “for the automation of fingerprint identification”, was executed by making the insertion after “for the automation of fingerprint identification” to reflect the probable intent of Congress.

§ 41105. Criminal background checks for applicants for employment in nursing facilities and home health care agencies

(a)(1) A nursing facility or home health care agency may submit a request to the Attorney General to conduct a search and exchange of records described in subsection (b) regarding an applicant for employment if the employment position is involved in direct patient care.

(2) A nursing facility or home health care agency requesting a search and exchange of

records under this section shall submit to the Attorney General through the appropriate State agency or agency designated by the Attorney General a copy of an employment applicant's fingerprints, a statement signed by the applicant authorizing the nursing facility or home health care agency to request the search and exchange of records, and any other identification information not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5) after acquiring the fingerprints, signed statement, and information.

(b) Pursuant to any submission that complies with the requirements of subsection (a), the Attorney General shall search the records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints or other identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the appropriate State agency or agency designated by the Attorney General to receive such information.

(c) Information regarding an applicant for employment in a nursing facility or home health care agency obtained pursuant to this section may be used only by the facility or agency requesting the information and only for the purpose of determining the suitability of the applicant for employment by the facility or agency in a position involved in direct patient care.

(d) The Attorney General may charge a reasonable fee, not to exceed \$50 per request, to any nursing facility or home health care agency requesting a search and exchange of records pursuant to this section.

(e) Not later than 2 years after October 21, 1998, the Attorney General shall submit a report to Congress on the number of requests for searches and exchanges of records made under this section by nursing facilities and home health care agencies and the disposition of such requests.

(f) Whoever knowingly uses any information obtained pursuant to this section for a purpose other than as authorized under subsection (c) shall be fined in accordance with title 18, imprisoned for not more than 2 years, or both.

(g) A nursing facility or home health care agency that, in denying employment for an applicant, reasonably relies upon information provided by the Attorney General pursuant to this section shall not be liable in any action brought by the applicant based on the employment determination resulting from the incompleteness or inaccuracy of the information.

(h) The Attorney General may promulgate such regulations as are necessary to carry out this section, including regulations regarding the security, confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, the imposition of fees, and any necessary modifications to the definitions contained in subsection (i).

(i) In this section:

(1) The term “home health care agency” means an agency that provides home health care or personal care services on a visiting basis in a place of residence.