

AMENDED IN ASSEMBLY APRIL 18, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 971

Introduced by Assembly Member Garcia

February 22, 2013

An act to amend Section 15975 of the Government Code, and to amend ~~Section 432.7~~ *Sections 11105 and 13300* of the ~~Labor Penal~~ Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 971, as amended, Garcia. ~~Contracts and applications for employment: paratransit services. Public agency employers: paratransit providers: criminal history information.~~

~~Existing law prohibits an employer, whether a public agency or private individual or corporation, from asking an applicant for employment to disclose, or utilizing as a factor in determining any condition of employment, information concerning an arrest or detention that did not result in a conviction, except as specified. Existing law authorizes a health care facility, as defined, to ask an applicant for employment to disclose an arrest for specified offenses, including offenses specified in the sex offender registration statute.~~

Existing law requires the Attorney General to furnish state summary criminal history information to a city, county, city and county, or district, or an officer or official thereof, when that information is needed in fulfilling employment, certification, or licensing duties, as specified, subject to specified restrictions as to arrests or detentions that did not result in a conviction. Other provisions of existing law authorize the Attorney General to provide summary criminal history information to specified persons or entities for specified purposes. Existing law

provides a similar provision with respect to authorizing a local public entity to receive local criminal history information.

This bill *additionally* would authorize a specified social services paratransit agency to ~~require its service contractors, as specified, to ask applicants for employment with regular access to persons with disabilities to disclose arrests for offenses specified in the sex-offender registration statute. The bill would also authorize that agency to receive specified state and local criminal history information. The bill would, in addition, authorize a service contractor of a paratransit agency, as specified, to ask applicants for employment with regular access to persons with disabilities to disclose arrests for offenses specified in the sex-offender registration statute, if required by the paratransit agency to do so.~~ The bill *information with respect to its contracted providers, and* would further make technical, nonsubstantive, and conforming changes.

By expanding the scope of criminal history information that a local agency is required to furnish, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 15975 of the Government Code is
- 2 amended to read:
- 3 15975. (a) The transportation planning agencies and the county
- 4 transportation commissions shall prepare and adopt an action plan
- 5 that describes in detail the steps required to accomplish the
- 6 consolidation of social service transportation services. Funding
- 7 for the action plan shall be provided from local transportation funds
- 8 made available under Chapter 4 (commencing with Section 99200)
- 9 of Part 11 of Division 10 of the Public Utilities Code. The action

1 plan shall substantiate that one or more of the benefits indicated
2 in Sections 15951 and 15952 are feasible for the services in a given
3 geographic area. The action plan shall include, but not be limited
4 to, the following:

5 (1) The designation of consolidated transportation service
6 agencies within the geographic area of jurisdiction of the
7 transportation planning agency or county transportation
8 commission. The action plan may designate more than a single
9 agency or multiple agencies as consolidated transportation service
10 agencies, if improved coordination of all services is demonstrated
11 within the geographic area. In Ventura County, the county
12 transportation commission is the consolidated transportation service
13 agency.

14 The action plan may also specify that the consolidation of some
15 services and the coordination of other services is the most feasible
16 approach, at the time the action plan is submitted, which will
17 provide improved efficiency and effectiveness of those services.

18 (2) The identification of the social service recipients to be
19 served, of funds available for use by the consolidated or
20 coordinated services, and of an orderly strategy and schedule
21 detailing the steps required to develop the financial program and
22 management structure necessary to implement consolidated or
23 coordinated services.

24 (3) Measures to coordinate the services provided under
25 paragraph (1) with existing fixed route service provided by public
26 and private transportation providers.

27 (4) Measures for the effective coordination of specialized
28 transportation service from one provider service area to another.

29 (5) Measures to ensure that the objectives of the action plan are
30 consistent with the legislative intent declared in Section 15951.

31 (b) An entity formed by the regional transportation planning
32 authority as a nonprofit public benefit corporation, designated as
33 a consolidated transportation services agency under this section
34 and charged with administering a countywide coordinated
35 paratransit plan adopted pursuant to Section 37.141 of Chapter 49
36 of the Code of Federal Regulations shall, for the purposes of
37 paragraph (2) of subdivision (e) of Section 14055 and Part 1
38 (commencing with Section 810) and Part 2 (commencing with
39 Section 814) of Division 3.6, be deemed a “public agency” within
40 the meaning of “public entity,” as defined in Section 811.2.

1 SEC. 2. Section 432.7 of the Labor Code is amended to read:

2 432.7. (a) An employer, whether a public agency or private
3 individual or corporation, may not ask an applicant for employment
4 to disclose, through any written form or verbally, information
5 concerning an arrest or detention that did not result in conviction,
6 or information concerning a referral to, and participation in, any
7 pretrial or posttrial diversion program. An employer may not seek
8 from any source, or utilize, as a factor in determining any condition
9 of employment including hiring, promotion, termination, or any
10 apprenticeship training program or any other training program
11 leading to employment, any record of arrest or detention that did
12 not result in conviction, or any record regarding a referral to, and
13 participation in, any pretrial or posttrial diversion program. As
14 used in this section, a conviction shall include a plea, verdict, or
15 finding of guilt regardless of whether sentence is imposed by the
16 court. Nothing in this section shall prevent an employer from
17 asking an employee or applicant for employment about an arrest
18 for which the employee or applicant is out on bail or on his or her
19 own recognizance pending trial.

20 (b) Nothing in this section shall prohibit the disclosure of the
21 information authorized for release under Sections 13203 and 13300
22 of the Penal Code, to a government agency employing a peace
23 officer. However, the employer shall not determine any condition
24 of employment other than paid administrative leave based solely
25 on an arrest report. The information contained in an arrest report
26 may be used as the starting point for an independent, internal
27 investigation of a peace officer in accordance with Chapter 9.7
28 (commencing with Section 3300) of Division 4 of Title 1 of the
29 Government Code.

30 (c) In any case where a person violates this section, or Article
31 6 (commencing with Section 11140) of Chapter 1 of Title 1 of Part
32 4 of the Penal Code, the applicant may bring an action to recover
33 from that person actual damages or two hundred dollars (\$200),
34 whichever is greater, plus costs, and reasonable attorney's fees.
35 An intentional violation of this section shall entitle the applicant
36 to treble actual damages, or five hundred dollars (\$500), whichever
37 is greater, plus costs, and reasonable attorney's fees. An intentional
38 violation of this section is a misdemeanor punishable by a fine not
39 to exceed five hundred dollars (\$500).

