RESOLVED, That the American Bar Association approves the Uniform Criminal Records Accuracy Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.
Many developments concerning criminal records have occurred over the past twenty years, including the creation of the National Criminal Background Check System in 1993, the establishment of criminal history repositories in all states, and the increasing use of criminal record checks in connection with eligibility for employment, professional and occupational licenses, credit worthiness, and other non-criminal justice purposes. Recent studies have demonstrated that criminal records accessed for these purposes may be inaccurate or incomplete. Some of the causes of inaccuracy or incompleteness are: lack of information on dispositions after an arrest; data entry errors such as an incorrect listing of the offense, or multiple listings of the same offense, or attribution of an offense to a wrong individual; criminal identity theft; and searches for criminal record information resulting in one person’s criminal record information appearing in search results initiated for a different individual.

Although precise numbers are hard to come by the FBI has over 77.7 million individuals on file in its master criminal database involving felonies and misdemeanors. Criminal history record information (commonly called a RAP sheet) is generated when an individual is arrested or charged with an offense. The RAP sheet includes information on arrests, charges, bail, detention, convictions, acquittals, and sentencing. It should but does not always include the disposition after an arrest when no charges are filed, or charges are dropped. Criminal history record information is being used in an increasing number of contexts, including employment, housing, licensing, and public services.

The Uniform Criminal Records Accuracy Act is designed to improve the accuracy of criminal history record information that is frequently used in determining the eligibility of a person for employment, housing, credit, and licensing, in addition to law enforcement purposes.

The Act is premised on three principles:

1. Society has a vital interest in the accuracy of criminal history record information.
2. Subjects are entitled to have their criminal history record information kept accurate.
3. The government has an obligation to ensure that the criminal history record information that it collects, stores, maintains, submits and disseminates is accurate.

The act imposes duties on governmental law enforcement agencies and courts that collect, store and use criminal history records, to ensure the accuracy of the criminal history record information. The Act provides that states create a central repository (Section 201) and mandates that any criminal history records information be submitted to the central repository no later than five days after the information is collected.
The Act requires the collection of biometric information, such as fingerprints or, for purposes of identification, when permitted or required by other law (Section 202). The use of biometric information should help ensure more complete and accurate records.

The Act limits the dissemination of criminal history record information only as permitted by this Act or by other law (Section 204). A dissemination log must be maintained to record all disclosures (Section 304).

The Act provides individuals the right to see their criminal history record information (Section 302). The Act further provides individuals the right to correct errors in their criminal history record information (Section 401).

The Act mandates the creation and maintenance of a mistaken identity prevention registry (Section 501). Through use of a mistaken identity prevention registry, the Act also provides a mechanism by which an individual whose name is similar to and confused with a person who is the subject of criminal-history-record information, receives a certification to minimize the possibility of a mistaken arrest. It is prima facie evidence of the fact and can be used when applying for housing, employment, credit, or other opportunities.

The Act provides for several oversight functions, such as establishing procedures for conducting periodic audits of criminal history record information (Section 602).

The Act includes optional remedies for enforcement for non-compliance (Sections 701 and 702).

Accurate criminal history record information is essential for a properly functioning criminal justice system. Errors can result in problems for both citizens and law enforcement officials. The goal of the Uniform Criminal History Records Accuracy Act is to ensure the accuracy of the information contained in criminal-history-record information, and to provide a means for an individual to seek correction of inaccurate information.

The Uniform Criminal Records Accuracy Act is the result of three years of drafting work and collaboration with representatives from the ABA, (Steve Salzburg Criminal Justice Section; Michael Aisenberg, Science and Technology; Stephanie Domitrovich, Judicial Division), National Center for State Courts, SEARCH, Consumer Data Industry Association, National Employment Law Project, Brennan Center for Justice, RELX Inc, Legal Aid Society of New York, National Association of Correctional Records Administrators, National Association of Attorneys General, National Federation of Independent Businesses, National Association of Criminal Defense Lawyers, Conference of State Court Administrators, National Association of Professional Background Screeners, National Sheriff’s Association, Administrators of States’ Central Repositories of Criminal Records, Sargent Shriver National Center on Poverty Law, National Consumer Reporting Inc, Frank Campbell, Margaret C Love, and others for a total of 48 observers.
The Uniform Criminal Records Accuracy Act and the work of the Drafting Committee is available at www.uniformlaws.org, the website of the Conference.

