

**REPORT OF THE  
VIRGINIA STATE CRIME COMMISSION  
TO  
THE GOVERNOR  
AND  
THE GENERAL ASSEMBLY  
OF VIRGINIA  
ON  
CRIMINAL JUSTICE INFORMATION SYSTEM**



**SENATE DOCUMENT NO. 35**

**COMMONWEALTH OF VIRGINIA  
Department of Purchases and Supply  
Richmond  
1975**

COMMONWEALTH OF VIRGINIA



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GOVERNOR OF VIRGINIA

AND

THE GENERAL ASSEMBLY OF VIRGINIA

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George M. Warren, Jr.  
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Attorney General of Virginia  
Andrew P. Miller  
Appointments by the Governor  
Erwin S. Solomon, *Vice Chairman*  
William N. Paxton, Jr.  
George F. Ricketts

Pursuant to Senate Joint Resolution No. 63, 1974 Session,  
the sub-committee of the State Crime Commission, as listed  
below, offers the following report on the Criminal Justice  
Information System.

This report is also included with other information as a  
part of the Annual Report of the State Crime Commission.

Respectfully submitted,

A handwritten signature in cursive script that reads "Stanley C. Walker".

Stanley C. Walker

MEMBERS OF COMMISSION

Stanley C. Walker, Chairman

Erwin S. Solomon, Vice Chairman

George S. Aldhizer, II

Claude W. Anderson

L. Ray Ashworth

Andrew P. Miller

Theodore V. Morrison, Jr.

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SENATE JOINT RESOLUTION NO. 63

*Creating the Virginia Comprehensive Criminal Justice Information System Task Force of the Virginia Crime Commission.*

Agreed to by the Senate, March 1, 1974

Agreed to by the House of Delegates, March 8, 1974

Whereas, a rapid increase in recent years in the volume of crime and of offenders has placed great stress upon the complex structure of the criminal justice system; and

Whereas, recent developments in the area of computer-aided information systems can provide law enforcement and criminal justice agencies with a greatly needed and highly advanced tool in the collection, storage, analysis, exchange and dissemination of information so vital to the continued effective operation and management of the entire criminal justice system; and

Whereas, such computer-aided information systems have the potential for jeopardizing the privacy of individuals; and

Whereas, information stored in such computer-aided systems by law enforcement and criminal justice agencies must remain secure from improper and unauthorized access; and

Whereas, the development of such a comprehensive Criminal Justice Information System requires detailed study in order to adequately address the issues of: the identity of information to be collected and maintained in the systems; the manner and means of its collection and storage; the methods of coordination as between various components of the criminal justice system; the methods of maintaining, analyzing and disseminating such information; the physical location of equipment used to operate the system; the funding of the system; and the security and privacy of the information therein; now, therefore, be it

Resolved by the Senate, the House of Delegates concurring, That the Virginia Crime Commission is hereby authorized to create under its supervision and direction a Comprehensive Criminal Justice Information System Task Force. The Task Force shall make a full and complete study of all matters relating to the exchange, collection, storage, security, privacy and use of information in the Virginia criminal justice system, as hereinbefore set forth, and shall make recommendations as to the development and implementation of an expanded and integrated system for the collection, storage and exchange of law enforcement and criminal justice information.

The Division of Justice and Crime Prevention shall provide such assistance as shall be requested by the Task Force in the conduct of its study and the preparation of its reports. Other agencies of the State shall cooperate with the Task Force when requested.

Funds for the conduct of the study and the preparation of any reports shall be made available by the Division of Justice and Crime Prevention from funds available to it from the Law Enforcement Assistance Administration, U. S. Department of Justice.

The Task Force may hold such hearings as it deems advisable and shall conclude its study and submit its final report and recommendations to the Governor and the General Assembly not later than September one, nineteen hundred seventy-four.

## CRIMINAL JUSTICE INFORMATION SYSTEM

The growing concern to safeguard the use of computerized information compiled on private citizens has been well established in recent years. Of particular interest, both in the Commonwealth and nationally, has been the collection, storage, privacy, security and exchange of law enforcement and criminal justice information.

The development of a comprehensive Criminal Justice Information System (CJIS) to serve all of Virginia's criminal justice agencies has been under consideration since July, 1972.

