

AMENDED IN SENATE APRIL 28, 2010

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 10401, *14500*, 14501, and 14502 of, *to amend the heading of Part 11 (commencing with Section 14500) of Division 3 of Title 1 of*, to add ~~Section 14504~~ *Sections 14504 and 14505* 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 serve a copy of the ~~application for endorsement to~~ *Petition for Order Endorsing Articles of Incorporation* 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 proposes to operate. The bill would also authorize those

parties to file opposition to the ~~application~~ *petition* and for the filer to reply, as specified.

Existing law 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.

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 that, prior to submitting an application for appointment, a society's articles of incorporation shall have been endorsed at least 5 years earlier, *if incorporated on or after January 1, 2011*, and that the society shall have been operating an animal shelter for at least 3 years, *except as specified*, and have been in compliance with all *applicable* 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 Department of the California Highway Patrol, the Department of Justice, and the same agencies and association that the society would be required to serve with a copy of its ~~application for endorsement, Petition for Order Endorsing~~* 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 serve copies of specified documents 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~~ *impose additional* specified requirements *for a level 1 humane officer to carry firearms*, 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: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 10401 of the Corporations Code is
2 amended to read:

3 10401. (a) (1) All articles of incorporation of these
4 corporations filed with the Secretary of State shall be endorsed by
5 a judge of the superior court of the county in which the principal
6 office of the corporation is located, as evidence of necessity. The
7 incorporators shall file in superior court an application entitled,
8 ~~“Application for the Endorsement of~~ *“Petition for Order Endorsing*
9 *Articles of Incorporation of a Corporation/Society for the*
10 *Prevention of Cruelty to Animals,”* together with a proposed order
11 entitled *“Order Endorsing the Articles of Incorporation of [insert*
12 *name] as a Society for the Prevention of Cruelty to Animals.”* *The*
13 *petition shall include evidence regarding the need for the*
14 *corporation.*

15 (2) The incorporators shall serve a copy of the application on
16 ~~the local law enforcement agencies, including the city~~ police
17 departments and the sheriff’s department having jurisdiction in
18 the county in which the society is located, on the animal control
19 agencies in that county, and on the State Humane Association of
20 California.

21 (b) (1) Any person served with an application pursuant to
22 paragraph (2) of subdivision (a) may file with the court an
23 opposition to the application no later than 15 court days after
24 service of the application and shall serve the incorporators with a
25 copy of the opposition. *The opposition shall include evidence*
26 *regarding the need for the corporation.*

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

29 (3) Opposition and reply papers shall comply with the provisions
30 of Rule 3.1113 of the California Rules of Court.

31 (4) The court shall rule on the application without a hearing
32 unless the court notifies the parties of an intention to hold a hearing.

33 (5) The incorporators shall serve notification of endorsement
34 on the agencies and association described in paragraph (2) of
35 subdivision (a).

36 (6) All moving papers, including the application, opposition
37 and reply papers, and notification under this section, shall be served
38 by personal delivery, express mail, or other means reasonably

1 calculated to ensure delivery not later than the close of the next
2 business day after the application, opposition, or reply was filed
3 or the endorsement was received by the humane society or society
4 for the prevention of cruelty to animals.

5 (7) *The proceeding described in paragraph (4) shall be a special*
6 *proceeding within the meaning of Section 23 of the Code of Civil*
7 *Procedure.*

8 SEC. 2. Section 10402 of the Corporations Code is repealed.

9 SEC. 3. *The heading of Part 11 (commencing with Section*
10 *14500) of Division 3 of Title 1 of the Corporations Code is*
11 *amended to read:*

12
13 PART 11. SOCIETIES FOR THE PREVENTION OF CRUELTY
14 TO CHILDREN AND ANIMALS

15
16 SEC. 4. *Section 14500 of the Corporations Code is amended*
17 *to read:*

18 14500. This title extends to all corporations heretofore formed
19 and existing for the prevention of cruelty to ~~children or~~ animals,
20 but ~~do~~ does not extend or apply to any association, society, or
21 corporation that uses or specifies a name or style of the same, or
22 substantially the same, as that of any previously existing society
23 or corporation in this state organized for a like purpose.

