

AMENDED IN SENATE MARCH 24, 2010

SENATE BILL

No. 1417

Introduced by Senator Cox

(Principal coauthor: Assembly Member Smyth)

(Coauthor: Assembly Member Beall)

February 19, 2010

An act to amend Sections ~~10402, 10405, 14501, and 14502~~ of *10401, 14501, and 14502 of*, to add Section 14504 to, and to repeal Section 10402 of, the Corporations Code, and to amend Sections 11105 and 13300 of the Penal Code, relating to corporations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1417, as amended, Cox. Corporations for prevention of cruelty to children or animals.

Existing law authorizes corporations for the prevention of cruelty to children or animals, or both, to be formed under the Nonprofit Public Benefit Corporation Law and requires the articles of incorporation for those corporations to be endorsed, as evidence of necessity, by the Department of Justice or by a judge of the superior court of the county in which the society's principal office is located, as specified.

This bill would *eliminate the option of endorsement by the Department of Justice and thus would require the endorsement of a judge. It would require these societies to* ~~provide~~ *serve* a copy of the application for endorsement to *the State Humane Association of California and* each law enforcement agency and animal control agency having jurisdiction in the county in which the society proposes to operate. The bill would also ~~require a judge to request and consider advice from each of these agencies prior to granting the endorsement~~ *authorize those parties to file opposition to the application and for the filer to reply, as specified.*

Existing law ~~requires magistrates, sheriffs, and officers of police to aid these societies in enforcing laws relating to children or animals and requires a city or county, or city and county, to pay up to \$500 per month to a society actively engaged in enforcing state laws for the prevention of cruelty to animals or children.~~

This bill would instead authorize local governments to enter into contracts with these societies for the enforcement of these laws *and would also permit these societies to enforce these laws without a contract.* ~~The bill would also provide that a magistrate, sheriff, and an officer of police shall not be held civilly or criminally liable for any action within the scope of his or her employment taken in reliance upon information provided by the society, its officers, members, or agents.~~

Existing law requires a humane society or society for the prevention of cruelty to animals that proposes to appoint a humane officer to submit an application for appointment to a judge of the superior court for the county in which the society is located, including a copy of the resolution appointing the person, and documentation that the person has satisfactorily completed required training, as specified. Upon receipt of a report from the Department of Justice of the record, if any, of the proposed appointee, existing law requires the judge to review the appointee's qualifications and fitness to act as a humane officer, and either confirm or deny the appointment.

This bill would require ~~these societies that, prior to submitting an application for appointment, a society's articles of incorporation shall have been endorsed at least 5 years earlier, and that the society shall have been operating an animal shelter for at least 3 years and have been in compliance with all federal, state, and local laws for at least 5 years.~~ *The bill would require a society seeking reaffirmation of an appointment of a humane officer to serve a copy of the application on the same agencies and association that the society would be required to serve with a copy of its application for endorsement, and would provide comparable rights and procedures for the recipients to object.*

Under existing law, a local law enforcement agency or the State Humane Association of California may petition for a revocation hearing regarding a humane officer's appointment.

This bill would also require a party petitioning for a revocation to provide serve copies of these specified documents to on the State Humane Association of California and each law enforcement agency and animal control agency having jurisdiction in the county in which the society is located, as specified. The bill would also require the judge,

in determining whether to confirm the appointment, to consider any documentation submitted to the judge in support of, or opposition to, the proposed appointment.

Existing law prescribes the powers and qualifications of level 1 and level 2 humane officers. Level 1 humane officers are authorized to carry firearms, subject to specified requirements.

This bill would authorize all humane officers to carry firearms subject to specified requirements, including requiring a humane officer to certify compliance with specified continuing education and training requirements, including the use of firearms during each 3-year period following his or her appointment, and would provide that failure to comply shall result in revocation of the appointment at the end of the 3-year term. The bill would also specify additional requirements for the initial and continued use of firearms. The bill would also require a society to possess liability insurance of at least \$1,000,000.

Existing law requires the Department of Justice to maintain state summary criminal history information, as defined, and to provide that information to persons holding specified occupations including, without limitation, probation officers and parole officers. Existing law requires local criminal justice agencies to maintain similar information and provide that information to specified agencies and persons holding specified occupations.

This bill would add humane officers to the specified persons to whom the Department of Justice and local criminal justice agencies are required to provide the criminal history information.

By expanding the duties of local criminal justice agencies, 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 10402 of the Corporations Code is~~
2 ~~amended to read:~~

3 ~~10402. (a) The endorsement of a judge of the superior court~~
4 ~~shall not be granted, however, unless the endorsement of the~~
5 ~~Department of Justice has been first refused or withheld for more~~
6 ~~than 90 days. If the endorsement of the Department of Justice is~~
7 ~~withheld for more than 90 days, or refused, application may be~~
8 ~~made to the judge of the superior court of the county in which the~~
9 ~~principal office of the corporation is located, and if, after giving~~
10 ~~due consideration to the necessity of the corporation and to any~~
11 ~~advice received pursuant to subdivision (b) and assuring himself~~
12 ~~or herself that the incorporators are acting in good faith, the judge~~
13 ~~so desires, he or she may endorse the articles.~~

14 ~~(b) The corporation shall provide a copy of the application~~
15 ~~described in subdivision (a) to each law enforcement agency and~~
16 ~~animal control agency having jurisdiction in the county in which~~
17 ~~the corporation proposes to operate. Prior to making the~~
18 ~~determination described in subdivision (a), a judge of the superior~~
19 ~~court shall request and consider advice from each of those law~~
20 ~~enforcement agencies and animal control agencies.~~

21 ~~SEC. 2. Section 10405 of the Corporations Code is amended~~
22 ~~to read:~~

23 ~~10405. All magistrates, sheriffs, and officers of police shall,~~
24 ~~as occasion may require, aid any such corporation, its officers,~~
25 ~~members, and agents, in the enforcement of all laws relating to or~~
26 ~~affecting children or animals. A magistrate, sheriff, and an officer~~
27 ~~of police shall not be held civilly or criminally liable for any action~~
28 ~~within the scope of his or her employment taken in reliance upon~~
29 ~~information provided by the corporation, its officers, members, or~~
30 ~~agents.~~

31 ~~SECTION 1. Section 10401 of the Corporations Code is~~
32 ~~amended to read:~~

33 ~~10401. (a) (1) All articles of incorporation of such these~~
34 ~~corporations filed with the Secretary of State shall be endorsed by~~
35 ~~the Department of Justice or by a judge of the superior court of~~
36 ~~the county in which the principal office of the corporation is~~
37 ~~located, as evidence of necessity. The incorporators shall file in~~
38 ~~superior court an application entitled, "Application for the~~

1 *Endorsement of Articles of Incorporation of a Corporation/Society*
2 *for the Prevention of Cruelty to Animals,” together with a proposed*
3 *order entitled “Order Endorsing the Articles of Incorporation of*
4 *[insert name] as a Society for the Prevention of Cruelty to*
5 *Animals.”*

