

**As Introduced**

**125th General Assembly  
Regular Session  
2003-2004**

**S. B. No. 53**

**Senators Goodman, Stivers, Jacobson, Randy Gardner, Dann**

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**A BILL**

To enact section 109.571 of the Revised Code to 1  
ratify the National Crime Prevention and Privacy 2  
Compact. 3

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 109.571 of the Revised Code be 4  
enacted to read as follows: 5

**Sec. 109.571.** The "national crime prevention and privacy 6  
compact" is hereby ratified, enacted into law, and entered into by 7  
the state of Ohio as a party to the compact with any other state 8  
that has legally joined in the compact as follows: 9

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT 10

The contracting states agree to the following: 11

Overview 12

(a) This compact organizes an electronic information sharing 13  
system among the federal government and the states to exchange 14  
criminal history records for noncriminal justice purposes 15  
authorized by federal or state law, such as background checks for 16  
governmental licensing and employment. 17

(b) Under this compact, the FBI and the party states agree to 18  
maintain detailed databases of their respective criminal history 19

records, including arrests and dispositions, and to make them  
available to the federal government and to party states for  
authorized purposes. The FBI shall also manage the federal data  
facilities that provide a significant part of the infrastructure  
for the system.

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Article I

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As used in this compact:

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(1) "Attorney general" means the attorney general of the  
United States.

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(2) "Compact officer" means:

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(A) With respect to the federal government, an official so  
designated by the director of the FBI; and

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(B) With respect to a party state, the chief administrator of  
the state's criminal history record repository or a designee of  
the chief administrator who is a regular full-time employee of the  
repository.

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(3) "Council" means the compact council established under  
Article VI of the compact.

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(4)(A) "Criminal history records" means information collected  
by criminal justice agencies on individuals consisting of  
identifiable descriptions and notations of arrests, detentions,  
indictments, or other formal criminal charges, and any disposition  
arising therefrom, including acquittal, sentencing, correctional  
supervision, or release.

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(B) "Criminal history records" does not include  
identification information such as fingerprint records if the  
information does not indicate involvement of the individual with  
the criminal justice system.

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(5) "Criminal history record repository" means the state  
agency designated by the governor or other appropriate executive

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official or the legislature of a state to perform centralized 50  
recordkeeping functions for criminal history records and services 51  
in the state. 52

(6) "Criminal justice" includes activities relating to the 53  
detection, apprehension, detention, pretrial release, post-trial 54  
release, prosecution, adjudication, correctional supervision, or 55  
rehabilitation of accused persons or criminal offenders. The 56  
administration of criminal justice includes criminal 57  
identification activities and the collection, storage, and 58  
dissemination of criminal history records. 59

(7) "Criminal justice agency" means courts and a governmental 60  
agency or any subunit of a governmental agency that performs the 61  
administration of criminal justice pursuant to a statute or 62  
executive order and allocates a substantial part of its annual 63  
budget to the administration of criminal justice. "Criminal 64  
justice agency" also includes federal and state inspectors general 65  
offices. 66

(8) "Criminal justice services" means services provided by 67  
the FBI to criminal justice agencies in response to a request for 68  
information about a particular individual or as an update to 69  
information previously provided for criminal justice purposes. 70

(9) "Criterion offense" means any felony or misdemeanor 71  
offense not included on the list of nonserious offenses published 72  
periodically by the FBI. 73

(10) "Direct access" means access to the national 74  
identification index by computer terminal or other automated means 75  
not requiring the assistance of or intervention by any other party 76  
or agency. 77

(11) "Executive order" means an order of the president of the 78  
United States or the chief executive officer of a state that has 79  
the force of law and that is promulgated in accordance with 80