In December, 1973, the Virginia Council on Criminal Justice decided that legislative support would be essential to the successful development of such a comprehensive system. The Council recommended that the General Assembly establish a commission to study the issues surrounding the development of the system to make recommendations concerning the development and implementation of a comprehensive CJIS. Subsequently, the 1974 General Assembly adopted Senate Joint Resolution 63 (SJR 63), which directed the Crime Commission to establish the Comprehensive Criminal Justice Information System Task Force.

The Crime Commission appointed a Task Force of 30 persons in June, 1974; the membership represented all segments of the criminal justice community as well as state and local government, the technical community, and the public-at-large. Senator George S. Aldhizer, II, of Harrisonburg, a member of the Crime Commission, served as Task Force chairman. Members include L. Ray Ashworth, Delegate, member, Crime Commission, Wakefield; Gary Bengston, attorney, member, Council on Criminal Justice, Danville; Judge Junie L. Bradshaw, member, State Corporation Commission, Richmond; Colonel Harold W. Burgess, superintendent, Department of State Police, and chairman, Council on Criminal Justice, Richmond; Aubrey M. Davis, Jr., commonwealth's

attorney, for the City of Richmond; Jack F. Davis, director, Department of Corrections, and member, Council on Criminal Justice, Richmond; Margaret B. Davis, member, Probation and Parole Board, Hampton; Dennis R. Galumbeck, vice-president, Systems and Data Processing, First and Merchants Bank, Richmond; J. Samuel Glasscock, Delegate, attorney, Suffolk; Earl H. Henley, chairman, Board of Supervisors, Goochland County, Manakin-Sabot; Judge William H. Hodges, Jr., Circuit Court of Chesapeake, and member, Council on Criminal Justice, Chesapeake; Richard J. Jamborsky, associate judge, Juvenile and Domestic Relations Court, Fairfax County, and member, Council on Criminal Justice, Fairfax; Richard King, then deputy chief, Fairfax County Police Department, Fairfax; Walter Mather, executive director, West Piedmont Planning District Commission, Martinsville; Dorothy S. McDiarmid, Delegate, Vienna; J. Harry Michael, Jr., Senator, attorney, vice-chairman, Virginia Advisory Legislative Council's Computer Privacy and Security Committee, Charlottesville; Andrew P. Miller, Attorney General, member, Crime Commission, and member, Council on Criminal Justice, Richmond; Theodore V. Morrison, Jr., Delegate, attorney, member, Crime Commission, Newport News; E. Carter Nettles, Jr., commonwealth's attorney of Sussex County, Wakefield; Judson W. Nixon, manager, Data Processing, City of Norfolk, and technical manager, TENPIN, Norfolk; Judge Walter A. Page, Fourth Judicial Circuit, Norfolk; William F. Parkerson, Jr., Senator, attorney, Richmond; William N. Paxton, Jr., business executive, member, Crime Commission, Richmond; A. L. Philpott, Delegate, attorney, member, Crime Commission, Bassett; Toy D. Savage, Jr., attorney, member, Norfolk City Council, Norfolk; Judge Rayner V. Snead, Circuit Court, Rappahannock County, Washington; James D. Swinson, sheriff, Fairfax County, and member, Council on Criminal Justice, Fairfax; Stanley C. Walker, Senator, chairman, Crime Commission and member,



Council on Criminal Justice, Norfolk; Wendell White, assistant city manager, Hampton, and member, Virginia Municipal League, Hampton. Laurence Leonard, assistant director, Crime Commission, represented the Crime Commission members at each session.

The Division of Justice and Crime Prevention served as staff to the Task Force in a joint undertaking. Its director, Richard N. Harris, also directed this study. The Criminal Justice Information System Task Force and the Virginia Advisory Legislative Council's Computer Privacy and Security Committee, set up by Senate resolution, have worked in cooperation and have exchanged information to avoid duplication of efforts. The VALC study is chaired by Senator Joseph V. Garltan of Fairfax.

Senate Joint Resolution 63 directed the Crime Commission to "make a full and complete study of all matters relating to the exchange, collection, storage, security, privacy, and use of information in the Virginia Criminal Justice System," and to "make recommendations as to the development and implementation of an expanded and integrated system for the collection, storage, and exchange of law enforcement and criminal justice information."