6 (2) *The incorporators shall serve a copy of the application on*
7 *the local law enforcement agencies, including the police*
8 *departments and the sheriff’s department having jurisdiction in*
9 *the county in which the society is located, on the animal control*
10 *agencies in that county, and on the State Humane Association of*
11 *California.*

12 (b) (1) *Any person served with an application pursuant to*
13 *paragraph (2) of subdivision (a) may file with the court an*
14 *opposition to the application no later than 15 court days after*
15 *service of the application and shall serve the incorporators with*
16 *a copy of the opposition.*

17 (2) *The incorporators may file a reply to the opposition no later*
18 *than 10 court days after service of the opposition.*

19 (3) *Opposition and reply papers shall comply with the provisions*
20 *of Rule 3.1113 of the California Rules of Court.*

21 (4) *The court shall rule on the application without a hearing*
22 *unless the court notifies the parties of an intention to hold a*
23 *hearing.*

24 (5) *The incorporators shall serve notification of endorsement*
25 *on the agencies and association described in paragraph (2) of*
26 *subdivision (a).*

27 (6) *All moving papers, including the application, opposition*
28 *and reply papers, and notification under this section, shall be*
29 *served by personal delivery, express mail, or other means*
30 *reasonably calculated to ensure delivery not later than the close*
31 *of the next business day after the application, opposition, or reply*
32 *was filed or the endorsement was received by the humane society*
33 *or society for the prevention of cruelty to animals.*

34 *SEC. 2. Section 10402 of the Corporations Code is repealed.*

35 ~~10402. The endorsement of a judge of the superior court shall~~
36 ~~not be granted, however, unless the endorsement of the Department~~
37 ~~of Justice has been first refused or withheld for more than 90 days.~~
38 ~~If the endorsement of the Department of Justice is withheld for~~
39 ~~more than 90 days, or refused, application may be made to the~~
40 ~~judge of the superior court of the county in which the principal~~

1 office of the corporation is located, and if, after giving due
2 consideration to the necessity of such corporation and assuring
3 himself that the incorporators are acting in good faith, the judge
4 so desires, he may endorse the articles.

5 SEC. 3. Section 14501 of the Corporations Code is amended
6 to read:

7 14501. Every society, incorporated and organized for the
8 prevention of cruelty to animals, or for the prevention of cruelty
9 to children, may enter into a contract with any city, or city and
10 county, or county, where the society is located, to enforce the
11 provisions of laws of this state for the prevention of cruelty to
12 animals, or children, or arresting, or prosecuting offenders
13 thereunder or preventing cruelty to animals or children, *and may*
14 *also take any of those actions without a contract with a city, city*
15 *and county, or county.*

16 SEC. 4. Section 14502 of the Corporations Code is amended
17 to read:

18 14502. (a) (1) (A) (i) On and after July 1, 1996, no entity,
19 other than a humane society or society for the prevention of cruelty
20 to animals, shall be eligible to apply for an appointment of any
21 individual as a ~~level 1 or level 2~~ humane officer, the duty of which
22 shall be the enforcement of the laws for the prevention of cruelty
23 to animals. *A society shall only be eligible to apply for an*
24 *appointment of a humane officer if the following conditions are*
25 *met:*

26 *(I) A minimum of five years have passed since its articles of*
27 *incorporation were endorsed pursuant to Section 10401.*

28 *(II) It has been operating an animal shelter for a minimum of*
29 *three years.*

30 *(III) It has been in compliance with all federal, state, and local*
31 *laws for a minimum of five years.*

32 (ii) On and after July 1, 1996, only a person who meets the
33 requirements of this section may be appointed as, or perform the
34 duties of, a humane officer.

35 (iii) Any person appointed as a humane officer prior to July 1,
36 1996, may continue to serve as a humane officer until the expiration
37 of the term of appointment only if the appointing agency maintains
38 records pursuant to subparagraph (C) documenting that both the
39 appointing agency and the humane officer meet the requirements
40 of this section.

1 (B) Each humane society or society for the prevention of cruelty
2 to animals that makes application to the court for the appointment
3 of an individual to act as a ~~level 1 or level 2~~ humane officer for
4 the humane society or society for the prevention of cruelty to
5 animals shall provide with the application documentation that
6 demonstrates that the person has satisfactorily completed the
7 training requirements set forth in subdivision (i).

8 (C) Each humane society or society for the prevention of cruelty
9 to animals for which an individual is acting as a ~~level 1 or level 2~~
10 humane officer shall maintain complete and accurate records
11 documenting that the individual has successfully completed all
12 requirements established in this section and shall make those
13 records available, upon request, to the superior court, the Attorney
14 General, or any entity duly authorized to review that information,
15 including the State Humane Association of California. The records
16 shall include the full name and address of each ~~level 1 or level 2~~
17 humane officer.

18 ~~(2) Any corporation incorporated for the purpose of the~~
19 ~~prevention of cruelty to animals that possesses~~

20 *(2) The humane society or society for the prevention of cruelty*
21 *to animals shall possess insurance of at least one million dollars*
22 *(\$1,000,000) for liability for bodily injury or ~~property damage~~*
23 *may, six months after the date of its incorporation and by resolution*
24 *of its board of directors or trustees duly entered on its minutes,*
25 *appoint any number of persons, who shall be citizens of the State*
26 *of California, as humane officers, provided that the individuals to*
27 *be appointed have met the training guidelines set forth in*
28 *subdivision (i). ~~property damage.~~*

29 (3) Each appointment of a humane officer shall be by separate
30 resolution *by the board of directors or trustees of the humane*
31 *society or society for the prevention of cruelty to animals duly*
32 *entered in its minutes.* The resolution shall state the full name and
33 address of the appointing agency, the full name of the person so
34 appointed, ~~and~~ the fact that he or she is a citizen of the State of
35 California, *and that he or she has met the training guidelines set*
36 *forth in subdivision (i),* and shall also designate the number of the
37 badge to be allotted to the officer.

38 (b) ~~(1)~~ The humane society or society for the prevention of
39 cruelty to animals shall recommend any appointee to the judge of
40 the superior court in and for the county or city and county in which

1 the humane society is located, and shall deliver to the judge a copy
2 of the resolution appointing the person, duly certified to be correct
3 by the president and secretary of the corporation and attested by
4 its seal, together with the fingerprints of the appointee taken on
5 standard 8×8-inch cards, proof of the society's proper incorporation
6 in compliance with Part 9 (commencing with Section 10400) of
7 Division 2, a copy of the society's liability for bodily injury or
8 property damage insurance policy in the amount of at least one
9 million dollars (\$1,000,000), and documentation establishing that
10 the appointee has satisfactorily completed the training requirements
11 set forth in this section.

12 ~~(2) The humane society or society for the prevention of cruelty
13 to animals shall deliver a copy of the resolution and documentation
14 of training described in paragraph (1), within two business days
15 following filing of the application for appointment with the judge,
16 to each law enforcement agency and animal control agency having
17 jurisdiction in the county in which the society is located.~~

18 (c) The judge shall send a copy of the resolution, together with
19 the fingerprints of the appointee, to the Department of Justice,
20 which shall thereupon submit to the judge, in writing, a report of
21 the record in its possession, if any, of the appointee. If the
22 Department of Justice has no record of the appointee, it shall so
23 report to the judge in writing.