24 ~~SEC. 3.~~

25 SEC. 5. Section 14501 of the Corporations Code is amended
26 to read:

27 14501. Every society, incorporated and organized for the
28 prevention of cruelty to animals, ~~or for the prevention of cruelty~~
29 ~~to children,~~ may enter into a contract with any city, or city and
30 county, or county, where the society is located, to enforce the
31 provisions of laws of this state for the prevention of cruelty to
32 animals, ~~or children,~~ or arresting, or prosecuting offenders
33 thereunder or preventing cruelty to ~~animals or children,~~ and may
34 ~~also take any of those actions without animals.~~ *A humane society*
35 *may perform those actions in the absence of a contract with a city,*
36 *city and county, or county.*

37 ~~SEC. 4.~~

38 SEC. 6. Section 14502 of the Corporations Code is amended
39 to read:

1 14502. (a) (1) (A) (i) On and after July 1, 1996, no entity,
2 other than a humane society or society for the prevention of cruelty
3 to animals, shall be eligible to apply for an appointment of any
4 individual as a humane officer, the duty of which shall be the
5 enforcement of the laws for the prevention of cruelty to animals.
6 A society shall only be eligible to apply for an appointment of a
7 humane officer if the following conditions are met:

8 (I) ~~A~~ *If incorporated on or after January 1, 2011, a minimum*
9 *of five years have passed since its articles of incorporation were*
10 *endorsed pursuant to Section 10401.*

11 (II) *It has been operating an animal shelter for a minimum of*
12 *three years, or it has a written agreement with another entity, such*
13 *as a public animal control shelter or licensed veterinary clinic,*
14 *that provides for the humane care and treatment of any animals*
15 *seized by it, and for the preservation of evidence.*

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

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

21 (iii) Any person appointed as a humane officer prior to July 1,
22 1996, may continue to serve as a humane officer until the expiration
23 of the term of appointment only if the appointing agency maintains
24 records pursuant to subparagraph (C) documenting that both the
25 appointing agency and the humane officer meet the requirements
26 of this section.

27 (B) Each humane society or society for the prevention of cruelty
28 to animals that makes application to the court for the appointment
29 of an individual to act as a humane officer for the humane society
30 or society for the prevention of cruelty to animals shall provide
31 with the application documentation that demonstrates that the
32 person has satisfactorily completed the training requirements set
33 forth in subdivision (i).

34 (C) Each humane society or society for the prevention of cruelty
35 to animals for which an individual is acting as a humane officer
36 shall maintain complete and accurate records documenting that
37 the individual has successfully completed all requirements
38 established in this section and shall make those records available,
39 upon request, to the superior court, the Attorney General, or any
40 entity duly authorized to review that information, including the

1 State Humane Association of California. The records shall include
2 the full name and address of each humane officer.

3 (2) The humane society or society for the prevention of cruelty
4 to animals shall possess insurance of at least one million dollars
5 (\$1,000,000) for liability for bodily injury or property damage.

6 (3) Each appointment of a humane officer shall be by separate
7 resolution by the board of directors or trustees of the humane
8 society or society for the prevention of cruelty to animals duly
9 entered in its minutes. The resolution shall state the full name and
10 address of the appointing agency, the full name of the person so
11 appointed, the fact that he or she is a citizen of the State of
12 California, ~~and~~ that he or she has met the training guidelines set
13 forth in subdivision (i), and *whether he or she is authorized to*
14 *carry a weapon pursuant to this section. The resolution shall also*
15 *designate the number of the badge to be allotted to the officer.*