1 ~~(d) The remedies under this section shall be in addition to and~~
2 ~~not in derogation of all other rights and remedies that an applicant~~
3 ~~may have under any other law.~~

4 ~~(e) Persons seeking employment or persons already employed~~
5 ~~as peace officers or persons seeking employment for positions in~~
6 ~~the Department of Justice or other criminal justice agencies as~~
7 ~~defined in Section 13101 of the Penal Code are not covered by~~
8 ~~this section.~~

9 ~~(f) Nothing in this section shall prohibit an employer at a health~~
10 ~~facility, as defined in Section 1250 of the Health and Safety Code,~~
11 ~~from asking an applicant for employment either of the following:~~

12 ~~(1) With regard to an applicant for a position with regular access~~
13 ~~to patients, to disclose an arrest under any section specified in~~
14 ~~Section 290 of the Penal Code.~~

15 ~~(2) With regard to an applicant for a position with access to~~
16 ~~drugs and medication, to disclose an arrest under any section~~
17 ~~specified in Section 11590 of the Health and Safety Code.~~

18 ~~(g) (1) A peace officer or employee of a law enforcement~~
19 ~~agency with access to criminal offender record information~~
20 ~~maintained by a local law enforcement criminal justice agency~~
21 ~~may not knowingly disclose, with intent to affect a person's~~
22 ~~employment, any information contained therein pertaining to an~~
23 ~~arrest or detention or proceeding that did not result in a conviction,~~
24 ~~including information pertaining to a referral to, and participation~~
25 ~~in, any pretrial or posttrial diversion program, to any person not~~
26 ~~authorized by law to receive that information.~~

27 ~~(2) A person authorized by law to receive criminal offender~~
28 ~~record information maintained by a local law enforcement criminal~~
29 ~~justice agency may not knowingly disclose any information~~
30 ~~received therefrom pertaining to an arrest or detention or~~
31 ~~proceeding that did not result in a conviction, including information~~
32 ~~pertaining to a referral to, and participation in, any pretrial or~~
33 ~~posttrial diversion program, to any person not authorized by law~~
34 ~~to receive that information.~~

35 ~~(3) A person, except those specifically referred to in Section~~
36 ~~1070 of the Evidence Code, knowing he or she is not a person~~
37 ~~authorized by law to receive criminal offender record information~~
38 ~~maintained by a local law enforcement criminal justice agency,~~
39 ~~pertaining to an arrest or other proceeding that did not result in a~~
40 ~~conviction, including information pertaining to a referral to, and~~

1 participation in, any pretrial or posttrial diversion program, may
2 not receive or possess that information.

3 (h) ~~“A person authorized by law to receive criminal offender~~
4 ~~record information,” for purposes of this section, means any person~~
5 ~~or public agency authorized by a court, statute, or decisional law~~
6 ~~to receive information contained in criminal offender records~~
7 ~~maintained by a local law enforcement criminal justice agency,~~
8 ~~and includes, but is not limited to, those persons set forth in Section~~
9 ~~11105 of the Penal Code, and any person employed by a law~~
10 ~~enforcement criminal justice agency who is required by that~~
11 ~~employment to receive, analyze, or process criminal offender~~
12 ~~record information.~~

13 (i) ~~Nothing in this section shall require the Department of Justice~~
14 ~~to remove entries relating to an arrest or detention not resulting in~~
15 ~~conviction from summary criminal history records forwarded to~~
16 ~~an employer pursuant to law.~~

17 (j) ~~As used in this section, “pretrial or posttrial diversion~~
18 ~~program” means any program under Chapter 2.5 (commencing~~
19 ~~with Section 1000) or Chapter 2.7 (commencing with Section~~
20 ~~1001) of Title 6 of Part 2 of the Penal Code, Section 13201 or~~
21 ~~13352.5 of the Vehicle Code, or any other program expressly~~
22 ~~authorized and described by statute as a diversion program.~~

23 (k) ~~(1) Subdivision (a) shall not apply to any city, city and~~
24 ~~county, county, or district, or any officer or official thereof, in~~
25 ~~screening a prospective concessionaire, or the affiliates and~~
26 ~~associates of a prospective concessionaire for purposes of~~
27 ~~consenting to, or approving of, the prospective concessionaire’s~~
28 ~~application for, or acquisition of, any beneficial interest in a~~
29 ~~concession, lease, or other property interest.~~

30 ~~(2) For purposes of this subdivision the following terms have~~
31 ~~the following meanings:~~

32 (A) ~~“Screening” means a written request for criminal history~~
33 ~~information made to a local law enforcement agency.~~

34 (B) ~~“Prospective concessionaire” means any individual, general~~
35 ~~or limited partnership, corporation, trust, association, or other~~
36 ~~entity that is applying for, or seeking to obtain, a public agency’s~~
37 ~~consent to, or approval of, the acquisition by that individual or~~
38 ~~entity of any beneficial ownership interest in any public agency’s~~
39 ~~concession, lease, or other property right whether directly or~~

1 indirectly held. However, “prospective concessionaire” does not
2 include any of the following:

3 (i) A lender acquiring an interest solely as security for a bona
4 fide loan made in the ordinary course of the lender’s business and
5 not made for the purpose of acquisition.

6 (ii) A lender upon foreclosure or assignment in lieu of
7 foreclosure of the lender’s security.

8 (C) “Affiliate” means any individual or entity that controls, or
9 is controlled by, the prospective concessionaire, or who is under
10 common control with the prospective concessionaire.

11 (D) “Associate” means any individual or entity that shares a
12 common business purpose with the prospective concessionaire
13 with respect to the beneficial ownership interest that is subject to
14 the consent or approval of the city, county, city and county, or
15 district.

16 (E) “Control” means the possession, direct or indirect, of the
17 power to direct, or cause the direction of, the management or
18 policies of the controlled individual or entity.

19 (f) (1) Nothing in subdivision (a) shall prohibit a public agency,
20 or any officer or official thereof, from denying consent to, or
21 approval of, a prospective concessionaire’s application for, or
22 acquisition of, any beneficial interest in a concession, lease, or
23 other property interest based on the criminal history information
24 of the prospective concessionaire or the affiliates or associates of
25 the prospective concessionaire that show any criminal conviction
26 for offenses involving moral turpitude. Criminal history
27 information for purposes of this subdivision includes any criminal
28 history information obtained pursuant to Section 11105 or 13300
29 of the Penal Code.

30 (2) In considering criminal history information, a public agency
31 shall consider the crime for which the prospective concessionaire
32 or the affiliates or associates of the prospective concessionaire was
33 convicted only if that crime relates to the specific business that is
34 proposed to be conducted by the prospective concessionaire.