24 (d) Upon receipt of the report, the judge shall review the matter
25 of the appointee's qualifications and fitness to act as a humane
26 officer, taking into consideration any documentation he or she has
27 received in support of, or in opposition to, the person's appointment
28 and, if he or she reaffirms the appointment, shall so state on a court
29 order ~~confirming the appointment~~. The appointee shall thereupon
30 file a certified copy of the reviewed court order in the office of the
31 county clerk of the county or city and county and shall, at the same
32 time, take and subscribe the oath of office prescribed for constables
33 or other peace officers.

34 (e) The county clerk shall thereupon immediately enter in a
35 book to be kept in his or her office and designated "Record of
36 Humane Officers" the name of the officer, the name of the agency
37 appointing him or her, the number of his or her badge, the name
38 of the judge appointing him or her, and the date of the filing. At
39 the time of the filing the county clerk shall collect from the officer

1 a fee of five dollars (\$5), which shall be in full for all services to
2 be performed by the county clerk under this section.

3 (f) All appointments of humane officers shall automatically
4 expire if the society disbands or legally dissolves. In addition, all
5 appointments of humane officers shall automatically expire within
6 three years from the date on which the certified copy of the court
7 order was filed with the county clerk. ~~Officers whose appointments
8 are about to expire may only be reappointed after satisfactorily
9 completing the continuing education and training set forth in this
10 section.~~

11 (g) (1) The corporation appointing an officer may revoke an
12 appointment at any time by filing in the office of the county clerk
13 in which the appointment of the officer is recorded a copy of the
14 revocation in writing under the letterhead of the corporation and
15 duly certified by its executive officer. Upon the filing the county
16 clerk shall enter the fact of the revocation and the date of the filing
17 thereof opposite the name of the officer in the record of humane
18 officers.

19 (2) Notwithstanding paragraph (1), a revocation hearing may
20 be initiated by petition from any duly authorized sheriff or local
21 police agency or the State Humane Association of California. The
22 petition shall show cause why an appointment should be revoked
23 and shall be made to the superior court in the jurisdiction of the
24 appointment. *Filing, service, and format protocol shall conform
25 to the law and motion requirements under the Code of Civil
26 Procedure, California Rules of Court, and this code.*

27 (A) *Notice of the hearing date and a copy of the petition shall
28 be served in the same manner as a summons upon the humane
29 officer subject to the petition, the corporation that appointed the
30 officer, the agencies and association described in paragraph (2)
31 of subdivision (a) of Section 10401; except the party filing the
32 petition shall not be required to serve copies of those documents
33 upon itself.*

34 (B) *All papers filed in opposition to the petition and in reply to
35 the opposition shall conform to law and motion requirements.*

36 (C) *Upon a finding of good cause, the court shall issue an order
37 granting the petition to revoke the appointment. The county clerk
38 shall immediately enter the revocation and the date of the court
39 order opposite the name of the officer in the record of humane
40 officers. The clerk of the county shall give notice of the order to*

1 *the parties described in subparagraph (A) and the county*
2 *clerk-recorder.*

3 (h) The corporation or local humane society appointing the
4 humane officer shall pay the training expenses of the humane
5 officer attending the training required pursuant to this section.

6 ~~(i) (1) (A) A level 1 humane officer is not a peace officer, but~~
7 ~~may exercise the powers of a peace officer at all places within the~~
8 ~~state in order to prevent the perpetration of any act of cruelty upon~~
9 ~~any animal and to that end may summon to his or her aid any~~
10 ~~bystander. A level 1 humane officer may use reasonable force~~
11 ~~necessary to prevent the perpetration of any act of cruelty upon~~
12 ~~any animal.~~

13 ~~(B) A level 1 humane officer may make arrests for the violation~~
14 ~~of any penal law of this state relating to or affecting animals in the~~
15 ~~same manner as any peace officer and may also serve search~~
16 ~~warrants.~~

17 ~~(C) A level 1 humane officer is authorized to carry firearms~~
18 ~~while exercising the duties of a humane officer, upon satisfactory~~
19 ~~completion of the training specified in subparagraph (D) and the~~
20 ~~basic training for a level 1 reserve officer by the Commission on~~
21 ~~Peace Officer Standards and Training pursuant to Section 13510.1~~
22 ~~of the Penal Code.~~

23 ~~(D) A level 1 humane officer shall, prior to appointment, provide~~
24 ~~evidence satisfactory to the appointing agency that he or she has~~
25 ~~successfully completed courses of training in the following~~
26 ~~subjects:~~

27 ~~(i) At least 20 hours of a course of training in animal care~~
28 ~~sponsored or provided by an accredited postsecondary institution~~
29 ~~or any other provider approved by the California Veterinary~~
30 ~~Medical Association, the focus of which shall be the identification~~
31 ~~of disease, injury, and neglect in domestic animals and livestock.~~

32 ~~(ii) At least 40 hours of a course of training in the state humane~~
33 ~~laws relating to the powers and duties of a humane officer,~~
34 ~~sponsored or provided by an accredited postsecondary institution,~~
35 ~~law enforcement agency, or the State Humane Association of~~
36 ~~California.~~

37 ~~(E) A person may not be appointed as a level 1 humane officer~~
38 ~~until he or she has satisfied the requirements in Sections 1029,~~
39 ~~1030, and 1031 of the Government Code. A humane society or~~
40 ~~society for the prevention of cruelty to animals shall complete a~~

1 background investigation, using standards defined by the
2 Commission on Peace Officer Standards and Training as guidelines
3 for all level 1 humane officer appointments.

4 (F) In order to be eligible for reappointment, a level 1 humane
5 officer shall complete ongoing weapons training and range
6 qualifications at least every six months pursuant to subdivision (t)
7 of Section 830.3 of the Penal Code and shall, every three years,
8 complete 40 hours of continuing education and training relating
9 to the powers and duties of a humane officer, which education and
10 training shall be provided by an accredited postsecondary
11 institution, law enforcement agency, or the State Humane
12 Association of California.

13 (G) (i) Notwithstanding any other provision of this section, a
14 level 1 humane officer may carry firearms only if authorized by,
15 and only under the terms and conditions specified by, his or her
16 appointing agency.

17 (ii) Notwithstanding any other provision of this section, a level
18 1 humane officer shall not be authorized to carry firearms unless
19 and until his or her appointing agency has adopted a policy on the
20 use of deadly force by its officers and the officer has been
21 instructed in that policy.

22 (2) (A) A level 2

23 (i) (1) A humane officer is not a peace officer, but may exercise
24 the powers of a peace officer at all places within the state in order
25 to prevent the perpetration of any act of cruelty upon any animal
26 and to that end may summon to his or her aid any bystander. A
27 level 2 humane officer may use reasonable force necessary to
28 prevent the perpetration of any act of cruelty upon any animal.