<u>applicable law.</u>	81
<u>(12) "FBI" means the federal bureau of investigation.</u>	82
<u>(13) "Interstate identification system" or "III system" means</u>	83
<u>the cooperative federal-state system for the exchange of criminal</u>	84
<u>history records and includes the national identification index,</u>	85
<u>the national fingerprint file, and, to the extent of their</u>	86
<u>participation in that system, the criminal history record</u>	87
<u>repositories of the states and the FBI.</u>	88
<u>(14) "National fingerprint file" means a database of</u>	89
<u>fingerprints, or other uniquely personal identifying information,</u>	90
<u>relating to an arrested or charged individual maintained by the</u>	91
<u>FBI to provide positive identification of record subjects indexed</u>	92
<u>in the III system.</u>	93
<u>(15) "National identification index" means an index</u>	94
<u>maintained by the FBI consisting of names, identifying numbers,</u>	95
<u>and other descriptive information relating to record subjects</u>	96
<u>about whom there are criminal history records in the III system.</u>	97
<u>(16) "National indices" means the national identification</u>	98
<u>index and the national fingerprint file.</u>	99
<u>(17) "Nonparty state" means a state that has not ratified</u>	100
<u>this compact.</u>	101
<u>(18) "Noncriminal justice purposes" means uses of criminal</u>	102
<u>history records for purposes authorized by federal or state law</u>	103
<u>other than purposes relating to criminal justice activities,</u>	104
<u>including employment suitability, licensing determinations,</u>	105
<u>immigration and naturalization matters, and national security</u>	106
<u>clearances.</u>	107
<u>(19) "Party state" means a state that has ratified this</u>	108
<u>compact.</u>	109
<u>(20) "Positive identification" means a determination, based</u>	110

upon a comparison of fingerprints or other equally reliable 111  
biometric identification techniques, that the subject of a record 112  
search is the same person as the subject of a criminal history 113  
record or records indexed in the III system. Identifications based 114  
solely upon a comparison of subject's names or other nonunique 115  
identification characteristics or numbers, or combinations 116  
thereof, shall not constitute positive identification. 117

(21) "Sealed record information" means both of the following: 118

(A) With respect to adults, that portion of a record that is 119  
not available for criminal justice uses, not supported by 120  
fingerprints or other accepted means of positive identification, 121  
or subject to restrictions on dissemination for noncriminal 122  
justice purposes pursuant to a court order related to a particular 123  
subject or pursuant to a federal or state statute that requires 124  
action on a sealing petition filed by a particular record subject; 125

(B) With respect to juveniles, whatever each state determines 126  
is a sealed record under its own law and procedure. 127

(22) "State" means any state, territory, or possession of the 128  
United States, the District of Columbia, and the Commonwealth of 129  
Puerto Rico. 130

Article II 131

The purposes of this compact are to do all of the following: 132

(1) Provide a legal framework for the establishment of a 133  
cooperative federal-state system for the interstate and 134  
federal-state exchange of criminal history records for noncriminal 135  
justice uses; 136

(2) Require the FBI to permit use of the national 137  
identification index and the national fingerprint file by each 138  
party state, and to provide, in a timely fashion, federal and 139  
state criminal history records to requesting states, in accordance 140

with the terms of this compact and with rules, procedures, and 141  
standards established by the council under Article VI; 142

(3) Require party states to provide information and records 143  
for the national identification index and the national fingerprint 144  
file and to provide criminal history records, in a timely fashion, 145  
to criminal history record repositories of other states and the 146  
federal government for noncriminal justice purposes, in accordance 147  
with the terms of this compact and with rules, procedures, and 148  
standards established by the council under Article VI; 149

(4) Provide for the establishment of a council to monitor III 150  
system operations and to prescribe system rules and procedures for 151  
the effective and proper operation of the III system for 152  
noncriminal justice purposes; 153

(5) Require the FBI and each party state to adhere to III 154  
system standards concerning record dissemination and use, response 155  
times, system security, data quality, and other duly established 156  
standards, including those that enhance the accuracy and privacy 157  
of such records. 158

Article III 159

(a) The director of the FBI shall do all of the following: 160

(1) Appoint an FBI compact officer who shall do all of the 161  
following: 162

(A) Administer this compact within the department of justice 163  
and among federal agencies and other agencies and organizations 164  
that submit search requests to the FBI pursuant to Article V(c); 165

(B) Ensure that compact provisions and rules, procedures, and 166  
standards prescribed by the council under Article VI are complied 167  
with by the department of justice and the federal agencies and 168  
other agencies and organizations referred to in Article III(1)(A); 169