35 (3) Any prospective concessionaire whose application for
36 consent or approval to acquire a beneficial interest in a concession,
37 lease, or other property interest is denied based on criminal history
38 information shall be provided a written statement of the reason for
39 the denial.

1 ~~(4) (A) If the prospective concessionaire submits a written~~
2 ~~request to the public agency within 10 days of the date of the notice~~
3 ~~of denial, the public agency shall review its decision with regard~~
4 ~~to any corrected record or other evidence presented by the~~
5 ~~prospective concessionaire as to the accuracy or incompleteness~~
6 ~~of the criminal history information utilized by the public agency~~
7 ~~in making its original decision.~~

8 ~~(B) The prospective concessionaire shall submit the copy or the~~
9 ~~corrected record of any other evidence to the public agency within~~
10 ~~90 days of a request for review. The public agency shall render its~~
11 ~~decision within 20 days of the submission of evidence by the~~
12 ~~prospective concessionaire.~~

13 ~~(m) (1) Nothing in this section shall prohibit a public entity~~
14 ~~described in subdivision (b) of Section 15975 of the Government~~
15 ~~Code from doing any of the following:~~

16 ~~(A) Requesting or requiring its service providers who have~~
17 ~~contracted with the public entity to provide paratransit services to~~
18 ~~ask an applicant for employment with regular access to persons~~
19 ~~with disabilities to disclose an arrest under any section specified~~
20 ~~in Section 290 of the Penal Code.~~

21 ~~(B) Receiving the disclosure of information authorized for~~
22 ~~release to a government agency under Section 13300 of the Penal~~
23 ~~Code.~~

24 ~~(C) Receiving the disclosure of information authorized for~~
25 ~~release under Section 11105 of the Penal Code.~~

26 ~~(2) Nothing in this section shall prohibit a service provider~~
27 ~~described in subparagraph (A) of paragraph (1) from asking an~~
28 ~~applicant for employment with regular access to persons with~~
29 ~~disabilities to disclose an arrest under any section specified in~~
30 ~~Section 290 of the Penal Code, if requested or required by the~~
31 ~~public entity to do so.~~

32 *SEC. 2. Section 11105 of the Penal Code is amended to read:*

33 11105. (a) (1) The Department of Justice shall maintain state
34 summary criminal history information.

35 (2) As used in this section:

36 (A) "State summary criminal history information" means the
37 master record of information compiled by the Attorney General
38 pertaining to the identification and criminal history of any person,
39 such as name, date of birth, physical description, fingerprints,

1 photographs, dates of arrests, arresting agencies and booking
2 numbers, charges, dispositions, and similar data about the person.

3 (B) “State summary criminal history information” does not refer
4 to records and data compiled by criminal justice agencies other
5 than the Attorney General, nor does it refer to records of complaints
6 to or investigations conducted by, or records of intelligence
7 information or security procedures of, the office of the Attorney
8 General and the Department of Justice.

9 (b) The Attorney General shall furnish state summary criminal
10 history information to any of the following, if needed in the course
11 of their duties, provided that when information is furnished to
12 assist an agency, officer, or official of state or local government,
13 a public utility, or any other entity, in fulfilling employment,
14 certification, or licensing duties, Chapter 1321 of the Statutes of
15 1974 and Section 432.7 of the Labor Code shall apply:

16 (1) The courts of the state.

17 (2) Peace officers of the state, as defined in Section 830.1,
18 subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section
19 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision
20 (a) of Section 830.31.

21 (3) District attorneys of the state.

22 (4) Prosecuting city attorneys of any city within the state.

23 (5) City attorneys pursuing civil gang injunctions pursuant to
24 Section 186.22a, or drug abatement actions pursuant to Section
25 3479 or 3480 of the Civil Code, or Section 11571 of the Health
26 and Safety Code.

27 (6) Probation officers of the state.

28 (7) Parole officers of the state.

29 (8) A public defender or attorney of record when representing
30 a person in proceedings upon a petition for a certificate of
31 rehabilitation and pardon pursuant to Section 4852.08.

32 (9) A public defender or attorney of record when representing
33 a person in a criminal case, or a parole, mandatory supervision
34 pursuant to paragraph (5) of subdivision (h) of Section 1170, or
35 postrelease community supervision revocation or revocation
36 extension proceeding, and if authorized access by statutory or
37 decisional law.

38 (10) Any agency, officer, or official of the state if the criminal
39 history information is required to implement a statute or regulation
40 that expressly refers to specific criminal conduct applicable to the

1 subject person of the state summary criminal history information,
2 and contains requirements or exclusions, or both, expressly based
3 upon that specified criminal conduct. The agency, officer, or
4 official of the state authorized by this paragraph to receive state
5 summary criminal history information may also transmit fingerprint
6 images and related information to the Department of Justice to be
7 transmitted to the Federal Bureau of Investigation.

8 (11) Any city or county, city and county, district, or any officer
9 or official thereof if access is needed in order to assist that agency,
10 officer, or official in fulfilling employment, certification, or
11 licensing duties, and if the access is specifically authorized by the
12 city council, board of supervisors, or governing board of the city,
13 county, or district if the criminal history information is required
14 to implement a statute, ordinance, or regulation that expressly
15 refers to specific criminal conduct applicable to the subject person
16 of the state summary criminal history information, and contains
17 requirements or exclusions, or both, expressly based upon that
18 specified criminal conduct. The city or county, city and county,
19 district, or the officer or official thereof authorized by this
20 paragraph may also transmit fingerprint images and related
21 information to the Department of Justice to be transmitted to the
22 Federal Bureau of Investigation.

23 (12) The subject of the state summary criminal history
24 information under procedures established under Article 5
25 (commencing with Section 11120).

26 (13) Any person or entity when access is expressly authorized
27 by statute if the criminal history information is required to
28 implement a statute or regulation that expressly refers to specific
29 criminal conduct applicable to the subject person of the state
30 summary criminal history information, and contains requirements
31 or exclusions, or both, expressly based upon that specified criminal
32 conduct.

33 (14) Health officers of a city, county, city and county, or district
34 when in the performance of their official duties enforcing Section
35 120175 of the Health and Safety Code.

36 (15) Any managing or supervising correctional officer of a
37 county jail or other county correctional facility.

38 (16) Any humane society, or society for the prevention of cruelty
39 to animals, for the specific purpose of complying with Section

1 14502 of the Corporations Code for the appointment of humane
2 officers.

3 (17) Local child support agencies established by Section 17304
4 of the Family Code. When a local child support agency closes a
5 support enforcement case containing summary criminal history
6 information, the agency shall delete or purge from the file and
7 destroy any documents or information concerning or arising from
8 offenses for or of which the parent has been arrested, charged, or
9 convicted, other than for offenses related to the parent's having
10 failed to provide support for minor children, consistent with the
11 requirements of Section 17531 of the Family Code.