29 (B) A level 2

30 (2) A humane officer may make arrests for the violation of any
31 penal law of this state relating to or affecting animals in the same
32 manner as any peace officer and may serve search warrants during
33 the course and within the scope of employment, upon the successful
34 completion of a course relating to the exercise of the police powers
35 specified in Section 832 of the Penal Code, except the power to
36 carry and use firearms, *or the basic training for a level 1 reserve*
37 *officer by the Commission on Peace Officer Standards and*
38 *Training pursuant to Section 13510.1 of the Penal Code.*

39 (C) A level 2 humane officer is not authorized to carry firearms.

1 (3) *A humane officer is authorized to carry firearms while*
2 *exercising the duties of a humane officer only upon satisfactory*
3 *completion of the basic training for a level 1 reserve officer by the*
4 *Commission on Peace Officer Standards and Training pursuant*
5 *to Section 13510.1 of the Penal Code.*

6 ~~(D) A level 2~~

7 (4) A humane officer shall, prior to appointment, provide
8 evidence satisfactory to the appointing agency that he or she has
9 successfully completed courses of training in the following
10 subjects:

11 (i)

12 (A) At least 20 hours of a course of training in animal care
13 sponsored or provided by an accredited postsecondary institution
14 or any other provider approved by the California Veterinary
15 Medical Association, the focus of which is the identification of
16 disease, injury, and neglect in domestic animals and livestock.

17 (ii)

18 (B) At least 40 hours of a course of training in the state humane
19 laws relating to the powers and duties of a humane officer,
20 sponsored or provided by an accredited postsecondary institution,
21 law enforcement agency, or the State Humane Association of
22 California.

23 ~~(E) In order to be eligible for reappointment, a level 2 humane~~
24 ~~officer shall, every three years,~~

25 (5) *During each three-year period following the date on which*
26 *the certified copy of the court order was filed with the county clerk,*
27 *the humane officer shall complete 40 hours of continuing education*
28 *and training relating to the powers and duties of a humane officer,*
29 *which education and training shall be sponsored or provided by*
30 *an accredited postsecondary institution, law enforcement agency,*
31 *or the State Humane Association of California.*

32 (6) *If the humane officer is authorized to carry a firearm, he or*
33 *she shall complete ongoing weapons training and range*
34 *qualifications at least every six months pursuant to subdivision (t)*
35 *of Section 830.3 of the Penal Code. The appointing humane society*
36 *or society for the prevention of cruelty to animals shall submit*
37 *current fingerprints of the humane officer to the Department of*
38 *Justice, which shall submit to the humane society or society for*
39 *prevention of cruelty to animals, in writing, a report of the record*
40 *in its possession, if any, of the humane officer. A certificate of*

1 *compliance with this section shall be served before the expiration*
2 *of each three-year period on the judge of the superior court that*
3 *reaffirmed the appointment and on the agencies and association*
4 *described in paragraph (2) of subdivision (a) of Section 10401.*
5 *Failure to provide the court with a certificate of compliance before*
6 *the expiration of the three-year period shall result in immediate*
7 *revocation of the appointment upon the expiration of the three-year*
8 *period. Failure to provide the court with proof of ongoing weapons*
9 *training and range qualifications shall result in revocation of the*
10 *authorization to carry a firearm upon the expiration of the*
11 *three-year period.*

12 *(7) A person shall not be appointed as a humane officer until*
13 *he or she has satisfied the requirements in Sections 1029, 1030,*
14 *and 1031 of the Government Code. The humane society or society*
15 *for the prevention of cruelty to animals shall complete a*
16 *background investigation, using standards defined by the*
17 *Commission on Peace Officer Standards and Training as guidelines*
18 *for all humane officer appointments.*

19 *(8) Notwithstanding any other provision of this section, a*
20 *humane officer shall not be authorized to carry firearms unless*
21 *and until his or her appointing agency has adopted a policy on*
22 *the use of deadly force by its officers and the officer has been*
23 *instructed in that policy.*

24 *(j) Every humane officer shall, when making an arrest, exhibit*
25 *and expose a suitable badge to be adopted by the corporation under*
26 *this title of which he or she is a member which shall bear its name*
27 *and a number. Uniforms worn by humane officers shall*
28 *prominently display the name of the appointing agency. Humane*
29 *officer uniforms shall not display the words “state” or “California,”*
30 *unless part of the appointing agency’s incorporated name.*

31 *(k) Any person resisting a humane officer in the performance*
32 *of his or her duty as provided in this section, is guilty of a*
33 *misdemeanor. Any person who has not been appointed and*
34 *qualified as a humane officer as provided in this section, or whose*
35 *appointment has been revoked as provided in this section, or whose*
36 *appointment, having expired, has not been renewed as provided*
37 *in this section, who shall represent himself or herself to be or shall*
38 *attempt to act as an officer shall be guilty of a misdemeanor.*

1 (l) No humane officer shall serve a search warrant without
2 providing prior notice to local law enforcement agencies operating
3 within that jurisdiction.

4 (m) Any humane society, society for the prevention of cruelty
5 to animals, or person, who knowingly provides a court with false
6 or forged documentation for the appointment of a humane officer,
7 is guilty of a misdemeanor and shall be punished by a fine of up
8 to ten thousand dollars (\$10,000).

9 (n) A humane society or a society for the prevention of cruelty
10 to animals ~~shall notify the sheriff of the county in which the society~~
11 ~~is located, prior to appointing a humane officer, of the society's~~
12 ~~intent to enforce laws for the prevention of cruelty to animals.~~
13 ~~Humane societies or societies for the prevention of cruelty to~~
14 ~~animals incorporated and enforcing animal cruelty laws prior to~~
15 ~~January 1, 1996, that intend to continue to enforce those laws, shall~~
16 ~~notify the sheriff of the county in which the society is located by~~
17 ~~March 1, 1996. seeking reaffirmation of a humane officer's~~
18 ~~appointment shall comply with each of the following provisions:~~

19 (1) *Prior to the reaffirmation of the appointment of a humane*
20 *officer, the humane society or society for the prevention of cruelty*
21 *to animals shall serve a copy of the application on the agencies*
22 *and association described in paragraph (2) of subdivision (a) of*
23 *Section 10401 of the society's intent to enforce laws for the*
24 *prevention of cruelty to animals. Each application shall include,*
25 *as the last page, proof of service of a copy of the application upon*
26 *those parties.*

27 (2) *Any party described in paragraph (1) may file an opposition*
28 *to the application described in paragraph (1). All papers filed in*
29 *opposition to the application and in reply to the opposition shall*
30 *conform to law and motion pleading requirements, pursuant to*
31 *Rule 3.1113(d) of the California Rules of Court. An opposition*
32 *shall not exceed 15 pages and a reply shall not exceed 10 pages,*
33 *excluding exhibits and declarations.*

34 (A) *Any opposition shall be filed no later than 15 court days*
35 *after service of the complete application accepted by the court for*
36 *filing. In instances where a party is not served, opposition must*
37 *be filed within 15 court days of posting, if any, of notice of filing*
38 *of the application to reaffirm on the court's Internet Web site. Any*
39 *opposition must be served on all parties indicated on the proof of*
40 *service attached to the application to reaffirm.*

