

CHAPTER 153  
SB 153 - FINAL VERSION

03/26/2015 0984s  
6May2015... 1341h

2015 SESSION

15-0887  
04/05

SENATE BILL **153**

AN ACT relative to the accessibility of criminal records.

SPONSORS: Sen. Boutin, Dist 16; Sen. Bradley, Dist 3; Sen. Carson, Dist 14;  
Sen. D'Allesandro, Dist 20; Sen. Hosmer, Dist 7; Sen. Pierce, Dist 5; Sen. Reagan,  
Dist 17; Rep. Lachance, Hills 8; Rep. Fields, Belk 4; Rep. Hunt, Ches 11

COMMITTEE: Judiciary

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ANALYSIS

This bill makes changes to the provisions governing disclosure of criminal records.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struck through~~].  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Fifteen*

AN ACT relative to the accessibility of criminal records.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 153:1 State Police; Rulemaking. Amend RSA 106-B:7 to read as follows:

2 106-B:7 Rulemaking Power; Employees.

3 I. The director may, with the approval of the commissioner of safety, adopt rules, pursuant  
4 to RSA 541-A, relative to:

5 (a) The efficient administration of this chapter ***and reasonable prohibitions on the***  
6 ***resale, rental, unauthorized disclosure, abuse, or misuse of criminal record and***  
7 ***fingerprinting checks obtained from the division;***

8 (b) Reasonable fees to cover criminal record and fingerprinting checks conducted by the  
9 division ***pursuant to RSA 106-B:14, I***, which fees shall be [~~chargeable to any license applicant on~~  
10 ~~whom the division is required or requested to perform such checks, or in the case of an individual~~  
11 ~~requesting his own criminal record or the criminal record of another pursuant to RSA 106-B:14, I to~~  
12 ~~the individual making the request]~~ ***paid by the requesting individual or public or private***  
13 ***agency not otherwise prohibited from receiving such criminal record and fingerprinting***  
14 ***checks;*** and

15 (c) The administration of RSA 169-E:2-a, regarding the operation of the statewide  
16 hotline for missing children.

17 II. Notwithstanding RSA 106-B:10 or any other provision of law to the contrary, the fees  
18 collected pursuant to RSA 106-B:7, I(b) shall be credited to a special nonlapsing account [~~for the~~  
19 ~~department of safety]~~ by the department of administrative services ***for the department of safety*** to  
20 cover the expenses of ***staffing the criminal records section, maintaining and updating the***  
21 ***database, and*** conducting such checks. Such fees shall not be deposited in the general fund.

22 III. The director may, within the limits of the appropriation for the division, employ such  
23 civilian employees as may be necessary and determine their duties, ***and provide such resources***  
24 ***as may be necessary.*** The director may require any ***such*** employee to give bond.

25 ***IV. The director may provide criminal record information in electronic form once***  
26 ***the division has the technological capability to do so.***

27 153:2 State Police; Criminal Records; Reports. Amend RSA 106-B:14, I to read as follows:

28 I. With the approval of the commissioner of safety, the director shall adopt rules under

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1 RSA 541-A as may be necessary to secure records and other information relative to persons who have  
2 been convicted of a felony, misdemeanor or violation within the state, or who are known to be  
3 habitual criminals, or who have been placed under arrest in criminal proceedings. The term  
4 “violation”[;] as used in this section shall apply only to violations committed under title LXII.  
5 Notwithstanding RSA 91-A, [~~such~~] records and **other** information **secured by the director under**  
6 **this section**, including but not limited to dissemination logs, shall not be [~~open to the inspection of~~  
7 ~~any person except those who may be authorized to inspect the same by the director,~~] **disclosed to**  
8 **any individual or public or private agency except** as follows:

9 (a) Law enforcement personnel may request and receive any information documenting  
10 an individual’s contact with the criminal justice system, including data regarding identification,  
11 arrest or citation, arraignment, judicial disposition, custody and supervision.

12 (b) Any individual may request and receive, **for a fee**, a copy of his or her own criminal  
13 conviction and arrest records and related information.

14 (c) Any individual or any public or private agency may request and receive a copy of the  
15 criminal conviction record of another who has provided authorization in writing, duly signed and  
16 notarized, explicitly allowing the requestor to receive such information.

17 (d) An employee of or person under contract to the state of New Hampshire to whom  
18 such disclosure **of information** is necessary in connection with the processing, storage, and  
19 transmission of such information, or the programming, repair, maintenance, testing, or procurement  
20 of equipment used to process, store, or transmit such information **may have access to such**  
21 **information**.

22 (e) **A consumer reporting agency subject to and complying with the**  
23 **requirements of 15 U.S.C. section 1681, et seq., conducting employment screening services,**  
24 **including the screening of independent contractors, may request and receive a copy of the**  
25 **state criminal conviction record for a felony, misdemeanor, or violation of a candidate**  
26 **being screened for employment purposes or as an independent contractor.**

27 The clerks of the superior and [~~municipal~~] **circuit** courts, or if there is no clerk the justice  
28 thereof, sheriffs, deputy sheriffs, police officers, **probation and parole officers**, and  
29 superintendents of the county departments of corrections shall secure and forward to the director all  
30 such information as he or she may direct relative to persons brought before said courts or arrested or  
31 in the custody of such officers. [~~Any person violating the provisions of this section or any rules~~  
32 ~~adopted under RSA 541-A shall be guilty of a violation, for each offense.]~~

33 153:3 New Paragraphs; State Police; Criminal Records; Reports. Amend RSA 106-B:14 by  
34 inserting after paragraph I the following new paragraphs:

35 I-a.(a) No individual, or public or private agency receiving criminal conviction record  
36 information from the division shall resell, rent, trade, transfer, make available, or otherwise disclose

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1 such information to another person for any purpose, other than to a client of the individual or public  
2 or private agency, without permission of the director.

3 (b) The state of New Hampshire and its officials, employees, or agents shall not be liable  
4 for the improper use, disclosure, or inaccuracy of conviction record information provided to a  
5 requesting individual or public or private agency under the provisions of this section.

6 (c) The director, after notice and opportunity for hearing, may prohibit any individual or  
7 public or private agency from requesting or receiving state criminal conviction information from the  
8 division if such individual or public or private agency resells, rents, trades, transfers, makes  
9 available, or otherwise discloses such information to another in violation of this section or any rule  
10 adopted thereunder.

11 (d) Criminal conviction records received from the division shall be the official source of  
12 certified criminal conviction history records for employment and licensing purposes.

13 I-b. Any person violating the provisions of this section or any rules adopted under  
14 RSA 541-A, shall be guilty of a misdemeanor for each offense.

15 153:4 Effective Date. This act shall take effect 90 days after its passage.

16  
17 Approved: June 12, 2015

18 Effective Date: September 10, 2015