The discussions of the CJIS Task Force have, therefore, been directed toward two major questions:

1. What are the potential benefits of a comprehensive criminal justice information system; and
2. How can confidentiality of criminal justice data and the privacy of the individual be protected in computerized information systems?

In recent years, criminal justice agencies in the Commonwealth have recognized the need for timely and accurate information to aid them in the effective management and operation of their agencies. The need for reliable, accurate and comprehensive

criminal justice information has been discussed at the national level, and the requirements are summarized by the National Advisory Commission on Criminal Justice Standards and Goals in their report, The Criminal Justice System.

The report states that "all criminal justice agencies . . . require substantial data to function properly as part of the overall criminal justice system." The Commonwealth has responded to this need, and statutes now exist which support the collection of criminal justice information and statistics. However, the report also points out that "such specific information that is available often is neither timely nor in a form useful for decision-making." This is also true in Virginia, and the need for more sophistication and the uniformity in information processing has been recognized by many criminal justice officials.

The director of the Department of Corrections recently initiated the development of a comprehensive management information system which will be fundamental to the effective administration of the new department. The committee on District Courts is leading the development of a uniform docketing system and a uniform caseload reporting system for the District Court System. The Department of State Police has microfilmed and computerized the records reported to the Central Criminal Records Exchange (CCRE) in an effort to streamline their operation.

Each of these components is now endeavoring to solve its own information problems. It is believed that it would be cost-beneficial to coordinate the collection of information from each area and to make the information available to them for proper and efficient retrieval by all criminal justice agencies.

As of January, 1975, data will be available to law enforcement agencies through the Computerized Criminal History (CCH) system of the Virginia Criminal Information Network (VCIN). By augmenting the CCH record with additional data elements from courts and corrections, the record would be useful to all areas of criminal justice, and the rapid retrieval of comprehensive criminal history information from

a central source could be effected.

After an initial organizational meeting on July 30, the Task Force held a two-day meeting at Virginia Beach to consider the benefits of a comprehensive criminal justice information system. At this meeting, speakers were invited to describe the usefulness of comprehensive criminal justice data to courts and corrections. Sidney Brounstein of the Institute for Law and Social Research, Washington, D. C., described the information available through the Prosecutor's Management Information System (PROMIS), operated by the U. S. Attorney's Office in Washington, D. C. The PROMIS data base includes 165 different types of information on each case, including information about the defendant, the crime, the arrest, the criminal charges, the court events, and the victims and other witnesses. Brounstein explained that this information is used to measure prosecutive performance, and police/prosecutor relations; to analyze patterns of criminal behavior and to project the impact of curtailing or exercising plea bargaining from the criminal judicial process; to obtain a true picture of judicial decision making; to examine the causes of court delay, the nature and extent of the delay, and the effects of the delay on the rights of the accused and on the public safety of the community. At the same meeting, Richard Galbraith and William Cooper of the Arizona Department of Corrections, discussed the use of comprehensive offender information in the correctional system.

The possible expansion of the VCIN law enforcement system into a comprehensive Criminal Justice Information System (CJIS) that would serve all criminal justice agencies raised the issues of jurisdictional responsibility, system security and individual privacy. These issues were subsequently discussed by the Task Force at a meeting in Arlington County on October 21 and 22. Pending Federal legislation dealing with security and privacy and with criminal justice information systems was reviewed. Mark Gitenstein, Counsel to the Constitutional Rights Subcommittee

chaired by Senator Sam Ervin of North Carolina, addressed the Task Force on Senate Bills 2963 and 3418, emphasizing the impact this legislation would have on state information systems, if enacted.

Gitenstein said that Senate Bill 2963 is meant to encourage state legislatures to adopt policies of their own, and to limit the development of a federal data base. He said staff devoted more than one year to drafting the proposed legislation. The bill proposes a board to review criminal justice information system operations that would include state representation. The bill requires that some state agency be responsible for the control of any state criminal justice information system.

Controversial provisions of Senate Bill 2963 include controls over the use of raw (without disposition) arrest data, the sealing and purging of records after five years, and the limiting of intelligence files to individuals actually connected with criminal activity. Gitenstein remarked that nothing in the bill was aimed at preventing criminal justice officials from receiving information required for their work. He also noted that the Justice Department is developing its own bill in the same area which may allow states less control than does the Ervin bill. Gitenstein also reviewed Senate Bill 3418, a more general privacy and security bill, now pending.