(C) Regulate the use of records received by means of the III 170

<u>system from party states when those records are supplied by the</u>	171
<u>FBI directly to other federal agencies;</u>	172
<u>(2) Provide to federal agencies and to state criminal history</u>	173
<u>record repositories criminal history records maintained in its</u>	174
<u>database for the noncriminal justice purposes described in Article</u>	175
<u>IV, including both of the following:</u>	176
<u>(A) Information from nonparty states;</u>	177
<u>(B) Information from party states that is available from the</u>	178
<u>FBI through the III system, but is not available from the party</u>	179
<u>state through the III system;</u>	180
<u>(3) Provide a telecommunications network and maintain</u>	181
<u>centralized facilities for the exchange of criminal history</u>	182
<u>records for both criminal justice purposes and the noncriminal</u>	183
<u>justice purposes described in Article IV, and ensure that the</u>	184
<u>exchange of criminal history records for criminal justice purposes</u>	185
<u>has priority over exchange for noncriminal justice purposes;</u>	186
<u>(4) Modify or enter into user agreements with nonparty state</u>	187
<u>criminal history record repositories to require them to establish</u>	188
<u>record request procedures conforming to those prescribed in</u>	189
<u>Article V.</u>	190
<u>(b) Each party state shall do all of the following:</u>	191
<u>(1) Appoint a compact officer who shall do all of the</u>	192
<u>following:</u>	193
<u>(A) Administer this compact within that state;</u>	194
<u>(B) Ensure that the compact provisions and rules, procedures,</u>	195
<u>and standards established by the council under Article VI are</u>	196
<u>complied with in the state;</u>	197
<u>(C) Regulate the in-state use of records received by means of</u>	198
<u>the III system from the FBI or from other party states;</u>	199

(2) Establish and maintain a criminal history record repository, which shall provide both of the following: 200  
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(A) Information and records for the national identification index and the national fingerprint file; 202  
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(B) The state's III system-indexed criminal history records for noncriminal justice purposes described in Article IV; 204  
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(3) Participate in the national fingerprint file; 206

(4) Provide and maintain telecommunications links and related equipment necessary to support the services set forth in this compact. 207  
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(c) In carrying out their responsibilities under this compact, the FBI and each party state shall comply with the III system rules, procedures, and standards duly established by the council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III system operation. 210  
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(d)(1) Use of the III system for noncriminal justice purposes authorized in this compact shall be managed so as not to diminish the level of services provided in support of criminal justice purposes. 216  
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(2) Administration of compact provisions shall not reduce the level of service available to authorized noncriminal justice users on the effective date of this compact. 220  
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Article IV 223

(a) To the extent authorized by section 552a of title 5, United States Code (commonly known as the 'Privacy Act of 1974'), the FBI shall provide on request criminal history records (excluding sealed records) to state criminal history record repositories for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been 224  
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approved by the attorney general and that authorizes national 230  
indices checks. 231

(b) The FBI, to the extent authorized by section 552a of 232  
title 5, United States Code (commonly known as the 'Privacy Act of 233  
1974') and state criminal history record repositories, shall 234  
provide criminal history records (excluding sealed records) to 235  
criminal justice agencies and other governmental or 236  
nongovernmental agencies for noncriminal justice purposes allowed 237  
by federal statute, federal executive order, or a state statute 238  
that has been approved by the attorney general, that authorizes 239  
national indices checks. 240

(c) Any record obtained under this compact may be used only 241  
for the official purposes for which the record was requested. Each 242  
compact officer shall establish procedures, consistent with this 243  
compact, and with rules, procedures, and standards established by 244  
the council under Article VI, which procedures shall protect the 245  
accuracy and privacy of the records, and shall do all of the 246  
following: 247

(1) Ensure that records obtained under this compact are used 248  
only by authorized officials for authorized purposes; 249

(2) Require that subsequent record checks are requested to 250  
obtain current information whenever a new need arises; 251

(3) Ensure that record entries that may not legally be used 252  
for a particular noncriminal justice purpose are deleted from the 253  
response and, if no information authorized for release remains, an 254  
appropriate 'no record' response is communicated to the requesting 255  
official. 256

#### Article V 257

(a) Subject fingerprints or other approved forms of positive 258  
identification shall be submitted with all requests for criminal 259  
history record checks for noncriminal justice purposes. 260