12 (18) County child welfare agency personnel who have been
13 delegated the authority of county probation officers to access state
14 summary criminal history information pursuant to Section 272 of
15 the Welfare and Institutions Code for the purposes specified in
16 Section 16504.5 of the Welfare and Institutions Code. Information
17 from criminal history records provided pursuant to this subdivision
18 shall not be used for any purposes other than those specified in
19 this section and Section 16504.5 of the Welfare and Institutions
20 Code. When an agency obtains records obtained both on the basis
21 of name checks and fingerprint checks, final placement decisions
22 shall be based only on the records obtained pursuant to the
23 fingerprint check.

24 (19) The court of a tribe, or court of a consortium of tribes, that
25 has entered into an agreement with the state pursuant to Section
26 10553.1 of the Welfare and Institutions Code. This information
27 may be used only for the purposes specified in Section 16504.5
28 of the Welfare and Institutions Code and for tribal approval or
29 tribal licensing of foster care or adoptive homes. Article 6
30 (commencing with Section 11140) shall apply to officers, members,
31 and employees of a tribal court receiving criminal record offender
32 information pursuant to this section.

33 (20) Child welfare agency personnel of a tribe or consortium
34 of tribes that has entered into an agreement with the state pursuant
35 to Section 10553.1 of the Welfare and Institutions Code and to
36 whom the state has delegated duties under paragraph (2) of
37 subdivision (a) of Section 272 of the Welfare and Institutions Code.
38 The purposes for use of the information shall be for the purposes
39 specified in Section 16504.5 of the Welfare and Institutions Code
40 and for tribal approval or tribal licensing of foster care or adoptive

1 homes. When an agency obtains records on the basis of name
2 checks and fingerprint checks, final placement decisions shall be
3 based only on the records obtained pursuant to the fingerprint
4 check. Article 6 (commencing with Section 11140) shall apply to
5 child welfare agency personnel receiving criminal record offender
6 information pursuant to this section.

7 (21) An officer providing conservatorship investigations
8 pursuant to Sections 5351, 5354, and 5356 of the Welfare and
9 Institutions Code.

10 (22) A court investigator providing investigations or reviews
11 in conservatorships pursuant to Section 1826, 1850, 1851, or
12 2250.6 of the Probate Code.

13 (23) A person authorized to conduct a guardianship investigation
14 pursuant to Section 1513 of the Probate Code.

15 (24) A humane officer pursuant to Section 14502 of the
16 Corporations Code for the purposes of performing his or her duties.

17 (25) *A public agency described in subdivision (b) of Section*
18 *15975 of the Government Code, for the purpose of oversight and*
19 *enforcement policies with respect to its contracted providers.*

20 (c) The Attorney General may furnish state summary criminal
21 history information and, when specifically authorized by this
22 subdivision, federal level criminal history information upon a
23 showing of a compelling need to any of the following, provided
24 that when information is furnished to assist an agency, officer, or
25 official of state or local government, a public utility, or any other
26 entity in fulfilling employment, certification, or licensing duties,
27 Chapter 1321 of the Statutes of 1974 and Section 432.7 of the
28 Labor Code shall apply:

29 (1) Any public utility, as defined in Section 216 of the Public
30 Utilities Code, that operates a nuclear energy facility when access
31 is needed in order to assist in employing persons to work at the
32 facility, provided that, if the Attorney General supplies the data,
33 he or she shall furnish a copy of the data to the person to whom
34 the data relates.

35 (2) To a peace officer of the state other than those included in
36 subdivision (b).

37 (3) To an illegal dumping enforcement officer as defined in
38 subdivision (j) of Section 830.7.

39 (4) To a peace officer of another country.

1 (5) To public officers, other than peace officers, of the United
2 States, other states, or possessions or territories of the United
3 States, provided that access to records similar to state summary
4 criminal history information is expressly authorized by a statute
5 of the United States, other states, or possessions or territories of
6 the United States if the information is needed for the performance
7 of their official duties.

8 (6) To any person when disclosure is requested by a probation,
9 parole, or peace officer with the consent of the subject of the state
10 summary criminal history information and for purposes of
11 furthering the rehabilitation of the subject.

12 (7) The courts of the United States, other states, or territories
13 or possessions of the United States.

14 (8) Peace officers of the United States, other states, or territories
15 or possessions of the United States.

16 (9) To any individual who is the subject of the record requested
17 if needed in conjunction with an application to enter the United
18 States or any foreign nation.

19 (10) (A) (i) Any public utility, as defined in Section 216 of the
20 Public Utilities Code, or any cable corporation as defined in
21 subparagraph (B), if receipt of criminal history information is
22 needed in order to assist in employing current or prospective
23 employees, contract employees, or subcontract employees who,
24 in the course of their employment may be seeking entrance to
25 private residences or adjacent grounds. The information provided
26 shall be limited to the record of convictions and any arrest for
27 which the person is released on bail or on his or her own
28 recognizance pending trial.

29 (ii) If the Attorney General supplies the data pursuant to this
30 paragraph, the Attorney General shall furnish a copy of the data
31 to the current or prospective employee to whom the data relates.

32 (iii) Any information obtained from the state summary criminal
33 history is confidential and the receiving public utility or cable
34 corporation shall not disclose its contents, other than for the
35 purpose for which it was acquired. The state summary criminal
36 history information in the possession of the public utility or cable
37 corporation and all copies made from it shall be destroyed not
38 more than 30 days after employment or promotion or transfer is
39 denied or granted, except for those cases where a current or
40 prospective employee is out on bail or on his or her own

1 recognizance pending trial, in which case the state summary
2 criminal history information and all copies shall be destroyed not
3 more than 30 days after the case is resolved.

4 (iv) A violation of this paragraph is a misdemeanor, and shall
5 give the current or prospective employee who is injured by the
6 violation a cause of action against the public utility or cable
7 corporation to recover damages proximately caused by the
8 violations. Any public utility's or cable corporation's request for
9 state summary criminal history information for purposes of
10 employing current or prospective employees who may be seeking
11 entrance to private residences or adjacent grounds in the course
12 of their employment shall be deemed a "compelling need" as
13 required to be shown in this subdivision.

14 (v) Nothing in this section shall be construed as imposing any
15 duty upon public utilities or cable corporations to request state
16 summary criminal history information on any current or prospective
17 employees.

18 (B) For purposes of this paragraph, "cable corporation" means
19 any corporation or firm that transmits or provides television,
20 computer, or telephone services by cable, digital, fiber optic,
21 satellite, or comparable technology to subscribers for a fee.