Following testimony from these and other speakers, the Comprehensive Criminal Justice Information System Task Force of the Crime Commission at its last meeting November 11, on motion of Judge Hodges and discussion by Senator Parkerson, Delegates Philpott, Morrison and Ashworth, and Judge Bradshaw and Attorney General Miller, unanimously made the following recommendations:

1. The Commonwealth should pursue the development of a comprehensive criminal justice information system.

2. An "umbrella" criminal justice commission should be established to insure that the development and operation of a comprehensive criminal justice information system include proper user management control and to regulate other criminal justice services such as law enforcement training and standards, polygraph examiners, and the private security industry. (This recommendation would be addressed to the Crime Commission for further action by them).

3. The Virginia Privacy Board proposed by the VALC's Computer Security and Privacy Bill should set policy for the security and privacy of a criminal justice information system, avoiding duplication. The Board would be composed of eleven (11) members and four (4) of these members would represent the criminal justice community.

The Crime Commission will review all of the proposals and propose any necessary legislative action. See proposed legislation in Appendix I and II of this report.

APPENDIX I

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A BILL to amend the Code of Virginia by adding in Chapter 16 of Title 9 an article numbered 2, consisting of sections numbered 9-111.2 through 9-111.16, relating to empowering the Criminal Justice Services Commission to regulate the collection, maintenance, and dissemination of criminal offender record information and to establish and operate a Statewide comprehensive criminal justice information system; penalties for violations.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 16 of Title 9 an article numbered 2, consisting of sections numbered 9-111.2 through 9-111.16, as follows:

Article 2.

Criminal Justice Services Commission.

§ 9-111.2. The following words, whenever used in this article, shall have the following meanings, unless the context otherwise requires:

A. "Commission" means the Criminal Justice Services Commission which shall have overall responsibility for the administration and enforcement of this article.

B. "Criminal justice agencies" means only those agencies of the Commonwealth or its political subdivisions which perform as their principal function activities related to apprehension, prosecution, adjudication, or correction and rehabilitation of criminal offenders.

C. "Criminal justice information system" means an information system maintained by a criminal justice agency for the collection, processing, preservation, or dissemination of criminal justice information.

D. "Criminal offender record information" means records and data compiled by criminal justice agencies for purposes of identifying criminal offenders and of maintaining as to each such offender a summary of arrests, pretrial proceedings, and nature and disposition of criminal charges, sentencing, rehabilitation, and release. Such information shall be restricted to that information recorded as a result of the initiation of criminal proceedings or of any consequent proceedings related thereto. "Criminal offender record information" shall not include intelligence information, analytical and investigative reports

1 and files, or statistical records and reports in which records and reports individuals are not  
2 identified and from which their identities are not ascertainable.

3 E. "Disseminate" means to transmit information whether orally or in writing.

4 F. "Interstate systems" means all agreements, arrangements, and systems for the  
5 interstate transmission and exchange of criminal offender record information. Such  
6 systems shall not include record keeping systems in the State, maintained or controlled by  
7 any State or local agency, or group of such agencies, even if such agencies receive or have  
8 received information through, or otherwise participate or have participated in, systems for  
9 the interstate exchange of criminal offender record information.

10 G. "Purge" means to remove information from the records of a criminal justice  
11 agency or a criminal justice information system so that there is no trace of information  
12 removed and no indication that such information was removed.

13 H. "Seal" means to close a record possessed by a criminal justice agency or a  
14 criminal justice information system so that the information contained in the record is  
15 available only as provided by law.

16 I. "Statewide comprehensive criminal justice information system" means a system  
17 supervised by the Criminal Justice Services Commission for the exchange of criminal  
18 justice information among the criminal justice agencies of the State and its political  
19 subdivisions.

20 § 9-111.3. A. The Commission shall regulate the collection, storage, dissemination,  
21 and use of criminal offender record information.

