

AMENDED IN SENATE JUNE 30, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 883**

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**Introduced by Assembly Member Runner**

February 20, 2003

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~~An act to repeal and amend Section 132.5 of the Penal Code, relating to witnesses. An act to add Section 1550.1 to the Evidence Code, and to add Section 11106.3 to the Penal Code, relating to records.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 883, as amended, Runner. ~~Witnesses: compensation for information~~ Records: admissible hearsay.

*Existing law permits the Department of Justice and criminal justice agencies to use any system of microphotography, optical disk, or reproduction by other techniques that do not permit additions, deletions, or changes to the original document to record some or all instruments, papers, photographs, and notices that are required or permitted by law to be recorded or filed.*

*This bill would permit fingerprints to be stored or created in an electronic format that does not permit additions, deletions, or changes to the original fingerprints so long as the storage medium complies with the minimum standards of quality approved by the National Institute of Standards and Technology.*

*Existing law sets forth the rules governing the proof of the content of a writing in a civil or criminal action or proceeding. Under existing law, if made in the regular course of business, as specified, a nonerasable optical image reproduction of a writing may be introduced in court as proof of a writing, provided that additions, deletions, or changes to the*

*original document are not permitted by that technology. Recent changes in this law expand that category of admissible evidence to include any other reproduction of a public record by a trusted system, as specified, contingent on the adoption of specified standards regarding the storage of documents in electronic media by the Secretary of State.*

*This bill would provide that reproductions of files, records, writings, photographs, fingerprints, or other instruments in the official custody of a criminal justice agency that were microphotographed or otherwise reproduced in a manner that conforms with the provisions referred to above that authorize record maintenance procedures for the Department of Justice and criminal justice agencies shall be admissible to the same extent and under the same circumstances as the original file, record, writing or other instrument would be admissible.*

*This bill would state that its provisions are declarative of existing law.*

~~Existing law prohibits a person from accepting or receiving, directly or indirectly, any money or equivalent in consideration for providing information obtained as a result of witnessing an event or occurrence that he or she knows, or reasonably should know, is a crime, or if he or she has personal knowledge of facts that he or she knows, or reasonably should know, may require that person to be called as a witness in a criminal prosecution. Certain rewards and categories of compensation are exempted from this prohibition. This prohibition is also codified in a second provision of law with the same section number, which differs somewhat in enforcement mechanisms, penalties, treatment of compensation or consideration illegally received, and in other regards.~~

~~This bill would repeal the version of this prohibition that was enacted earlier, while incorporating certain aspects of that statute in the other version. This bill would thus leave codified a single statute specifically prohibiting this conduct. Changes in the prevailing law would include (1) deleting legislative declarations relating to the purposes and effects of its provisions; (2) making its prohibitions apply to a person who receives any payment or benefit rather than only money or its equivalent; (3) subjecting a person who reasonably should know that conduct witnessed is a crime to criminal or civil, rather than only civil, sanctions if that person accepts a payment or benefit for sharing the information; (4) setting the maximum fine in a criminal prosecution for violating the prohibition at \$1,000 rather than three times the amount of compensation requested, accepted, or received; (5) permitting the Attorney General or a district attorney to bring a civil action for any violation of these prohibitions, rather than only for those violations~~



~~where a person reasonably should know that the conduct witnessed is a crime; and (6) upon criminal conviction for a violation of these provisions, forfeiting the defendant's consideration to the Victim Restitution Fund.~~

~~By expanding the criminal component of these provisions to cover additional conduct, 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 no reimbursement is required by this act for a specified reason.~~

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

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

- 1 ~~SECTION 1. Section 132.5 of the Penal Code, as amended by~~
- 2 SECTION 1. Section 1550.1 is added to the Evidence Code,
- 3 to read:
- 4 *1550.1. Reproductions of files, records, writings,*
- 5 *photographs, fingerprints or other instruments in the official*
- 6 *custody of a criminal justice agency that were microphotographed*
- 7 *or otherwise reproduced in a manner that conforms with the*
- 8 *provisions of Section 11106.1, 11106.2, or 11106.3 of the Penal*
- 9 *Code shall be admissible to the same extent and under the same*
- 10 *circumstances as the original file, record, writing or other*
- 11 *instrument would be admissible.*
- 12 *SEC. 2. Section 11106.3 is added to the Penal Code, to read:*
- 13 *11106.3. Fingerprints may be stored or created in an*
- 14 *electronic format that does not permit additions, deletions or*
- 15 *changes to the original fingerprints so long as the storage medium*
- 16 *complies with the minimum standards of quality approved by the*
- 17 *National Institute of Standards and Technology.*
- 18 *SEC. 3. Sections 1 and 2 of this bill are declarative of existing*
- 19 *law.*
- 20 ~~Section 1 of Chapter 210 of the Statutes of 2002, is repealed.~~