16 (b) The humane society or society for the prevention of cruelty
17 to animals shall ~~recommend any appointee to the judge of file with~~
18 *the superior court in and for the county or city and county in which*
19 *the humane society is located, and shall deliver to the judge a*
20 *Petition for Order Confirming Appointment of a Humane Officer,*
21 *and shall deliver to the court a copy of the resolution appointing*
22 *the person, duly certified to be correct by the president and*
23 *secretary of the corporation and attested by its seal, together with*
24 ~~the fingerprints of the appointee taken on standard 8×8-inch cards~~
25 *criminal record offender information, if any, obtained regarding*
26 *the person pursuant to subdivision (c), proof of the society's proper*
27 *incorporation in compliance with Part 9 (commencing with Section*
28 *10400) of Division 2, a copy of the society's liability for bodily*
29 *injury or property damage insurance policy in the amount of at*
30 *least one million dollars (\$1,000,000), and documentation*
31 *establishing that the appointee has satisfactorily completed the*
32 *training requirements set forth in this section, and documentation*
33 *establishing that the humane society or society for the prevention*
34 *of cruelty to animals is in compliance with subclause (II) of clause*
35 *(i) of subparagraph (A) of paragraph (1) of subdivision (a).*

36 (e) ~~The judge shall send a copy of the resolution, together with~~
37 ~~the fingerprints of the appointee, to the Department of Justice,~~
38 ~~which shall thereupon submit to the judge, in writing, a report of~~
39 ~~the record in its possession, if any, of the appointee. If the~~

1 (c) *Prior to filing the Petition for Order Confirming the*
2 *Appointment of a Humane Officer, the humane society or society*
3 *for the prevention of cruelty to animals shall obtain criminal record*
4 *offender information from the Department of Justice. If the*
5 *Department of Justice has no record of the appointee, it shall so*
6 *report to the judge in writing.*

7 (d) ~~Upon receipt of the report, the judge~~ *Petition for Order*
8 *Confirming Appointment of a Humane Officer, the court shall*
9 *review the matter of the appointee's qualifications and fitness to*
10 *act as a humane officer, taking into consideration any*
11 *documentation he or she it has received in support of, or in*
12 *opposition to, the person's appointment and, if he or she reaffirms*
13 *the appointment, appointment. If the court finds cause to confirm*
14 *the appointment of the humane officer, it shall so state on a court*
15 *order. The appointee shall thereupon file a certified copy of the*
16 *reviewed court order in the office of the county clerk of the county*
17 *or city and county and shall, at the same time, take and subscribe*
18 *the oath of office prescribed for constables or other peace officers.*
19 *The appointee shall also provide a copy of the Order Confirming*
20 *Appointment to the State Humane Association of California and*
21 *the Department of Justice.*

22 (e) The county clerk shall thereupon immediately enter in a
23 book to be kept in his or her office and designated "Record of
24 Humane Officers" the name of the officer, the name of the agency
25 appointing him or her, the number of his or her badge, the name
26 of the judge appointing him or her, and the date of the filing. At
27 the time of the filing the county clerk shall collect from the officer
28 a fee of five dollars (\$5), which shall be in full for all services to
29 be performed by the county clerk under this section.

30 (f) All appointments of humane officers shall automatically
31 expire if the society disbands or legally dissolves. ~~In addition, all~~
32 ~~appointments of humane officers shall automatically expire within~~
33 ~~three years from the date on which the certified copy of the court~~
34 ~~order was filed with the county clerk.~~

35 (g) (1) The corporation appointing an officer may revoke an
36 appointment at any time by filing in the office of the county clerk
37 in which the appointment of the officer is recorded a copy of the
38 revocation in writing under the letterhead of the corporation and
39 duly certified by its executive officer. Upon the filing the county
40 clerk shall enter the fact of the revocation and the date of the filing

1 thereof opposite the name of the officer in the record of humane
2 officers.

3 (2) Notwithstanding paragraph (1), ~~a revocation hearing may~~
4 ~~be initiated by petition from~~ any duly authorized sheriff or local
5 police agency or the State Humane Association of California *may*
6 *initiate a revocation hearing by filing a petition to Revoke*
7 *Appointment of a Humane Officer*. The petition shall show cause
8 why an appointment should be revoked and shall be made to the
9 superior court in the jurisdiction of the appointment. Filing, service,
10 and format protocol shall conform to the law and motion
11 requirements under the Code of Civil Procedure, California Rules
12 of Court, and this code. *A proceeding pursuant to this paragraph*
13 *shall be a special proceeding within the meaning of Section 23 of*
14 *the Code of Civil Procedure*.