22 B. For the purposes of carrying out its responsibilities under this article, the Commission  
23 shall have authority:

24 1. to issue regulations as required by § 9-111.5;

25 2. to coordinate its activities with those of any interstate system for the exchange of  
26 criminal offender record information, to nominate one or more of its members to serve  
27 upon the council or committee of any such system, and to participate when and as deemed  
28 appropriate in any such system's activities and programs;

29 3. to conduct such inquiries and investigations as it deems appropriate to carry out  
30 its functions under this article and, in conducting such inquiries and investigations, the  
31 Commission shall have authority to require any criminal justice agency to submit to the  
32 Commission information, reports, and statistical data with respect to its policy and  
33 operation of information systems or with respect to its collection, storage, dissemination,  
34 and usage of criminal offender record information and such criminal justice agencies shall  
35 submit to the Commission such information, reports, and data as are reasonably required;

36 4. to conduct a continuing study and review of questions of individual privacy,  
37 confidentiality of criminal offender record information, and security of criminal justice

1 information systems;

2 5. to conduct audits as required by § 9-111.6;

3 6. to file a written report on or before December thirty-first of each year with the  
4 Governor and the General Assembly concerning the collection, storage, dissemination, and  
5 usage in this State of criminal offender record information and to render such additional  
6 reports as the Governor or the General Assembly may deem desirable;

7 7. to initiate educational programs for criminal justice agencies with respect to  
8 matters of privacy, confidentiality, and security as they pertain to criminal offender record  
9 information; and

10 8. to maintain a liaison with any board, commission, committee, or other body which  
11 may be established by the General Assembly to regulate noncriminal justice information  
12 systems.

13 § 9-111.4. The Commission shall further have the authority to supervise the operation  
14 of a Statewide comprehensive criminal justice information system for the exchange of  
15 criminal justice information among the criminal justice agencies of the State and its  
16 political subdivisions. The Commission shall develop standards and goals for such system,  
17 define the requirements of such system, define system objectives, set development  
18 priorities, approve development plans, review development efforts, provide operational  
19 guidance, coordinate the needs and interests of the criminal justice community, outline  
20 agency responsibilities, appoint ad hoc advisory committees, and regulate the participation  
21 of the Statewide comprehensive criminal justice information system in interstate criminal  
22 justice information systems. The Commission may request technical assistance of the State  
23 Division of Automated Data Processing and the Division shall render such assistance as is  
24 reasonably required.

25 § 9-111.5. The Commission shall, after appropriate consultation with criminal justice  
26 agencies and other interested parties, promulgate such rules, regulations, and procedures  
27 as it may deem necessary to effectuate the provisions of this article.

28 § 9-111.6. A. At least once annually the Commission shall conduct an audit of the  
29 practices and procedures of the Statewide comprehensive criminal justice information  
30 system to insure compliance with this article and the regulations of the Commission. The  
31 Commission shall also conduct a random audit each year of at least five criminal justice  
32 information systems operated by State or local criminal justice agencies.

33 B. Each criminal justice information system shall conduct a similar audit of its own  
34 practices and procedures once annually.

35 C. The results of such audits shall be made available to the Commission which shall  
36 include the results of such audits in its annual report to the Governor and General  
37 Assembly.



1       § 9-111.7. A. Criminal offender record information shall be disseminated, whether  
2 directly or through an intermediary, only to (i) criminal justice agencies, (ii) such other  
3 individuals and agencies as are, or may subsequently be, authorized to receive criminal  
4 offender record information from the Central Criminal Records Exchange pursuant to §  
5 19.2-389, and (iii) as otherwise provided for by law. The Commission shall issue regulations  
6 to insure that such information shall be disseminated only in situations in which it is  
7 demonstrably required by the individual or agency for purposes of discharging statutory  
8 responsibilities.

9 B. Each criminal justice agency holding or receiving criminal offender record information  
10 shall maintain for such period as is found by the Commission to be appropriate, a listing of  
11 the agencies to which it has released or communicated such information. Such listings, or  
12 reasonable samples thereof, may from time to time be reviewed by the Commission, or any  
13 of its staff members to determine whether this act or any applicable regulations have been  
14 violated.

15       § 9-111.8. Each criminal justice agency maintaining and operating a criminal justice  
16 information system shall adopt procedures reasonably designed to insure:

17 A. the physical security of the system and the prevention of unauthorized disclosure of the  
18 information contained in the system;

19 B. the timeliness and accuracy of information in the system;

20 C. that all criminal justice agencies to which criminal offender record information is  
21 disseminated or from which it is collected are currently and accurately informed of any  
22 correction, deletion, or revision of such information;

23 D. prompt purging or sealing of criminal offender record information when required by  
24 State or federal statute, State or federal regulations, or court order;

25 E. use or dissemination of criminal offender record information by criminal justice agency  
26 personnel only after it has been determined to be the most accurate and complete  
27 information available to the criminal justice agency.