1 (B) *The applicant’s reply, if any, to the opposition shall be filed*
2 *within 10 court days after service of the opposition. The reply shall*
3 *be served on all parties listed in the proof of service attached to*
4 *the application to reaffirm and to any other person who has filed*
5 *an opposition.*

6 (C) *A certified copy of the order of the court reaffirming an*
7 *appointment, if any, shall be served on all parties listed in the*
8 *proof of service attached to the application to reaffirm and to any*
9 *other person who has filed an opposition.*

10 (o) Except as otherwise provided by this section, a humane
11 officer shall serve only in the county in which he or she is
12 appointed. A humane officer may serve temporarily in a county
13 other than that in which he or she is appointed if the humane officer
14 gives notice requesting consent to the sheriff of the county in which
15 he or she intends to serve, and acquires consent from the sheriff
16 of the county in which he or she intends to serve, or from a person
17 authorized by the sheriff to give that consent. A sheriff shall
18 promptly respond to any request by a humane officer to serve in
19 his or her jurisdiction and any request shall not be unreasonably
20 denied.

21 *SEC. 5. Section 14504 is added to the Corporations Code, to*
22 *read:*

23 *14504. All humane societies, societies for the prevention of*
24 *cruelty to animals, and humane officers shall be in full compliance*
25 *with this part on or before January 1, 2012.*

26 *SEC. 6. Section 11105 of the Penal Code is amended to read:*

27 11105. (a) (1) The Department of Justice shall maintain state
28 summary criminal history information.

29 (2) As used in this section:

30 (A) “State summary criminal history information” means the
31 master record of information compiled by the Attorney General
32 pertaining to the identification and criminal history of any person,
33 such as name, date of birth, physical description, fingerprints,
34 photographs, date of arrests, arresting agencies and booking
35 numbers, charges, dispositions, and similar data about the person.

36 (B) “State summary criminal history information” does not refer
37 to records and data compiled by criminal justice agencies other
38 than the Attorney General, nor does it refer to records of complaints
39 to or investigations conducted by, or records of intelligence

1 information or security procedures of, the office of the Attorney
2 General and the Department of Justice.

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

10 (1) The courts of the state.

11 (2) Peace officers of the state, as defined in Section 830.1,
12 subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section
13 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision
14 (a) of Section 830.31.

15 (3) District attorneys of the state.

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

17 (5) City attorneys pursuing civil gang injunctions pursuant to
18 Section 186.22a, or drug abatement actions pursuant to Section
19 3479 or 3480 of the Civil Code, or Section 11571 of the Health
20 and Safety Code.

21 (6) Probation officers of the state.

22 (7) Parole officers of the state.

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

26 (9) A public defender or attorney of record when representing
27 a person in a criminal case, or parole revocation or revocation
28 extension proceeding, and if authorized access by statutory or
29 decisional law.

30 (10) Any agency, officer, or official of the state if the criminal
31 history information is required to implement a statute or regulation
32 that expressly refers to specific criminal conduct applicable to the
33 subject person of the state summary criminal history information,
34 and contains requirements or exclusions, or both, expressly based
35 upon that specified criminal conduct. The agency, officer, or
36 official of the state authorized by this paragraph to receive state
37 summary criminal history information may also transmit fingerprint
38 images and related information to the Department of Justice to be
39 transmitted to the Federal Bureau of Investigation.

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

16 (12) The subject of the state summary criminal history
17 information under procedures established under Article 5
18 (commencing with Section 11120).

19 (13) Any person or entity when access is expressly authorized
20 by statute if the criminal history information is required to
21 implement a statute or regulation that expressly refers to specific
22 criminal conduct applicable to the subject person of the state
23 summary criminal history information, and contains requirements
24 or exclusions, or both, expressly based upon that specified criminal
25 conduct.

26 (14) Health officers of a city, county, city and county, or district
27 when in the performance of their official duties enforcing Section
28 120175 of the Health and Safety Code.

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

31 (16) Any humane society, or society for the prevention of cruelty
32 to animals, for the specific purpose of complying with Section
33 14502 of the Corporations Code for the appointment of ~~level 1~~
34 humane officers.

35 (17) Local child support agencies established by Section 17304
36 of the Family Code. When a local child support agency closes a
37 support enforcement case containing summary criminal history
38 information, the agency shall delete or purge from the file and
39 destroy any documents or information concerning or arising from
40 offenses for or of which the parent has been arrested, charged, or

1 convicted, other than for offenses related to the parent's having
2 failed to provide support for minor children, consistent with the
3 requirements of Section 17531 of the Family Code.

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

16 (19) The court of a tribe, or court of a consortium of tribes, that
17 has entered into an agreement with the state pursuant to Section
18 10553.1 of the Welfare and Institutions Code. This information
19 may be used only for the purposes specified in Section 16504.5
20 of the Welfare and Institutions Code and for tribal approval or
21 tribal licensing of foster care or adoptive homes. Article 6
22 (commencing with Section 11140) shall apply to officers, members,
23 and employees of a tribal court receiving criminal record offender
24 information pursuant to this section.

25 (20) Child welfare agency personnel of a tribe or consortium
26 of tribes that has entered into an agreement with the state pursuant
27 to Section 10553.1 of the Welfare and Institutions Code and to
28 whom the state has delegated duties under paragraph (2) of
29 subdivision (a) of Section 272 of the Welfare and Institutions Code.
30 The purposes for use of the information shall be for the purposes
31 specified in Section 16504.5 of the Welfare and Institutions Code
32 and for tribal approval or tribal licensing of foster care or adoptive
33 homes. When an agency obtains records on the basis of name
34 checks and fingerprint checks, final placement decisions shall be
35 based only on the records obtained pursuant to the fingerprint
36 check. Article 6 (commencing with Section 11140) shall apply to
37 child welfare agency personnel receiving criminal record offender
38 information pursuant to this section.

1 (21) An officer providing conservatorship investigations
2 pursuant to Sections 5351, 5354, and 5356 of the Welfare and
3 Institutions Code.

4 (22) A court investigator providing investigations or reviews
5 in conservatorships pursuant to Section 1826, 1850, 1851, or
6 2250.6 of the Probate Code.

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

9 (24) *A humane officer pursuant to Section 14502 of the*
10 *Corporations Code for the purposes of performing his or her*
11 *duties.*

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

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

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

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

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

32 (5) To public officers, other than peace officers, of the United
33 States, other states, or possessions or territories of the United
34 States, provided that access to records similar to state summary
35 criminal history information is expressly authorized by a statute
36 of the United States, other states, or possessions or territories of
37 the United States if the information is needed for the performance
38 of their official duties.

39 (6) To any person when disclosure is requested by a probation,
40 parole, or peace officer with the consent of the subject of the state

1 summary criminal history information and for purposes of
2 furthering the rehabilitation of the subject.

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

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

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

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

20 If the Attorney General supplies the data pursuant to this
21 paragraph, the Attorney General shall furnish a copy of the data
22 to the current or prospective employee to whom the data relates.