22 (C) Requests for federal level criminal history information
23 received by the Department of Justice from entities authorized
24 pursuant to subparagraph (A) shall be forwarded to the Federal
25 Bureau of Investigation by the Department of Justice. Federal level
26 criminal history information received or compiled by the
27 Department of Justice may then be disseminated to the entities
28 referenced in subparagraph (A), as authorized by law.

29 (D) (i) Authority for a cable corporation to request state or
30 federal level criminal history information under this paragraph
31 shall commence July 1, 2005.

32 (ii) Authority for a public utility to request federal level criminal
33 history information under this paragraph shall commence July 1,
34 2005.

35 (11) To any campus of the California State University or the
36 University of California, or any four year college or university
37 accredited by a regional accreditation organization approved by
38 the United States Department of Education, if needed in
39 conjunction with an application for admission by a convicted felon
40 to any special education program for convicted felons, including,

1 but not limited to, university alternatives and halfway houses. Only
2 conviction information shall be furnished. The college or university
3 may require the convicted felon to be fingerprinted, and any inquiry
4 to the department under this section shall include the convicted
5 felon's fingerprints and any other information specified by the
6 department.

7 (12) To any foreign government, if requested by the individual
8 who is the subject of the record requested, if needed in conjunction
9 with the individual's application to adopt a minor child who is a
10 citizen of that foreign nation. Requests for information pursuant
11 to this paragraph shall be in accordance with the process described
12 in Sections 11122 to 11124, inclusive. The response shall be
13 provided to the foreign government or its designee and to the
14 individual who requested the information.

15 (d) Whenever an authorized request for state summary criminal
16 history information pertains to a person whose fingerprints are on
17 file with the Department of Justice and the department has no
18 criminal history of that person, and the information is to be used
19 for employment, licensing, or certification purposes, the fingerprint
20 card accompanying the request for information, if any, may be
21 stamped "no criminal record" and returned to the person or entity
22 making the request.

23 (e) Whenever state summary criminal history information is
24 furnished as the result of an application and is to be used for
25 employment, licensing, or certification purposes, the Department
26 of Justice may charge the person or entity making the request a
27 fee that it determines to be sufficient to reimburse the department
28 for the cost of furnishing the information. In addition, the
29 Department of Justice may add a surcharge to the fee to fund
30 maintenance and improvements to the systems from which the
31 information is obtained. Notwithstanding any other law, any person
32 or entity required to pay a fee to the department for information
33 received under this section may charge the applicant a fee sufficient
34 to reimburse the person or entity for this expense. All moneys
35 received by the department pursuant to this section, Sections
36 11105.3 and 26190, and former Section 13588 of the Education
37 Code shall be deposited in a special account in the General Fund
38 to be available for expenditure by the department to offset costs
39 incurred pursuant to those sections and for maintenance and

1 improvements to the systems from which the information is
2 obtained upon appropriation by the Legislature.

3 (f) Whenever there is a conflict, the processing of criminal
4 fingerprints and fingerprints of applicants for security guard or
5 alarm agent registrations or firearms qualification permits
6 submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4
7 of the Business and Professions Code shall take priority over the
8 processing of other applicant fingerprints.

9 (g) It is not a violation of this section to disseminate statistical
10 or research information obtained from a record, provided that the
11 identity of the subject of the record is not disclosed.

12 (h) It is not a violation of this section to include information
13 obtained from a record in (1) a transcript or record of a judicial or
14 administrative proceeding or (2) any other public record if the
15 inclusion of the information in the public record is authorized by
16 a court, statute, or decisional law.

17 (i) Notwithstanding any other law, the Department of Justice
18 or any state or local law enforcement agency may require the
19 submission of fingerprints for the purpose of conducting summary
20 criminal history information checks that are authorized by law.

21 (j) The state summary criminal history information shall include
22 any finding of mental incompetence pursuant to Chapter 6
23 (commencing with Section 1367) of Title 10 of Part 2 arising out
24 of a complaint charging a felony offense specified in Section 290.

25 (k) (1) This subdivision shall apply whenever state or federal
26 summary criminal history information is furnished by the
27 Department of Justice as the result of an application by an
28 authorized agency or organization and the information is to be
29 used for peace officer employment or certification purposes. As
30 used in this subdivision, a peace officer is defined in Chapter 4.5
31 (commencing with Section 830) of Title 3 of Part 2.

32 (2) Notwithstanding any other provision of law, whenever state
33 summary criminal history information is initially furnished
34 pursuant to paragraph (1), the Department of Justice shall
35 disseminate the following information:

36 (A) Every conviction rendered against the applicant.

37 (B) Every arrest for an offense for which the applicant is
38 presently awaiting trial, whether the applicant is incarcerated or
39 has been released on bail or on his or her own recognizance
40 pending trial.

1 (C) Every arrest or detention, except for an arrest or detention
2 resulting in an exoneration, provided however that where the
3 records of the Department of Justice do not contain a disposition
4 for the arrest, the Department of Justice first makes a genuine effort
5 to determine the disposition of the arrest.

6 (D) Every successful diversion.

7 (E) Every date and agency name associated with all retained
8 peace officer or nonsworn law enforcement agency employee
9 preemployment criminal offender record information search
10 requests.

11 (l) (1) This subdivision shall apply whenever state or federal
12 summary criminal history information is furnished by the
13 Department of Justice as the result of an application by a criminal
14 justice agency or organization as defined in Section 13101, and
15 the information is to be used for criminal justice employment,
16 licensing, or certification purposes.

17 (2) Notwithstanding any other provision of law, whenever state
18 summary criminal history information is initially furnished
19 pursuant to paragraph (1), the Department of Justice shall
20 disseminate the following information:

21 (A) Every conviction rendered against the applicant.

22 (B) Every arrest for an offense for which the applicant is
23 presently awaiting trial, whether the applicant is incarcerated or
24 has been released on bail or on his or her own recognizance
25 pending trial.

26 (C) Every arrest for an offense for which the records of the
27 Department of Justice do not contain a disposition or did not result
28 in a conviction, provided that the Department of Justice first makes
29 a genuine effort to determine the disposition of the arrest. However,
30 information concerning an arrest shall not be disclosed if the
31 records of the Department of Justice indicate or if the genuine
32 effort reveals that the subject was exonerated, successfully
33 completed a diversion or deferred entry of judgment program, or
34 the arrest was deemed a detention.

35 (D) Every date and agency name associated with all retained
36 peace officer or nonsworn law enforcement agency employee
37 preemployment criminal offender record information search
38 requests.