28       § 9-111.9. A. If a person has been arrested and his case has been disposed of in a  
29 manner other than by conviction, criminal offender record information pertaining to that  
30 arrest shall be sealed ten years after the date of the person's last known arrest or  
31 conviction, the last known date that the person was released from any prison or jail, or the  
32 last known date that the person was subject to probation or parole, whichever event  
33 occurs last in time.

34 B. Sealed criminal offender record information may be opened if the individual who is the  
35 subject of the information is subsequently charged with a crime. If the charge does not  
36 result in conviction, the opened record shall be resealed, but the record of the new charge  
37 shall remain open until sealed pursuant to paragraph A. of this section.

1 C. The Commission may, in its discretion, order that criminal offender record information  
2 be purged if in the opinion of the Commission the maintenance of such information would  
3 result in manifest injustice.

4 § 9-111.10. A. The Commission shall issue regulations to govern the usage in this  
5 Commonwealth of criminal offender record information for purposes of programs of  
6 research. Such regulations shall require preservation of the anonymity of the individuals to  
7 whom such information relates, shall require the completion of nondisclosure agreements  
8 by all participants in such programs, and shall impose such additional requirements and  
9 conditions as the Commission finds to be necessary to assure the protection of privacy,  
10 confidentiality, and security.

11 B. The Commission may monitor any such programs to assure satisfaction both of the  
12 requirements of this article and of any applicable regulation. The Commission may, if it  
13 determines either that such requirements have not been satisfied or that a program's  
14 continuance otherwise threatens privacy, confidentiality, or security, prohibit access on  
15 behalf of any such program to criminal offender record information.

16 C. Any State or local agency may request the Commission to evaluate any proposed  
17 program or research and to offer recommendations concerning its consistency with the  
18 purposes and requirements of this article.

19 § 9-111.11. A. The Commission shall regulate participation by all State and local  
20 agencies in any interstate system for the exchange of criminal offender record information  
21 and shall be responsible for assuring the consistency of such participation with the terms  
22 and purposes of this article. The Commission shall have no authority to compel any agency  
23 to participate in any such interstate system.

24 B. Direct access to any such system shall be limited to such criminal justice agencies as  
25 are expressly designated for that purpose by the Commission. Where any such system  
26 employs telecommunications access terminals, the Commission shall limit the number and  
27 placement of such terminals to those for which adequate security measures may be taken  
28 and as to which the Commission may impose appropriate supervisory regulations.

29 § 9-111.12. A. Any individual who believes that a criminal justice information system  
30 or a criminal justice agency maintains criminal offender record information pertaining to  
31 him shall have the right, either in person or through counsel, to inspect such information  
32 located within this Commonwealth which refers to him. If an individual believes such  
33 information to be inaccurate or incomplete, he may request the agency having custody or  
34 control of the records to purge, modify, or supplement them. Should the agency decline to  
35 so act, or should the individual believe the agency's decision to be otherwise  
36 unsatisfactory, the individual may in writing request review by the Commission. The  
37 Commission, its representative, or agent shall, in each case in which it finds prima facie

1 basis for a complaint, conduct a hearing at which the individual may appear with counsel,  
2 present evidence, and examine and cross-examine witnesses. Written findings and  
3 conclusions shall be issued. Should the record in question be found to be inaccurate or  
4 incomplete, the criminal justice agency or agencies maintaining such information shall  
5 purge, modify, or supplement it in accordance with the findings and conclusions of the  
6 Commission. Notification of purging, modification, or supplementation of criminal offender  
7 record information shall be promptly made by the criminal justice agency maintaining such  
8 previously inaccurate information to any individuals or agencies to which the information  
9 in question was communicated, as well as to the individual whose records have been  
10 ordered so altered.

11 B. Agencies at which criminal offender records are sought to be inspected may prescribe  
12 reasonable hours and places of inspection and may impose such additional restrictions,  
13 including fingerprinting, as are reasonably necessary both to assure the records' security  
14 and to verify the identities of those who seek to inspect them.

15 § 9-111.13. Any individual or agency aggrieved by any order or decision of the  
16 Commission may appeal such order or decision to the circuit court of the county or city in  
17 which he is a resident or to the circuit court of the jurisdiction in which the Commission  
18 has its administrative headquarters.

