

SEARCH Resolution 11-58

Of the Membership Group of SEARCH, The National Consortium for Justice Information and Statistics

March 23, 2011

Federal Legislation Authorizing Federal Noncriminal Justice Agencies to Obtain Access to State-based Criminal History Record Information

WHEREAS, SEARCH, the National Consortium for Justice Information and Statistics, is governed by a Membership Group comprised of one governor's appointee from each of the 50 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands and several At-Large appointees;

WHEREAS, SEARCH members include state justice officials with operational and/or policy responsibilities for state criminal justice record information, including state criminal history records; identification records, including fingerprint records; warrant information; and missing persons information; ("criminal justice record information");

WHEREAS, SEARCH, for more than 40 years, has been a leader in the formulation and execution of criminal justice record policy including the use of this information for noncriminal justice, civil and administrative purposes, including licensing and employment background checks;

WHEREAS, SEARCH supports access to state-held criminal justice record information by federal, noncriminal justice agencies for homeland security, public safety and other important civil and administrative purposes, including licensing and employment background screening;

WHEREAS, the 112th Congress has considered legislation to give the Federal Aviation Administration ("FAA") "direct" access for "civil and administrative purposes" to criminal justice record systems maintained by the Department of Justice and/or by any state; and

WHEREAS, the 112th Congress is currently considering amendatory language which would require that the FAA's purpose in seeking access to criminal justice record information be limited to FAA licensing purposes only; be limited to criminal history record information only; require the FAA to submit positive identification to respective federal and state fingerprint-based repositories; and require that the FAA, in submitting these searches, be subject to the same conditions and procedures established by DOJ, the National Crime Prevention and Privacy Compact Council and/or a state for other government agencies conducting background checks for noncriminal justice purposes.

(More)

NOW, THEREFORE, BE IT RESOLVED, by the Membership Group of SEARCH, The National Consortium for Justice Information and Statistics that:

“SEARCH urges the Congress to support the amendatory language because this language is based upon core principles for noncriminal justice access to state criminal justice record information repositories, which principles have long been championed by SEARCH; and are reflected in existing law and policy.

These policies include the following:

- Federal agencies should have access to criminal history record information for licensing purposes, employment screening purposes and for other legitimate, noncriminal justice purposes;
- The National Crime Prevention and Privacy Compact Council, in consultation with the Department of Justice and pursuant to applicable state law should be permitted to set the rules for access to and use of criminal history information for noncriminal justice purposes;
- Insofar as practicable, these noncriminal justice searches should be supported by fingerprints so as to maximize the reliability of search results and minimize potential threats to the privacy of individuals; and,
- Fingerprints facilitate access to state-held criminal history records, and state-held criminal history records provide a basis for the most comprehensive and accurate background checks available.”