15 (A) Notice of the hearing date and a copy of the petition shall
16 be served in the same manner as a summons upon the humane
17 officer subject to the petition, the corporation that appointed the
18 officer, the agencies and association described in paragraph (2) of
19 subdivision (a) of Section 10401; except the party filing the petition
20 shall not be required to serve copies of those documents upon
21 itself.

22 (B) All papers filed in opposition to the petition and in reply to
23 the opposition shall conform to law and motion requirements.

24 (C) Upon a finding of good cause, the court shall issue an order
25 granting the petition to revoke the appointment. The county clerk
26 shall immediately enter the revocation and the date of the court
27 order opposite the name of the officer in the record of humane
28 officers. The clerk of the ~~county~~ *superior court* shall give notice
29 of the order to the parties described in subparagraph (A) and *to*
30 the county clerk-recorder.

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

34 (i) (1) ~~(A)~~ *A level 1 humane officer is not a peace officer,*
35 *but may exercise the powers of a peace officer at all places within*
36 *the state in order to prevent the perpetration of any act of cruelty*
37 *upon any animal and to that end may summon to his or her aid any*
38 *bystander. A level 1 humane officer may use reasonable force*
39 *necessary to prevent the perpetration of any act of cruelty upon*
40 *any animal.*

1 (B) A level 1 humane officer may make arrests for the violation
2 of any penal law of this state relating to or affecting animals in
3 the same manner as any peace officer and may serve search
4 warrants.

5 (C) A level 1 humane officer is authorized to carry firearms
6 while exercising the duties of a humane officer, upon satisfactory
7 completion of the training specified in subparagraph (D).

8 (D) A level 1 humane officer shall, prior to appointment,
9 provide evidence satisfactory to the appointing agency that he or
10 she has successfully completed the following requirements:

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

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

21 (iii) The basic training for a level 1 reserve officer by the
22 Commission on Peace Officer Standards and Training pursuant
23 to Section 13510.1 of the Penal Code.

24 (E) A person shall not be appointed as a level 1 humane officer
25 until he or she has satisfied the requirements in Sections 1029,
26 1030 and 1031 of the Government Code. A humane society or
27 society for the prevention of cruelty to animals shall complete a
28 background investigation, using standards defined by the
29 Commission on Peace Officer Standards and Training as guidelines
30 for all level 1 humane officer appointments.

31 (F) (i) Notwithstanding any other provision of this section, a
32 level 1 humane officer may carry a firearm only if authorized by,
33 and only under the terms and conditions specified by, his or her
34 appointing agency.

35 (ii) Notwithstanding any other provision of this section, a level
36 1 humane officer shall not be authorized to carry a firearm unless
37 and until his or her appointing agency has adopted a policy on
38 the use of deadly force by its officers and the officer has been
39 instructed in that policy.

1 (2) ~~(A)~~ A level 2 humane officer may make arrests for the
2 violation of any penal law of this state relating to or affecting
3 animals in the same manner as any peace officer and may serve
4 search warrants during the course and within the scope of
5 employment, upon the successful completion of a course relating
6 to the exercise of the police powers specified in Section 832 of the
7 Penal Code, except the power to carry and use ~~firearms, or the~~
8 ~~basic training for a level 1 reserve officer by the Commission on~~
9 ~~Peace Officer Standards and Training pursuant to Section 13510.1~~
10 ~~of the Penal Code.~~ *firearms.*

11 (B) *A level 2 humane officer is not authorized to carry firearms.*

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

17 ~~(4) A~~

18 (C) A level 2 humane officer shall, prior to appointment, provide
19 evidence satisfactory to the appointing agency that he or she has
20 successfully completed courses of training in the following
21 subjects:

22 ~~(A)~~

23 (i) At least 20 hours of a course of training in animal care
24 sponsored or provided by an accredited postsecondary institution
25 or any other provider approved by the California Veterinary
26 Medical Association, the focus of which is the identification of
27 disease, injury, and neglect in domestic animals and livestock.