23 Any information obtained from the state summary criminal
24 history is confidential and the receiving public utility or cable
25 corporation shall not disclose its contents, other than for the
26 purpose for which it was acquired. The state summary criminal
27 history information in the possession of the public utility or cable
28 corporation and all copies made from it shall be destroyed not
29 more than 30 days after employment or promotion or transfer is
30 denied or granted, except for those cases where a current or
31 prospective employee 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 not
34 more than 30 days after the case is resolved.

35 A violation of this paragraph is a misdemeanor, and shall give
36 the current or prospective employee who is injured by the violation
37 a cause of action against the public utility or cable corporation to
38 recover damages proximately caused by the violations. Any public
39 utility's or cable corporation's request for state summary criminal
40 history information for purposes of employing current or

1 prospective employees who may be seeking entrance to private
2 residences or adjacent grounds in the course of their employment
3 shall be deemed a “compelling need” as required to be shown in
4 this subdivision.

5 Nothing in this section shall be construed as imposing any duty
6 upon public utilities or cable corporations to request state summary
7 criminal history information on any current or prospective
8 employees.

9 (B) For purposes of this paragraph, “cable corporation” means
10 any corporation or firm that transmits or provides television,
11 computer, or telephone services by cable, digital, fiber optic,
12 satellite, or comparable technology to subscribers for a fee.

13 (C) Requests for federal level criminal history information
14 received by the Department of Justice from entities authorized
15 pursuant to subparagraph (A) shall be forwarded to the Federal
16 Bureau of Investigation by the Department of Justice. Federal level
17 criminal history information received or compiled by the
18 Department of Justice may then be disseminated to the entities
19 referenced in subparagraph (A), as authorized by law.

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

23 (ii) Authority for a public utility to request federal level criminal
24 history information under this paragraph shall commence July 1,
25 2005.

26 (11) To any campus of the California State University or the
27 University of California, or any four year college or university
28 accredited by a regional accreditation organization approved by
29 the United States Department of Education, if needed in
30 conjunction with an application for admission by a convicted felon
31 to any special education program for convicted felons, including,
32 but not limited to, university alternatives and halfway houses. Only
33 conviction information shall be furnished. The college or university
34 may require the convicted felon to be fingerprinted, and any inquiry
35 to the department under this section shall include the convicted
36 felon’s fingerprints and any other information specified by the
37 department.

38 (12) To any foreign government, if requested by the individual
39 who is the subject of the record requested, if needed in conjunction
40 with the individual’s application to adopt a minor child who is a

1 citizen of that foreign nation. Requests for information pursuant
2 to this paragraph shall be in accordance with the process described
3 in Sections 11122 to 11124, inclusive. The response shall be
4 provided to the foreign government or its designee and to the
5 individual who requested the information.

6 (d) Whenever an authorized request for state summary criminal
7 history information pertains to a person whose fingerprints are on
8 file with the Department of Justice and the department has no
9 criminal history of that person, and the information is to be used
10 for employment, licensing, or certification purposes, the fingerprint
11 card accompanying the request for information, if any, may be
12 stamped “no criminal record” and returned to the person or entity
13 making the request.

14 (e) Whenever state summary criminal history information is
15 furnished as the result of an application and is to be used for
16 employment, licensing, or certification purposes, the Department
17 of Justice may charge the person or entity making the request a
18 fee that it determines to be sufficient to reimburse the department
19 for the cost of furnishing the information. In addition, the
20 Department of Justice may add a surcharge to the fee to fund
21 maintenance and improvements to the systems from which the
22 information is obtained. Notwithstanding any other law, any person
23 or entity required to pay a fee to the department for information
24 received under this section may charge the applicant a fee sufficient
25 to reimburse the person or entity for this expense. All moneys
26 received by the department pursuant to this section, Sections
27 11105.3 and 12054 of the Penal Code, and Section 13588 of the
28 Education Code shall be deposited in a special account in the
29 General Fund to be available for expenditure by the department
30 to offset costs incurred pursuant to those sections and for
31 maintenance and improvements to the systems from which the
32 information is obtained upon appropriation by the Legislature.

33 (f) Whenever there is a conflict, the processing of criminal
34 fingerprints and fingerprints of applicants for security guard or
35 alarm agent registrations or firearms qualification permits
36 submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4
37 of the Business and Professions Code shall take priority over the
38 processing of other applicant fingerprints.

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

4 (h) It is not a violation of this section to include information
5 obtained from a record in (1) a transcript or record of a judicial or
6 administrative proceeding or (2) any other public record if the
7 inclusion of the information in the public record is authorized by
8 a court, statute, or decisional law.

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

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

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

24 (2) Notwithstanding any other provision of law, whenever state
25 summary criminal history information is furnished pursuant to
26 paragraph (1), the Department of Justice shall disseminate the
27 following information:

28 (A) Every conviction rendered against the applicant.

29 (B) Every arrest for an offense for which the applicant is
30 presently awaiting trial, whether the applicant is incarcerated or
31 has been released on bail or on his or her own recognizance
32 pending trial.

33 (C) Every arrest or detention, except for an arrest or detention
34 resulting in an exoneration, provided however that where the
35 records of the Department of Justice do not contain a disposition
36 for the arrest, the Department of Justice first makes a genuine effort
37 to determine the disposition of the arrest.

38 (D) Every successful diversion.

39 (E) Every date and agency name associated with all retained
40 peace officer or nonsworn law enforcement agency employee

1 preemployment criminal offender record information search
2 requests.

3 (l) (1) This subdivision shall apply whenever state or federal
4 summary criminal history information is furnished by the
5 Department of Justice as the result of an application by a criminal
6 justice agency or organization as defined in Section 13101 of the
7 Penal Code, and the information is to be used for criminal justice
8 employment, licensing, or certification purposes.

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

13 (A) Every conviction rendered against the applicant.

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

18 (C) Every arrest for an offense for which the records of the
19 Department of Justice do not contain a disposition or did not result
20 in a conviction, provided that the Department of Justice first makes
21 a genuine effort to determine the disposition of the arrest. However,
22 information concerning an arrest shall not be disclosed if the
23 records of the Department of Justice indicate or if the genuine
24 effort reveals that the subject was exonerated, successfully
25 completed a diversion or deferred entry of judgment program, or
26 the arrest was deemed a detention.

27 (D) Every date and agency name associated with all retained
28 peace officer or nonsworn law enforcement agency employee
29 preemployment criminal offender record information search
30 requests.

31 (m) (1) This subdivision shall apply whenever state or federal
32 summary criminal history information is furnished by the
33 Department of Justice as the result of an application by an
34 authorized agency or organization pursuant to Section 1522,
35 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
36 any statute that incorporates the criteria of any of those sections
37 or this subdivision by reference, and the information is to be used
38 for employment, licensing, or certification purposes.

39 (2) Notwithstanding any other provision of law, whenever state
40 summary criminal history information is furnished pursuant to

1 paragraph (1), the Department of Justice shall disseminate the
2 following information:

3 (A) Every conviction of an offense rendered against the
4 applicant.