1 ~~SEC. 2.~~ Section 132.5 of the Penal Code, as amended by  
2 Section 2 of Chapter 210 of the Statutes of 2002, is amended to  
3 read:

4 ~~132.5.~~ (a) A person who is a witness to an event or occurrence  
5 that he or she knows, or reasonably should know, is a crime or who  
6 has personal knowledge of facts that he or she knows, or  
7 reasonably should know, may require that person to be called as a  
8 witness in a criminal prosecution shall not accept or receive,  
9 directly or indirectly, any payment or benefit in consideration for  
10 providing information obtained as result of witnessing the event  
11 or occurrence or having personal knowledge of the facts.

12 (b) (1) A violation of this section is a misdemeanor punishable  
13 by imprisonment in the county jail for a term not exceeding six  
14 months, by a fine not exceeding one thousand dollars (\$1,000), or  
15 both that imprisonment and fine.

16 (2) The Attorney General or the district attorney of the county  
17 in which an alleged violation of this section occurs may instead  
18 institute a civil proceeding. Where a final judgment is rendered  
19 against the defendant in the civil proceeding, the defendant shall  
20 be punished for the violation of this section by a fine equal to 150  
21 percent of the amount of consideration requested, accepted, or  
22 received by the person.

23 (c) Upon conviction under this section, in addition to the  
24 penalty described in subdivision (b), any consideration received in  
25 violation of this section shall be forfeited by the defendant and  
26 deposited in the Victim Restitution Fund.

27 (d) This section does not apply if more than one year has  
28 elapsed from the date of any criminal act related to the information  
29 that is provided under subdivision (a) unless prosecution has  
30 commenced for that criminal act. If prosecution has commenced,  
31 this section shall remain applicable until the final judgment in the  
32 action.

33 (e) This section does not apply to any of the following  
34 circumstances:

35 (1) Lawful compensation paid to expert witnesses,  
36 investigators, employees, or agents by a prosecutor, law  
37 enforcement agency, or an attorney employed to represent a person  
38 in a criminal matter.

39 (2) Lawful compensation provided to an informant by a  
40 prosecutor or law enforcement agency.



1 ~~(3) Compensation paid to a publisher, editor, reporter, writer,~~  
2 ~~or other person connected with or employed by a newspaper,~~  
3 ~~magazine, or other publication or a television or radio news~~  
4 ~~reporter or other person connected with a television or radio~~  
5 ~~station, for disclosing information obtained in the ordinary course~~  
6 ~~of business.~~

7 ~~(4) Statutorily authorized rewards offered by governmental~~  
8 ~~agencies or private reward programs offered by victims of crimes~~  
9 ~~for information leading to the arrest and conviction of specified~~  
10 ~~offenders.~~

11 ~~(5) Lawful compensation provided to a witness participating in~~  
12 ~~the Witness Protection Program established pursuant to Title 7.5~~  
13 ~~(commencing with Section 14020) of Part 4.~~

14 ~~(f) For purposes of this section, “information” does not~~  
15 ~~include a photograph, videotape, audiotape, or any other direct~~  
16 ~~recording of an event or occurrence.~~

17 ~~(g) For purposes of this section, “victims of crimes” shall be~~  
18 ~~construed in a manner consistent with Section 28 of Article I of the~~  
19 ~~California Constitution, and shall include victims, as defined in~~  
20 ~~subdivision (3) of Section 136.~~

21 ~~SEC. 3.—No reimbursement is required by this act pursuant to~~  
22 ~~Section 6 of Article XIII B of the California Constitution because~~  
23 ~~the only costs that may be incurred by a local agency or school~~  
24 ~~district will be incurred because this act creates a new crime or~~  
25 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
26 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
27 ~~the Government Code, or changes the definition of a crime within~~  
28 ~~the meaning of Section 6 of Article XIII B of the California~~  
29 ~~Constitution.~~