Respectfully submitted,

Anita Ramasastry, President,  
National Conference of Commissioners on Uniform State Laws  
January 2019
GENERAL INFORMATION FORM

Submitting Entity: National Conference of Commissioners on Uniform State Laws

Submitted By: Anita Ramasastry, President

1. **Summary of Resolution(s).**

   The National Conference of Commissioners on Uniform State Laws (NCCUSL) requests approval of the Uniform Criminal Records Accuracy Act by the American Bar Association (ABA) House of Delegates.

2. **Approval by Submitting Entity.**

   The National Conference of Commissioners on Uniform State Laws granted final approval to the Act at its July 2018 Annual Meeting.

3. **Has this or a similar resolution been submitted to the House or Board previously?**

   No.

4. **What existing Association policies are relevant to this Resolution and how would they be affected by its adoption?**

   This drafting project was undertaken at the request of the Criminal Law Section of the ABA. The ABA previously approved a resolution (87M116A) to support the Uniform Criminal History Records Act, which was finalized by NCCUSL in 1986. That Act provides fundamental law to govern criminal history records information, such as the responsibilities of the collecting agency, its rulemaking powers, what it collects and who may have access to the information. The current Act supplements that prior Act. The ABA has a policy (76M117) to support legislation to restrict unauthorized and harmful dissemination of criminal justice data identifiable to a person.

5. **If this is a late report, what urgency exists which requires action at this meeting of the House?**

   Not applicable.

6. **Status of Legislation. (If applicable)**

   The Uniform Criminal Records Accuracy Act has not yet been enacted in any jurisdiction.
7. **Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates.**

   NCCUSL will present the Act to state legislatures for consideration and enactment.

8. **Cost to the Association.** (Both direct and indirect costs)

   None.

9. **Disclosure of Interest.** (If applicable)

   None.

10. **Referrals.**

    Pursuant to the agreement between the NCCUSL and the ABA, all members of the House of Delegates and Chairs of all ABA entities were advised of the drafting project, and those that expressed interest were provided with tentative drafts. The Drafting Committee’s work can be found at www.uniformlaws.org.

11. **Contact Name and Address Information.** (Prior to the meeting. Please include name, address, telephone number and e-mail address)

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12. **Contact Name and Address Information.** (Who will present the Resolution with Report to the House? Please include best contact information to use when on-site at the meeting. *Be aware that this information will be available to anyone who views the House of Delegates agenda online.*)

    Anita Ramasastry, NCCUSL President
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EXECUTIVE SUMMARY

1. Summary of the Resolution

That the American Bar Association approves the Uniform Criminal Records Accuracy Act promulgated by the National Conference of Commissioners on Uniform State Laws in July 2018 as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.

2. Summary of the Issue that the Resolution Addresses

The Uniform Criminal Records Accuracy Act is designed to improve the accuracy of criminal history records, commonly called a RAP sheet, that are frequently used in determining the eligibility of a person for employment, housing, credit, and licensing, in addition to law enforcement purposes. The Act imposes duties on governmental law enforcement agencies and courts that collect, store and use criminal history records, to ensure the accuracy of the information contained in the RAP sheet. The Act provides individuals the right to see and correct errors in their RAP sheet. Through use of a mistaken identity prevention registry, the Act also provides a mechanism by which an individual whose name is similar to and confused with a person who is the subject of criminal-history-record information, a means to minimize the possibility of a mistaken arrest or denial of housing, employment, credit, or other opportunities.

3. Please Explain How the Proposed Policy Position Will Address the Issue

Approval of the Uniform Criminal Records Accuracy Act by the American Bar Association House of Delegates would demonstrate to states that the Act is an appropriate approach for addressing the issues described above.

4. Summary of Minority Views or Opposition Internal and/or External to the ABA Which Have Been Identified

None known.