5 (B) Every arrest for an offense for which the applicant is
6 presently awaiting trial, whether the applicant is incarcerated or
7 has been released on bail or on his or her own recognizance
8 pending trial.

9 (C) Every arrest for an offense for which the Department of
10 Social Services is required by paragraph (1) of subdivision (a) of
11 Section 1522 of the Health and Safety Code to determine if an
12 applicant has been arrested. However, if the records of the
13 Department of Justice do not contain a disposition for an arrest,
14 the Department of Justice shall first make a genuine effort to
15 determine the disposition of the arrest.

16 (3) Notwithstanding the requirements of the sections referenced
17 in paragraph (1) of this subdivision, the Department of Justice
18 shall not disseminate information about an arrest subsequently
19 deemed a detention or an arrest that resulted in either the successful
20 completion of a diversion program or exoneration.

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

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

28 (B) Section 11105.3 or 11105.4.

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

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

33 (2) With the exception of applications submitted by
34 transportation companies authorized pursuant to Section 11105.3,
35 and notwithstanding any other provision of law, whenever state
36 summary criminal history information is furnished pursuant to
37 paragraph (1), the Department of Justice shall disseminate the
38 following information:

39 (A) Every conviction rendered against the applicant for a
40 violation or attempted violation of any offense specified in

1 subdivision (a) of Section 15660 of the Welfare and Institutions
2 Code. However, with the exception of those offenses for which
3 registration is required pursuant to Section 290, the Department
4 of Justice shall not disseminate information pursuant to this
5 subdivision unless the conviction occurred within 10 years of the
6 date of the agency's request for information or the conviction is
7 over 10 years old but the subject of the request was incarcerated
8 within 10 years of the agency's request for information.

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

14 (o) (1) This subdivision shall apply whenever state or federal
15 summary criminal history information is furnished by the
16 Department of Justice as the result of an application by an
17 authorized agency or organization pursuant to Section 261 or 550
18 of the Financial Code, or any statute that incorporates the criteria
19 of either of those sections or this subdivision by reference, and the
20 information is to be used for employment, licensing, or certification
21 purposes.

22 (2) Notwithstanding any other provision of law, whenever state
23 summary criminal history information is furnished pursuant to
24 paragraph (1), the Department of Justice shall disseminate the
25 following information:

26 (A) Every conviction rendered against the applicant for a
27 violation or attempted violation of any offense specified in Section
28 550 of the Financial Code.

29 (B) Every arrest for a violation or attempted violation of an
30 offense specified in Section 550 of the Financial Code for which
31 the applicant is presently awaiting trial, whether the applicant is
32 incarcerated or has been released on bail or on his or her own
33 recognizance pending trial.

34 (p) (1) This subdivision shall apply whenever state or federal
35 criminal history information is furnished by the Department of
36 Justice as the result of an application by an agency, organization,
37 or individual not defined in subdivision (k), (l), (m), (n), or (o), or
38 by a transportation company authorized pursuant to Section
39 11105.3, or any statute that incorporates the criteria of that section

1 or this subdivision by reference, and the information is to be used
2 for employment, licensing, or certification purposes.

3 (2) Notwithstanding any other provisions of law, whenever state
4 summary criminal history information is furnished pursuant to
5 paragraph (1), the Department of Justice shall disseminate the
6 following information:

7 (A) Every conviction rendered against the applicant.

8 (B) Every arrest for an offense for which the applicant is
9 presently awaiting trial, whether the applicant is incarcerated or
10 has been released on bail or on his or her own recognizance
11 pending trial.

12 (q) All agencies, organizations, or individuals defined in
13 subdivisions (k), (l), (m), (n), (o), and (p) may contract with the
14 Department of Justice for subsequent arrest notification pursuant
15 to Section 11105.2. This subdivision shall not supersede sections
16 that mandate an agency, organization, or individual to contract
17 with the Department of Justice for subsequent arrest notification
18 pursuant to Section 11105.2.

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

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

25 *SEC. 7. Section 13300 of the Penal Code is amended to read:*

26 13300. (a) As used in this section:

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

34 (2) “Local summary criminal history information” does not
35 refer to records and data compiled by criminal justice agencies
36 other than that local agency, nor does it refer to records of
37 complaints to or investigations conducted by, or records of
38 intelligence information or security procedures of, the local agency.

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

- 1 (b) A local agency shall furnish local summary criminal history
2 information to any of the following, when needed in the course of
3 their duties, provided that when information is furnished to assist
4 an agency, officer, or official of state or local government, a public
5 utility, or any entity, in fulfilling employment, certification, or
6 licensing duties, Chapter 1321 of the Statutes of 1974 and Section
7 432.7 of the Labor Code shall apply:
- 8 (1) The courts of the state.
- 9 (2) Peace officers of the state, as defined in Section 830.1,
10 subdivisions (a) and (d) of Section 830.2, subdivisions (a), (b),
11 and (j) of Section 830.3, and subdivisions (a), (b), and (c) of
12 Section 830.5.
- 13 (3) District attorneys of the state.
- 14 (4) Prosecuting city attorneys of any city within the state.
- 15 (5) City attorneys pursuing civil gang injunctions pursuant to
16 Section 186.22a, or drug abatement actions pursuant to Section
17 3479 or 3480 of the Civil Code, or Section 11571 of the Health
18 and Safety Code.
- 19 (6) Probation officers of the state.
- 20 (7) Parole officers of the state.
- 21 (8) A public defender or attorney of record when representing
22 a person in proceedings upon a petition for a certificate of
23 rehabilitation and pardon pursuant to Section 4852.08.
- 24 (9) A public defender or attorney of record when representing
25 a person in a criminal case and when authorized access by statutory
26 or decisional law.
- 27 (10) Any agency, officer, or official of the state when the local
28 summary criminal history information is required to implement a
29 statute, regulation, or ordinance that expressly refers to specific
30 criminal conduct applicable to the subject person of the local
31 summary criminal history information, and contains requirements
32 or exclusions, or both, expressly based upon the specified criminal
33 conduct.
- 34 (11) Any city, county, city and county, or district, or any officer
35 or official thereof, when access is needed in order to assist the
36 agency, officer, or official in fulfilling employment, certification,
37 or licensing duties, and when the access is specifically authorized
38 by the city council, board of supervisors, or governing board of
39 the city, county, or district when the local summary criminal history
40 information is required to implement a statute, regulation, or

1 ordinance that expressly refers to specific criminal conduct
2 applicable to the subject person of the local summary criminal
3 history information, and contains requirements or exclusions, or
4 both, expressly based upon the specified criminal conduct.

5 (12) The subject of the local summary criminal history
6 information.

7 (13) Any person or entity when access is expressly authorized
8 by statute when the local summary criminal history information
9 is required to implement a statute, regulation, or ordinance that
10 expressly refers to specific criminal conduct applicable to the
11 subject person of the local summary criminal history information,
12 and contains requirements or exclusions, or both, expressly based
13 upon the specified criminal conduct.