39 (m) (1) This subdivision shall apply whenever state or federal
40 summary criminal history information is furnished by the

1 Department of Justice as the result of an application by an
2 authorized agency or organization pursuant to Section 1522,
3 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
4 any statute that incorporates the criteria of any of those sections
5 or this subdivision by reference, and the information is to be used
6 for employment, licensing, or certification purposes.

7 (2) Notwithstanding any other provision of law, whenever state
8 summary criminal history information is initially furnished
9 pursuant to paragraph (1), the Department of Justice shall
10 disseminate the following information:

11 (A) Every conviction of an offense rendered against the
12 applicant.

13 (B) Every arrest for an offense for which the applicant is
14 presently awaiting trial, whether the applicant is incarcerated or
15 has been released on bail or on his or her own recognizance
16 pending trial.

17 (C) Every arrest for an offense for which the Department of
18 Social Services is required by paragraph (1) of subdivision (a) of
19 Section 1522 of the Health and Safety Code to determine if an
20 applicant has been arrested. However, if the records of the
21 Department of Justice do not contain a disposition for an arrest,
22 the Department of Justice shall first make a genuine effort to
23 determine the disposition of the arrest.

24 (3) Notwithstanding the requirements of the sections referenced
25 in paragraph (1) of this subdivision, the Department of Justice
26 shall not disseminate information about an arrest subsequently
27 deemed a detention or an arrest that resulted in either the successful
28 completion of a diversion program or exoneration.

29 (n) (1) This subdivision shall apply whenever state or federal
30 summary criminal history information, to be used for employment,
31 licensing, or certification purposes, is furnished by the Department
32 of Justice as the result of an application by an authorized agency,
33 organization, or individual pursuant to any of the following:

34 (A) Paragraph (9) of subdivision (c), when the information is
35 to be used by a cable corporation.

36 (B) Section 11105.3 or 11105.4.

37 (C) Section 15660 of the Welfare and Institutions Code.

38 (D) Any statute that incorporates the criteria of any of the
39 statutory provisions listed in subparagraph (A), (B), or (C), or of
40 this subdivision, by reference.

1 (2) With the exception of applications submitted by
2 transportation companies authorized pursuant to Section 11105.3,
3 and notwithstanding any other provision of law, whenever state
4 summary criminal history information is initially furnished
5 pursuant to paragraph (1), the Department of Justice shall
6 disseminate the following information:

7 (A) Every conviction rendered against the applicant for a
8 violation or attempted violation of any offense specified in
9 subdivision (a) of Section 15660 of the Welfare and Institutions
10 Code. However, with the exception of those offenses for which
11 registration is required pursuant to Section 290, the Department
12 of Justice shall not disseminate information pursuant to this
13 subdivision unless the conviction occurred within 10 years of the
14 date of the agency's request for information or the conviction is
15 over 10 years old but the subject of the request was incarcerated
16 within 10 years of the agency's request for information.

17 (B) Every arrest for a violation or attempted violation of an
18 offense specified in subdivision (a) of Section 15660 of the Welfare
19 and Institutions Code for which the applicant is presently awaiting
20 trial, whether the applicant is incarcerated or has been released on
21 bail or on his or her own recognizance pending trial.

22 (o) (1) This subdivision shall apply whenever state or federal
23 summary criminal history information is furnished by the
24 Department of Justice as the result of an application by an
25 authorized agency or organization pursuant to Section 379 or 550
26 of the Financial Code, or any statute that incorporates the criteria
27 of either of those sections or this subdivision by reference, and the
28 information is to be used for employment, licensing, or certification
29 purposes.

30 (2) Notwithstanding any other provision of law, whenever state
31 summary criminal history information is initially furnished
32 pursuant to paragraph (1), the Department of Justice shall
33 disseminate the following information:

34 (A) Every conviction rendered against the applicant for a
35 violation or attempted violation of any offense specified in Section
36 550 of the Financial Code.

37 (B) Every arrest for a violation or attempted violation of an
38 offense specified in Section 550 of the Financial Code for which
39 the applicant is presently awaiting trial, whether the applicant is

1 incarcerated or has been released on bail or on his or her own
2 recognizance pending trial.

3 (p) (1) This subdivision shall apply whenever state or federal
4 criminal history information is furnished by the Department of
5 Justice as the result of an application by an agency, organization,
6 or individual not defined in subdivision (k), (l), (m), (n), or (o), or
7 by a transportation company authorized pursuant to Section
8 11105.3, or any statute that incorporates the criteria of that section
9 or this subdivision by reference, and the information is to be used
10 for employment, licensing, or certification purposes.

11 (2) Notwithstanding any other provisions of law, whenever state
12 summary criminal history information is initially furnished
13 pursuant to paragraph (1), the Department of Justice shall
14 disseminate the following information:

15 (A) Every conviction rendered against the applicant.

16 (B) Every arrest for an offense for which the applicant is
17 presently awaiting trial, whether the applicant is incarcerated or
18 has been released on bail or on his or her own recognizance
19 pending trial.

20 (q) All agencies, organizations, or individuals defined in
21 subdivisions (k), (l), (m), (n), (o), and (p) may contract with the
22 Department of Justice for subsequent notification pursuant to
23 Section 11105.2. This subdivision shall not supersede sections that
24 mandate an agency, organization, or individual to contract with
25 the Department of Justice for subsequent notification pursuant to
26 Section 11105.2.

27 (r) Nothing in this section shall be construed to mean that the
28 Department of Justice shall cease compliance with any other
29 statutory notification requirements.

30 (s) The provisions of Section 50.12 of Title 28 of the Code of
31 Federal Regulations are to be followed in processing federal
32 criminal history information.

33 (t) Whenever state or federal summary criminal history
34 information is furnished by the Department of Justice as the result
35 of an application by an authorized agency, organization, or
36 individual defined in subdivisions (k) to (p), inclusive, and the
37 information is to be used for employment, licensing, or certification
38 purposes, the authorized agency, organization, or individual shall
39 expeditiously furnish a copy of the information to the person to
40 whom the information relates if the information is a basis for an

1 adverse employment, licensing, or certification decision. When
2 furnished other than in person, the copy shall be delivered to the
3 last contact information provided by the applicant.

4 *SEC. 3. Section 13300 of the Penal Code is amended to read:*
5 13300. (a) As used in this section:

6 (1) “Local summary criminal history information” means the
7 master record of information compiled by any local criminal justice
8 agency pursuant to Chapter 2 (commencing with Section 13100)
9 of Title 3 of Part 4 pertaining to the identification and criminal
10 history of any person, such as name, date of birth, physical
11 description, dates of arrests, arresting agencies and booking
12 numbers, charges, dispositions, and similar data about the person.