(b) Each request for a criminal history record check 261  
utilizing the national indices made under any approved state 262  
statute shall be submitted through that state's criminal history 263  
record repository. A state criminal history record repository 264  
shall process an interstate request for noncriminal justice 265  
purposes through the national indices only if the request is 266  
transmitted through another state criminal history record 267  
repository or the FBI. 268

(c) Each request for criminal history record checks utilizing 269  
the national indices made under federal authority shall be 270  
submitted through the FBI or, if the state criminal history record 271  
repository consents to process fingerprint submissions, through 272  
the criminal history record repository in the state in which the 273  
request originated. Direct access to the national identification 274  
index by entities other than the FBI or state criminal history 275  
record repositories shall not be permitted for noncriminal justice 276  
purposes. 277

(d) A state criminal history record repository for the FBI 278  
may charge a fee, in accordance with applicable law, for handling 279  
a request involving fingerprint processing for noncriminal justice 280  
purposes and may not charge a fee for providing criminal history 281  
records in response to an electric request for a record that does 282  
not involve a request to process fingerprints. 283

(e)(1) If a state criminal history record repository cannot 284  
positively identify the subject of a record request made for 285  
noncriminal justice purposes, the request, together with 286  
fingerprints or other approved identifying information, shall be 287  
forwarded to the FBI for a search of the national indices. 288

(2) If, with respect to a request forwarded by a state 289  
criminal history record repository under paragraph (1), the FBI 290  
positively identifies the subject as having a III system-indexed 291

record or records, the FBI shall so advise the state criminal  
history repository; and the state criminal history record  
repository shall be entitled to obtain the additional criminal  
history record information from the FBI or other state criminal  
history record repositories.

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Article VI

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(a)(1) There is established a council to be known as the  
'compact council,' which shall have the authority to promulgate  
rules and procedures governing the use of the III system for  
noncriminal justice purposes, not to conflict with the FBI  
administration of the III system for criminal justice purposes.

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(2) The council shall do all of the following:

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(A) Continue in existence as long as this compact remains in  
effect;

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(B) Be located, for administrative purposes, within the FBI;

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(C) Be organized and hold its first meeting as soon as  
practicable after the effective date of this compact.

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(b) The council shall be composed of fifteen members, each of  
whom shall be appointed by the attorney general as follows:

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(1) Nine members, each of whom shall serve a two-year term,  
who shall be selected from among the compact officers of party  
states based on the recommendation of the compact officers of all  
party states, except that, in the absence of the requisite number  
of compact officers available to serve, the chief administrators  
of the criminal history record repositories of nonparty states  
shall be eligible to serve on an interim basis;

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(2) Two at-large members, nominated by the director of the  
FBI, each of whom shall serve a three-year term, of whom one shall  
be a representative of the criminal justice agencies of the  
federal government and may not be employed by the FBI; and one

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shall be a representative of the noncriminal justice agencies of 322  
the federal government; 323

(3) Two at-large members, nominated by the chairman of the 324  
council, once the chairman is elected pursuant to Article VI(c), 325  
each of whom shall serve a three-year term, of whom one shall be a 326  
representative of state or local criminal justice agencies; and 327  
one shall be a representative of state or local noncriminal 328  
justice agencies; 329

(4) One member, who shall serve a three-year term, and who 330  
shall simultaneously be a member of the FBI's advisory policy 331  
board on criminal justice information services, nominated by the 332  
membership of that policy board; 333

(5) One member, nominated by the director of the FBI, who 334  
shall serve a three-year term, and who shall be an employee of the 335  
FBI. 336

(c)(1) From its membership, the council shall elect a 337  
chairman and a vice chairman of the council, respectively. Both 338  
the chairman and the vice chairman shall be a compact officer, 339  
unless there is no compact officer on the council who is willing 340  
to serve, in which case the chairman may be an at-large member; 341  
and shall serve a two-year term and may be reelected to only one 342  
additional two-year term. 343

(2) The vice chairman of the council shall serve as the 344  
chairman of the council in the absence of the chairman. 345

(d)(1) The council shall meet at least once each year at the 346  
call of the chairman. Each meeting of the council shall be open to 347  
the public. The council shall provide prior public notice in the 348  
federal register of each meeting of the council, including the 349  
matters to be addressed at the meeting. 350

(2) A majority of the council or any committee of the council 351

shall constitute a quorum of the council or of such committee,  
respectively, for the conduct of business. A lesser number may  
meet to hold hearings, take testimony, or conduct any business not  
requiring a vote.