19 § 9-111.14. A. Any person may institute a civil action for actual damages resulting  
20 from violation of this article or to restrain any violation thereof, or both. Should it be  
21 found in any such action that there has occurred a malicious violation of this article, the  
22 violator shall, in addition to any liability for such actual damages as may be shown, be  
23 liable for exemplary damages of not less than one hundred nor more than one thousand  
24 dollars for each such violation.

25 B. If, in any civil action alleging the publication or dissemination of criminal offender  
26 record information, it is found that the provisions of this article or any regulations issued  
27 thereunder with respect to the communication or dissemination of such records have been  
28 violated, the violator shall not be entitled to claim any privilege, absolute or qualified, as a  
29 defense thereto.

30 C. This section shall not be construed as constituting a waiver of the defense of sovereign  
31 immunity.

32 § 9-111.15. Any person who willfully and intentionally requests, obtains, or seeks to  
33 obtain criminal offender record information under false pretenses, or who willfully and  
34 intentionally communicates or seeks to communicate criminal offender record information  
35 to any agency or person except in accordance with this article, or any member, officer,  
36 employee, or agent of the Commission, or any person connected with any research  
37 program authorized pursuant to § 9-111.10, who willfully and intentionally falsifies

1 criminal offender record information, or any records relating thereto, shall be guilty of a  
2 class 6 felony.

3 § 9-111.16. A. In the event any provisions of this article shall conflict with other  
4 provisions of law, the provisions of this article shall control, except as provided in  
5 paragraph B. hereof.

6 B. Notwithstanding the provisions of paragraph A. hereof, this article shall not alter,  
7 amend, or supersede any provisions of the Code of Virginia relating to the collection,  
8 storage, dissemination, or use of records of youthful offenders.

9 C. Insofar as it is consistent with this article, Chapter 1.1:1 of Title 9 (§§ 9-6.14:1, et seq.)  
10 of the Code of Virginia shall control.

11 2. That this act shall become effective July one, nineteen hundred  
12 seventy-six.

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Official Use by Clerks

	<b>Passed By</b>
<b>Passed by The Senate</b>	<b>The House of Delegates</b>
with without amendment	with without amendment
Date: .....	Date: .....
.....	.....
<u>Clerk of the Senate</u>	Clerk of the House of Delegates

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1 APPENDIX II

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*A BILL to amend and reenact § 9-107, as amended, of the Code of Virginia; and to amend the Code of Virginia by adding a section numbered 9-107.1, the amended and added sections relating to the establishment of the Criminal Justice Officers Training and Standards Commission and its membership, meetings and reports, to abolish such Commission and to create a Criminal Justice Services Commission.*

Be it enacted by the General Assembly of Virginia:

1. That § 9-107, as amended, of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 9-107.1 as follows:

§ 9-107. Commission established; membership; appointment; terms; vacancies; officers; members not disqualified from holding other offices; expenses; meetings; reports.—(a) There is hereby established a Criminal Justice Officers Training and Standards Commission, hereinafter called “the Commission,” in the Executive Department. The Commission shall be composed of sixteen members, as follow: one member from the Senate of Virginia appointed by the Committee on Privileges and Elections of the Senate for a term of four years; two members from the House of Delegates appointed by the Speaker of the House for terms of two years; the following appointments by the Governor: four sheriffs representing the Virginia State Sheriffs’ Association from among names submitted by the Association; one such sheriff representing a city and the balance from counties throughout the Commonwealth; three representatives of the Chiefs of Police Association from among names submitted by the Association; the superintendent of Virginia State Police or another member of the Virginia State Police, whom the superintendent may designate; one member of the Federal Bureau of Investigation; one Commonwealth’s Attorney representing a political subdivision with a population of less than fifty thousand people; one Commonwealth’s Attorney representing

1 a political subdivision with a population of more than fifty thousand  
2 people; the Attorney General or an assistant Attorney General  
3 whom the Attorney General may designate; and one representative  
4 of higher education.