13 (2) “Local summary criminal history information” does not
14 refer to records and data compiled by criminal justice agencies
15 other than that local agency, nor does it refer to records of
16 complaints to or investigations conducted by, or records of
17 intelligence information or security procedures of, the local agency.

18 (3) “Local agency” means a local criminal justice agency.

19 (b) A local agency shall furnish local summary criminal history
20 information to any of the following, when needed in the course of
21 their duties, provided that when information is furnished to assist
22 an agency, officer, or official of state or local government, a public
23 utility, or any entity, in fulfilling employment, certification, or
24 licensing duties, Chapter 1321 of the Statutes of 1974 and Section
25 432.7 of the Labor Code shall apply:

26 (1) The courts of the state.

27 (2) Peace officers of the state, as defined in Section 830.1,
28 subdivisions (a) and (d) of Section 830.2, subdivisions (a), (b),
29 and (j) of Section 830.3, and subdivisions (a), (b), and (c) of
30 Section 830.5.

31 (3) District attorneys of the state.

32 (4) Prosecuting city attorneys of any city within the state.

33 (5) City attorneys pursuing civil gang injunctions pursuant to
34 Section 186.22a, or drug abatement actions pursuant to Section
35 3479 or 3480 of the Civil Code, or Section 11571 of the Health
36 and Safety Code.

37 (6) Probation officers of the state.

38 (7) Parole officers of the state.

1 (8) A public defender or attorney of record when representing
2 a person in proceedings upon a petition for a certificate of
3 rehabilitation and pardon pursuant to Section 4852.08.

4 (9) A public defender or attorney of record when representing
5 a person in a criminal case, or a parole, mandatory supervision, or
6 postrelease community supervision revocation or revocation
7 extension hearing, and when authorized access by statutory or
8 decisional law.

9 (10) Any agency, officer, or official of the state when the local
10 summary criminal history information is required to implement a
11 statute, regulation, or ordinance that expressly refers to specific
12 criminal conduct applicable to the subject person of the local
13 summary criminal history information, and contains requirements
14 or exclusions, or both, expressly based upon the specified criminal
15 conduct.

16 (11) Any city, county, city and county, or district, or any officer
17 or official thereof, when access is needed in order to assist the
18 agency, officer, or official in fulfilling employment, certification,
19 or licensing duties, and when the access is specifically authorized
20 by the city council, board of supervisors, or governing board of
21 the city, county, or district when the local summary criminal history
22 information is required to implement a statute, regulation, or
23 ordinance that expressly refers to specific criminal conduct
24 applicable to the subject person of the local summary criminal
25 history information, and contains requirements or exclusions, or
26 both, expressly based upon the specified criminal conduct.

27 (12) The subject of the local summary criminal history
28 information.

29 (13) Any person or entity when access is expressly authorized
30 by statute when the local summary criminal history information
31 is required to implement a statute, regulation, or ordinance that
32 expressly refers to specific criminal conduct applicable to the
33 subject person of the local summary criminal history information,
34 and contains requirements or exclusions, or both, expressly based
35 upon the specified criminal conduct.

36 (14) Any managing or supervising correctional officer of a
37 county jail or other county correctional facility.

38 (15) Local child support agencies established by Section 17304
39 of the Family Code. When a local child support agency closes a
40 support enforcement case containing summary criminal history

1 information, the agency shall delete or purge from the file and
2 destroy any documents or information concerning or arising from
3 offenses for or of which the parent has been arrested, charged, or
4 convicted, other than for offenses related to the parents having
5 failed to provide support for the minor children, consistent with
6 Section 17531 of the Family Code.

7 (16) County child welfare agency personnel who have been
8 delegated the authority of county probation officers to access state
9 summary criminal information pursuant to Section 272 of the
10 Welfare and Institutions Code for the purposes specified in Section
11 16504.5 of the Welfare and Institutions Code.

12 (17) A humane officer pursuant to Section 14502 of the
13 Corporations Code for the purposes of performing his or her duties.
14 A local agency may charge a reasonable fee sufficient to cover the
15 costs of providing information pursuant to this paragraph.

16 (18) *A public agency described in subdivision (b) of Section*
17 *15975 of the Government Code, for the purpose of oversight and*
18 *enforcement policies with respect to its contracted providers.*

19 (c) The local agency may furnish local summary criminal history
20 information, upon a showing of a compelling need, to any of the
21 following, provided that when information is furnished to assist
22 an agency, officer, or official of state or local government, a public
23 utility, or any entity, in fulfilling employment, certification, or
24 licensing duties, Chapter 1321 of the Statutes of 1974 and Section
25 432.7 of the Labor Code shall apply:

26 (1) Any public utility, as defined in Section 216 of the Public
27 Utilities Code, which operates a nuclear energy facility when access
28 is needed to assist in employing persons to work at the facility,
29 provided that, if the local agency supplies the information, it shall
30 furnish a copy of this information to the person to whom the
31 information relates.

32 (2) To a peace officer of the state other than those included in
33 subdivision (b).

34 (3) To a peace officer of another country.

35 (4) To public officers, other than peace officers, of the United
36 States, other states, or possessions or territories of the United
37 States, provided that access to records similar to local summary
38 criminal history information is expressly authorized by a statute
39 of the United States, other states, or possessions or territories of

1 the United States when this information is needed for the
2 performance of their official duties.

3 (5) To any person when disclosure is requested by a probation,
4 parole, or peace officer with the consent of the subject of the local
5 summary criminal history information and for purposes of
6 furthering the rehabilitation of the subject.

7 (6) The courts of the United States, other states, or territories
8 or possessions of the United States.

9 (7) Peace officers of the United States, other states, or territories
10 or possessions of the United States.

11 (8) To any individual who is the subject of the record requested
12 when needed in conjunction with an application to enter the United
13 States or any foreign nation.

14 (9) Any public utility, as defined in Section 216 of the Public
15 Utilities Code, when access is needed to assist in employing
16 persons who will be seeking entrance to private residences in the
17 course of their employment. The information provided shall be
18 limited to the record of convictions and any arrest for which the
19 person is released on bail or on his or her own recognizance
20 pending trial.

21 If the local agency supplies the information pursuant to this
22 paragraph, it shall furnish a copy of the information to the person
23 to whom the information relates.

24 Any information obtained from the local summary criminal
25 history is confidential and the receiving public utility shall not
26 disclose its contents, other than for the purpose for which it was
27 acquired. The local summary criminal history information in the
28 possession of the public utility and all copies made from it shall
29 be destroyed 30 days after employment is denied or granted,
30 including any appeal periods, except for those cases where an
31 employee or applicant is out on bail or on his or her own
32 recognizance pending trial, in which case the state summary
33 criminal history information and all copies shall be destroyed 30
34 days after the case is resolved, including any appeal periods.