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(e) The council shall make available for public inspection  
and copying at the council office with the FBI, and shall publish  
in the federal register, any rules, procedures, or standards  
established by the council.

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(f) The council may request from the FBI ANY reports,  
studies, statistics, or other information or materials THAT the  
council determines to be necessary to enable the council to  
perform its duties under this compact. The FBI, to the extent  
authorized by law, may provide such assistance or information upon  
such a request.

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(g) The chairman may establish committees as necessary to  
carry out this compact and may prescribe their membership,  
responsibilities, and duration.

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Article VII

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This compact shall take effect upon being entered into by two  
or more states as between those states and the federal government.  
Upon subsequent entering into this compact by additional states,  
it shall become effective among those states and the federal  
government and each party state that has previously ratified it.  
When ratified, this compact shall have the full force and effect  
of law within the ratifying jurisdictions. The form of  
ratification shall be in accordance with the laws of the executing  
state.

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Article VIII

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(a) Administration of this compact shall not interfere with  
the management and control of the director of the FBI over the  
FBI's collection and dissemination of criminal history records and

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the advisory function of the FBI's advisory policy board chartered 383  
under the Federal Advisory Committee Act (5 U.S.C. App.) for all 384  
purposes other than noncriminal justice. 385

(b) Nothing in this compact shall require the FBI to obligate 386  
or expend funds beyond those appropriated to the FBI. 387

(c) Nothing in this compact shall diminish or lessen the 388  
obligations, responsibilities, and authorities of any state, 389  
whether a party state or a nonparty state, or of any criminal 390  
history record repository or other subdivision or component 391  
thereof, under the Departments of State, Justice, and Commerce, 392  
the Judiciary, and Related Agencies Appropriation Act, 1973 393  
(Public Law 92-544), or regulations and guidelines promulgated 394  
thereunder, including the rules and procedures promulgated by the 395  
council under Article VI(a), regarding the use and dissemination 396  
of criminal history records and information. 397

Article IX 398

(a) This compact shall bind each party state until renounced 399  
by the party state. 400

(b) Any renunciation of this compact by a party state shall 401  
be effected in the same manner by which the party state ratified 402  
this compact and shall become effective one hundred and eighty 403  
days after written notice of renunciation is provided by the party 404  
state to each other party state and to the federal government. 405

Article X 406

The provisions of this compact shall be severable, and if any 407  
phrase, clause, sentence, or provision of this compact is declared 408  
to be contrary to the constitution of any participating state, or 409  
to the Constitution of the United States, or the applicability of 410  
any phrase, clause, sentence, or provision of this compact to any 411  
government, agency, person, or circumstance is held invalid, the 412  
validity of the remainder of this compact and the applicability of 413

the remainder of this compact to any government, agency, person,  
or circumstance shall not be affected thereby. If a portion of  
this compact is held contrary to the constitution of any party  
state, all other portions of this compact shall remain in full  
force and effect as to the remaining party states and in full  
force and effect as to the party states affected, as to all other  
provisions.

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Article XI

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(a) The council shall do both of the following:

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(1) Have initial authority to make determinations with  
respect to any dispute regarding all of the following:

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(A) Interpretation of this compact;

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(B) Any rule or standard established by the council pursuant  
to Article V;

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(C) Any dispute or controversy between any parties to this  
compact;

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(2) Hold a hearing concerning any dispute described in  
paragraph (1) at a regularly scheduled meeting of the council and  
only render a decision based upon a majority vote of the members  
of the council. The decision shall be published pursuant to the  
requirements of Article VI(e).

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(b) The FBI shall exercise immediate and necessary action to  
preserve the integrity of the III system, maintain system policy  
and standards, protect the accuracy and privacy of records, and to  
prevent abuses, until the council holds a hearing on such matters.

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(c) The FBI or a party state may appeal any decision of the  
council to the attorney general, and thereafter may file suit in  
the appropriate district court of the United States, which shall  
have original jurisdiction of all cases or controversies arising  
under this compact. Any suit arising under this compact and

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initiated in a state court shall be removed to the appropriate  
district court of the United States in the manner provided by  
section 1446 of title 28, United States Code, or other statutory  
authority.

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