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

16 (15) Local child support agencies established by Section 17304
17 of the Family Code. When a local child support agency closes a
18 support enforcement case containing summary criminal history
19 information, the agency shall delete or purge from the file and
20 destroy any documents or information concerning or arising from
21 offenses for or of which the parent has been arrested, charged, or
22 convicted, other than for offenses related to the parents having
23 failed to provide support for the minor children, consistent with
24 Section 17531 of the Family Code.

25 (16) County child welfare agency personnel who have been
26 delegated the authority of county probation officers to access state
27 summary criminal information pursuant to Section 272 of the
28 Welfare and Institutions Code for the purposes specified in Section
29 16504.5 of the Welfare and Institutions Code.

30 (17) *A humane officer pursuant to Section 14502 of the*
31 *Corporations Code for the purposes of performing his or her*
32 *duties.*

33 (c) The local agency may furnish local summary criminal history
34 information, upon a showing of a compelling need, to any of the
35 following, provided that when information is furnished to assist
36 an agency, officer, or official of state or local government, a public
37 utility, or any entity, in fulfilling employment, certification, or
38 licensing duties, Chapter 1321 of the Statutes of 1974 and Section
39 432.7 of the Labor Code shall apply:

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

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

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

10 (4) To public officers, other than peace officers, of the United
11 States, other states, or possessions or territories of the United
12 States, provided that access to records similar to local summary
13 criminal history information is expressly authorized by a statute
14 of the United States, other states, or possessions or territories of
15 the United States when this information is needed for the
16 performance of their official duties.

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

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

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

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

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

35 If the local agency supplies the information pursuant to this
36 paragraph, it shall furnish a copy of the information to the person
37 to whom the information relates.

38 Any information obtained from the local summary criminal
39 history is confidential and the receiving public utility shall not
40 disclose its contents, other than for the purpose for which it was

1 acquired. The local summary criminal history information in the
2 possession of the public utility and all copies made from it shall
3 be destroyed 30 days after employment is denied or granted,
4 including any appeal periods, except for those cases where an
5 employee or applicant is out on bail or on his or her own
6 recognizance pending trial, in which case the state summary
7 criminal history information and all copies shall be destroyed 30
8 days after the case is resolved, including any appeal periods.

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

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

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

19 (10) Any city, county, city and county, or district, or any officer
20 or official thereof, if a written request is made to a local law
21 enforcement agency and the information is needed to assist in the
22 screening of a prospective concessionaire, and any affiliate or
23 associate thereof, as these terms are defined in subdivision (k) of
24 Section 432.7 of the Labor Code, for the purposes of consenting
25 to, or approving of, the prospective concessionaire’s application
26 for, or acquisition of, any beneficial interest in a concession, lease,
27 or other property interest.

28 Any local government’s request for local summary criminal
29 history information for purposes of screening a prospective
30 concessionaire and their affiliates or associates before approving
31 or denying an application for, or acquisition of, any beneficial
32 interest in a concession, lease, or other property interest is deemed
33 a “compelling need” as required by this subdivision. However,
34 only local summary criminal history information pertaining to
35 criminal convictions may be obtained pursuant to this paragraph.

36 Any information obtained from the local summary criminal
37 history is confidential and the receiving local government shall
38 not disclose its contents, other than for the purpose for which it
39 was acquired. The local summary criminal history information in
40 the possession of the local government and all copies made from

1 it shall be destroyed not more than 30 days after the local
2 government's final decision to grant or deny consent to, or approval
3 of, the prospective concessionaire's application for, or acquisition
4 of, a beneficial interest in a concession, lease, or other property
5 interest. Nothing in this section shall be construed as imposing
6 any duty upon a local government, or any officer or official thereof,
7 to request local summary criminal history information on any
8 current or prospective concessionaire or their affiliates or
9 associates.

10 (d) Whenever an authorized request for local summary criminal
11 history information pertains to a person whose fingerprints are on
12 file with the local agency and the local agency has no criminal
13 history of that person, and the information is to be used for
14 employment, licensing, or certification purposes, the fingerprint
15 card accompanying the request for information, if any, may be
16 stamped "no criminal record" and returned to the person or entity
17 making the request.

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

22 (f) Whenever local summary criminal history information
23 furnished pursuant to this section is to be used for employment,
24 licensing, or certification purposes, the local agency shall charge
25 the person or entity making the request a fee which it determines
26 to be sufficient to reimburse the local agency for the cost of
27 furnishing the information, provided that no fee shall be charged
28 to any public law enforcement agency for local summary criminal
29 history information furnished to assist it in employing, licensing,
30 or certifying a person who is applying for employment with the
31 agency as a peace officer or criminal investigator. Any state agency
32 required to pay a fee to the local agency for information received
33 under this section may charge the applicant a fee sufficient to
34 reimburse the agency for the expense.

35 (g) Whenever there is a conflict, the processing of criminal
36 fingerprints shall take priority over the processing of applicant
37 fingerprints.

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

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

6 (j) Notwithstanding any other law, a public prosecutor may, in
7 response to a written request made pursuant to Section 6253 of
8 the Government Code, provide information from a local summary
9 criminal history, if release of the information would enhance public
10 safety, the interest of justice, or the public's understanding of the
11 justice system and the person making the request declares that the
12 request is made for a scholarly or journalistic purpose. If a person
13 in a declaration required by this subdivision willfully states as true
14 any material fact that he or she knows to be false, he or she shall
15 be subject to a civil penalty not exceeding ten thousand dollars
16 (\$10,000). The requestor shall be informed in writing of this
17 penalty. An action to impose a civil penalty under this subdivision
18 may be brought by any public prosecutor and shall be enforced as
19 a civil judgment.

20 (k) Notwithstanding any other law, the Department of Justice
21 or any state or local law enforcement agency may require the
22 submission of fingerprints for the purpose of conducting summary
23 criminal history information record checks which are authorized
24 by law.

25 (l) Any local criminal justice agency may release, within five
26 years of the arrest, information concerning an arrest or detention
27 of a peace officer or applicant for a position as a peace officer, as
28 defined in Section 830, which did not result in conviction, and for
29 which the person did not complete a postarrest diversion program
30 or a deferred entry of judgment program, to a government agency
31 employer of that peace officer or applicant.

32 (m) Any local criminal justice agency may release information
33 concerning an arrest of a peace officer or applicant for a position
34 as a peace officer, as defined in Section 830, which did not result
35 in conviction but for which the person completed a postarrest
36 diversion program or a deferred entry of judgment program, or
37 information concerning a referral to and participation in any
38 postarrest diversion program or a deferred entry of judgment
39 program to a government agency employer of that peace officer
40 or applicant.

1 (n) Notwithstanding subdivision (l) or (m), a local criminal
2 justice agency shall not release information under the following
3 circumstances:

4 (1) Information concerning an arrest for which diversion or a
5 deferred entry of judgment program has been ordered without
6 attempting to determine whether diversion or a deferred entry of
7 judgment program has been successfully completed.

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

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

14 *SEC. 8. If the Commission on State Mandates determines that*
15 *this act contains costs mandated by the state, reimbursement to*
16 *local agencies and school districts for those costs shall be made*
17 *pursuant to Part 7 (commencing with Section 17500) of Division*
18 *4 of Title 2 of the Government Code.*