5 (b) The members of the Commission appointed by the Governor  
6 shall serve for terms of four years; provided, that no member shall  
7 serve beyond the time when he holds the office or employment by  
8 reason of which he was initially eligible for appointment.  
9 Notwithstanding anything in this chapter to the contrary, the terms  
10 of members initially appointed to the Commission by the Governor  
11 upon its establishment shall be: seven for three years, and six for  
12 four years. The Governor, at the time of appointment shall designate  
13 which of the terms are respectively for three and four years. Any  
14 vacancy on the Commission shall be filled in the same manner as  
15 the original appointment, but for the unexpired term. *Any person*  
16 *appointed to serve a term ending June thirty, nineteen hundred seventy-five, shall continue*  
17 *to serve until June thirty, nineteen hundred seventy-six.*

18 (c) The Governor annually shall designate the chairman of the  
19 Commission, and the Commission annually shall select its vice-  
20 chairman. The chairman and vice-chairman shall be designated and  
21 selected from among the members of the Commission.

22 (d) Notwithstanding any provision of any statute, ordinance,  
23 local law, or charter provision to the contrary, membership on the  
24 Commission shall not disqualify any member from holding any  
25 other public office or employment, or cause the forfeiture thereof.

26 (e) Members of the Commission shall serve without  
27 compensation, but shall be entitled to receive reimbursement for  
28 any actual expenses incurred as a necessary incident to such  
29 service.

30 (f) The Commission shall hold no less than four regular  
31 meetings a year. Subject to the requirements of this subsection, the  
32 chairman shall fix the times and places of meetings, either on his  
33 own motion or upon written request of any five members of the  
34 Commission.

35 (g) The Commission shall report biennially to the Governor and  
36 General Assembly on its activities, and may make such other  
37 reports as it deems desirable.

1       § 9-107.1. *Commission establishment; membership; appointment; terms; vacancies;*  
2 *members not disqualified from holding other offices; expenses; meetings; reports.—A. On*  
3 *and after July one, nineteen hundred seventy-six, the Criminal Justice Officers Training*  
4 *and Standards Commission is abolished and there is hereby created a Criminal Justice*  
5 *Services Commission, hereinafter called “the Commission” in the Executive Department.*  
6 *The Commission shall be composed of twenty-two members, as follows: two members*  
7 *from the Senate of Virginia appointed by the Committee on Privileges and Elections of the*  
8 *Senate for terms of four years each; four members from the House of Delegates appointed*  
9 *by the Speaker of the House for terms of two years each; the Superintendent of the*  
10 *Virginia State Police or his designee; the Attorney General or an assistant Attorney*  
11 *General whom the Attorney General may designate; the Director of the State Council of*  
12 *Higher Education or his designee; the Director of the Department of Corrections or his*  
13 *designee; the following appointments by the Governor: three sheriffs representing the*  
14 *Virginia State Sheriffs’ Association from among names submitted by the association, two*  
15 *representatives of the Chiefs of Police Association from among names submitted by the*  
16 *Association, one Commonwealth’s Attorney representing a political subdivision with a*  
17 *population of less than fifty thousand persons, one member from the Federal Bureau of*  
18 *Investigation, one Commonwealth’s Attorney representing a political subdivision with a*  
19 *population of more than fifty thousand persons, one licensed polygraph examiner, one*  
20 *person engaged in the private security services business as defined in § 9-111.3(i), one*  
21 *private investigator as defined in § 9-111.3(h), and one judge of a circuit court to be*  
22 *designated by the Chief Justice of the Supreme Court of Virginia.*

23 *B. The members of the Commission appointed by the Governor shall serve for four years;*  
24 *provided, that no member shall serve beyond the time when he holds the office of*  
25 *employment by reason of which he was initially eligible for appointment. Notwithstanding*  
26 *anything in this chapter to the contrary, the terms of the members initially appointed to*  
27 *the Commission by the Governor upon its establishment shall be: two for terms of two*  
28 *years; six for terms of three years; and three for terms of four years. The Governor, at the*  
29 *time of appointment, shall designate which of the terms are respectively for two, three and*  
30 *four years.*

31 *The circuit court judge shall be appointed by the Chief Justice of the Supreme Court*  
32 *of Virginia for a term of four years.*

33 *Any vacancy on the Commission shall be filled in the same manner as the original*  
34 *appointment, but for the remainder of the unexpired term.*

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Official Use by Clerks

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**Passed By**  
**The House of Delegates**

**Passed by The Senate**

with  
without amendment

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without amendment

Date: .....

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Clerk of the House of Delegates

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Clerk of the Senate