



Pennsylvania Criminal History Record Information Act - Amendments Effective Today

Effective today, municipalities and law enforcement agencies must process record requests seeking criminal history information submitted under Act 134.

On November 3, 2022, Pennsylvania Governor Tom Wolf signed into law Act 134 of 2022, which amended the Criminal History Record Information Act (CHRIA), to implement a new statutory process by which victims of crimes and defendants in certain civil actions can obtain criminal history investigative information gathered by law enforcement agencies (Act 134). Act 134 went into effect today, May 2, 2023, and is the latest of several statutory amendments impacting access to law enforcement records.

The important takeaways:

- Similar to the Pennsylvania Right-to-Know Law (RTKL), which governs access to public records, Act 134 provides a process by which certain individuals may request criminal history investigative information from municipalities and law enforcement agencies.
- Act 134 is not, however, an extension of nor an amendment to, the RTKL. Act 134 is an independent statutory scheme implemented to provide crime victims and certain defendants in a civil action a definitive, stand-alone right to access criminal history investigative information—information that is generally not subject to access under the RTKL.
- Unlike the RTKL, where the requester's identity is not relevant, under Act 134, access to records is completely dependent on the requester's identity. Act 134 makes an explicit distinction with respect to the right to access information between a crime victim and a defendant. Crime victims are entitled to access before or after a civil action is pending in a Pennsylvania court. Defendants are only entitled to access after a civil action is pending. Without a firm understanding of this distinction, municipalities and law enforcement agencies are at significant risk of disclosing confidential and sensitive criminal history investigative information without proper authority.
- An Act 134 request must include or comply with the following:
 - A sufficiently specific description of the information sought.
 - A statement by the requester (or the requester's representative), made subject to the penalties of unsworn falsification to authorities, that the information requested (i) is directly related to a civil action pending in Pennsylvania, or (ii) if the requester is a crime victim, is necessary to the investigation or preparation of a civil action in Pennsylvania.
 - Submitted to the municipality or law enforcement agency via personal service or certified mail with receipt. Requests submitted via e-mail do not trigger a municipality's or law enforcement agency's obligation to respond under Act 134.

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- Act 134 requests must be responded to within 60 days from the date of receipt of the request or by the date identified by the requester, whichever is later.
- Act 134 exempts from disclosure certain personal information, including without limitation, social security numbers, driver's license numbers, financial information, telephone numbers, and e-mail addresses.
- Act 134 authorizes municipalities and law enforcement agencies to redact or deny access to requested information under certain circumstances. For example, an Act 134 request may be redacted or denied if the release of the requested information would endanger a person or public safety, adversely affect an investigation or ongoing prosecution, relates to law enforcement's use of confidential informants, or would identify a third-party victim of child abuse, domestic violence, or sexual abuse.

Due to the complexities of Act 134 and its interplay with the RTKL, municipalities and law enforcement agencies should consult their legal counsel immediately upon receipt of any request for criminal history investigative information in order to avoid the improper disclosure of sensitive or confidential information. If you have questions about how Act 134 will impact your organization, please contact Alyssa E. Golfieri at 412-773-8701 or agolfieri@babstcalland.com, Anna R. Hosack at 412-394-5406 or ahosack@babstcalland.com, or Anna Skipper Jewart at 412-253-8806 or ajewart@babstcalland.com.

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