35 A violation of any of the provisions of this paragraph is a
36 misdemeanor, and shall give the employee or applicant who is
37 injured by the violation a cause of action against the public utility
38 to recover damages proximately caused by the violation.

1 Nothing in this section shall be construed as imposing any duty
2 upon public utilities to request local summary criminal history
3 information on any current or prospective employee.

4 Seeking entrance to private residences in the course of
5 employment shall be deemed a “compelling need” as required to
6 be shown in this subdivision.

7 (10) Any city, county, city and county, or district, or any officer
8 or official thereof, if a written request is made to a local law
9 enforcement agency and the information is needed to assist in the
10 screening of a prospective concessionaire, and any affiliate or
11 associate thereof, as these terms are defined in subdivision (k) of
12 Section 432.7 of the Labor Code, for the purposes of consenting
13 to, or approving of, the prospective concessionaire’s application
14 for, or acquisition of, any beneficial interest in a concession, lease,
15 or other property interest.

16 Any local government’s request for local summary criminal
17 history information for purposes of screening a prospective
18 concessionaire and their affiliates or associates before approving
19 or denying an application for, or acquisition of, any beneficial
20 interest in a concession, lease, or other property interest is deemed
21 a “compelling need” as required by this subdivision. However,
22 only local summary criminal history information pertaining to
23 criminal convictions may be obtained pursuant to this paragraph.

24 Any information obtained from the local summary criminal
25 history is confidential and the receiving local government shall
26 not disclose its contents, other than for the purpose for which it
27 was acquired. The local summary criminal history information in
28 the possession of the local government and all copies made from
29 it shall be destroyed not more than 30 days after the local
30 government’s final decision to grant or deny consent to, or approval
31 of, the prospective concessionaire’s application for, or acquisition
32 of, a beneficial interest in a concession, lease, or other property
33 interest. Nothing in this section shall be construed as imposing
34 any duty upon a local government, or any officer or official thereof,
35 to request local summary criminal history information on any
36 current or prospective concessionaire or their affiliates or
37 associates.

38 (d) Whenever an authorized request for local summary criminal
39 history information pertains to a person whose fingerprints are on
40 file with the local agency and the local agency has no criminal

1 history of that person, and the information is to be used for
2 employment, licensing, or certification purposes, the fingerprint
3 card accompanying the request for information, if any, may be
4 stamped “no criminal record” and returned to the person or entity
5 making the request.

6 (e) A local agency taking fingerprints of a person who is an
7 applicant for licensing, employment, or certification may charge
8 a fee to cover the cost of taking the fingerprints and processing
9 the required documents.

10 (f) Whenever local summary criminal history information
11 furnished pursuant to this section is to be used for employment,
12 licensing, or certification purposes, the local agency shall charge
13 the person or entity making the request a fee which it determines
14 to be sufficient to reimburse the local agency for the cost of
15 furnishing the information, provided that no fee shall be charged
16 to any public law enforcement agency for local summary criminal
17 history information furnished to assist it in employing, licensing,
18 or certifying a person who is applying for employment with the
19 agency as a peace officer or criminal investigator. Any state agency
20 required to pay a fee to the local agency for information received
21 under this section may charge the applicant a fee sufficient to
22 reimburse the agency for the expense.

23 (g) Whenever there is a conflict, the processing of criminal
24 fingerprints shall take priority over the processing of applicant
25 fingerprints.

26 (h) It is not a violation of this article to disseminate statistical
27 or research information obtained from a record, provided that the
28 identity of the subject of the record is not disclosed.

29 (i) It is not a violation of this article to include information
30 obtained from a record in (1) a transcript or record of a judicial or
31 administrative proceeding or (2) any other public record when the
32 inclusion of the information in the public record is authorized by
33 a court, statute, or decisional law.

34 (j) Notwithstanding any other law, a public prosecutor may, in
35 response to a written request made pursuant to Section 6253 of
36 the Government Code, provide information from a local summary
37 criminal history, if release of the information would enhance public
38 safety, the interest of justice, or the public’s understanding of the
39 justice system and the person making the request declares that the
40 request is made for a scholarly or journalistic purpose. If a person

1 in a declaration required by this subdivision willfully states as true
2 any material fact that he or she knows to be false, he or she shall
3 be subject to a civil penalty not exceeding ten thousand dollars
4 (\$10,000). The requestor shall be informed in writing of this
5 penalty. An action to impose a civil penalty under this subdivision
6 may be brought by any public prosecutor and shall be enforced as
7 a civil judgment.

8 (k) Notwithstanding any other law, the Department of Justice
9 or any state or local law enforcement agency may require the
10 submission of fingerprints for the purpose of conducting summary
11 criminal history information record checks which are authorized
12 by law.

13 (l) Any local criminal justice agency may release, within five
14 years of the arrest, information concerning an arrest or detention
15 of a peace officer or applicant for a position as a peace officer, as
16 defined in Section 830, which did not result in conviction, and for
17 which the person did not complete a postarrest diversion program
18 or a deferred entry of judgment program, to a government agency
19 employer of that peace officer or applicant.

20 (m) Any local criminal justice agency may release information
21 concerning an arrest of a peace officer or applicant for a position
22 as a peace officer, as defined in Section 830, which did not result
23 in conviction but for which the person completed a postarrest
24 diversion program or a deferred entry of judgment program, or
25 information concerning a referral to and participation in any
26 postarrest diversion program or a deferred entry of judgment
27 program to a government agency employer of that peace officer
28 or applicant.

29 (n) Notwithstanding subdivision (l) or (m), a local criminal
30 justice agency shall not release information under the following
31 circumstances:

32 (1) Information concerning an arrest for which diversion or a
33 deferred entry of judgment program has been ordered without
34 attempting to determine whether diversion or a deferred entry of
35 judgment program has been successfully completed.

36 (2) Information concerning an arrest or detention followed by
37 a dismissal or release without attempting to determine whether the
38 individual was exonerated.

1 (3) Information concerning an arrest without a disposition
2 without attempting to determine whether diversion has been
3 successfully completed or the individual was exonerated.

4 *SEC. 4. If the Commission on State Mandates determines that*
5 *this act contains costs mandated by the state, reimbursement to*
6 *local agencies and school districts for those costs shall be made*
7 *pursuant to Part 7 (commencing with Section 17500) of Division*
8 *4 of Title 2 of the Government Code.*

O