28 ~~(B)~~

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

34 (D) *A person shall not be appointed as a level 2 humane officer*
35 *until he or she has satisfied the requirements in Sections 1029,*
36 *1030, and 1031 of the Government Code. A humane society or*
37 *society for the prevention of cruelty to animals shall complete a*
38 *background investigation, using standards defined by the*
39 *Commission on Peace Officer Standards and Training as guidelines*
40 *for all level 2 humane officer appointments.*

1 ~~(5)~~

2 (4) During each three-year period following the date on which
3 the certified copy of the court order was filed with the county clerk,
4 the humane officer shall complete 40 hours of continuing education
5 and training relating to the powers and duties of a humane officer,
6 which education and training shall be sponsored or provided by
7 an accredited postsecondary institution, law enforcement agency,
8 or the State Humane Association of California. *The appointing*
9 *agency shall obtain the criminal record offender information*
10 *regarding the humane officer from the Department of Justice no*
11 *more than 60 days prior to the end of the three-year period. A*
12 *certificate of compliance shall be served no later than 21 days*
13 *after the expiration of each three-year period on the Department*
14 *of Justice with copies served on the superior court, agencies, and*
15 *associations described in paragraph (2) of subdivision (a) of*
16 *Section 10401. The certificate of compliance shall also include a*
17 *statement that the humane society or society for the prevention of*
18 *cruelty to animals is in compliance with subclause (II) of clause*
19 *(ii) of subparagraph (A) of paragraph (1) of subdivision (a).*
20 *Service on the Department of Justice shall be in compliance with*
21 *procedures set forth by the Department of Justice. The Department*
22 *of Justice shall post the filing procedures, as they may be updated*
23 *from time to time, on its Internet Web site. Failure to file the*
24 *certificate of compliance with the Department of Justice no later*
25 *than 21 days after the expiration of a six-month period shall result*
26 *in immediate revocation of the appointment.*

27 ~~(6)~~

28 (5) If the humane officer is authorized to carry a firearm, he or
29 she shall complete ongoing weapons training and range
30 qualifications at least every six months pursuant to subdivision (t)
31 of Section 830.3 of the Penal Code. ~~The appointing humane society~~
32 ~~or society for the prevention of cruelty to animals shall submit~~
33 ~~current fingerprints of the humane officer to the Department of~~
34 ~~Justice, which shall submit to the humane society or society for~~
35 ~~prevention of cruelty to animals, in writing, a report of the record~~
36 ~~in its possession, if any, of the humane officer. A certificate of~~
37 ~~compliance with this section shall be served before the expiration~~
38 ~~of each three-year period on the judge of the superior court that~~
39 ~~reaffirmed the appointment and on the agencies and association~~
40 ~~described in paragraph (2) of subdivision (a) of Section 10401.~~

1 Failure to provide the court with a certificate of compliance before
2 the expiration of the three-year period shall result in immediate
3 revocation of the appointment upon the expiration of the three-year
4 period. Failure to provide the court with proof of ongoing weapons
5 training and range qualifications shall result in revocation of the
6 authorization to carry a firearm upon the expiration of the
7 three-year period.

8 (7) A person shall not be appointed as a humane officer until
9 he or she has satisfied the requirements in Sections 1029, 1030,
10 and 1031 of the Government Code. The humane society or society
11 for the prevention of cruelty to animals shall complete a
12 background investigation, using standards defined by the
13 Commission on Peace Officer Standards and Training as guidelines
14 for all humane officer appointments. *A certificate of compliance*
15 *pursuant to this section shall be served no later than 21 days after*
16 *the expiration of a six-month period on the Department of Justice*
17 *with copies served on the superior court, and on the agencies and*
18 *associations described in paragraph (2) of subdivision (a) of*
19 *Section 10401. The certificate of compliance shall also include a*
20 *statement that the humane society or society for the prevention of*
21 *cruelty to animals is in compliance with subclause (II) of clause*
22 *(ii) of subparagraph (A) of paragraph (1) of subdivision (a).*
23 *Service on the Department of Justice shall be in compliance with*
24 *procedures set forth by the Department of Justice. The Department*
25 *of Justice shall post the filing procedures, as they may be updated*
26 *from time to time, on its Internet Web site. Failure to file the*
27 *certificate of compliance with the Department of Justice no later*
28 *than 21 days after the expiration of a six-month period shall result*
29 *in immediate revocation of the appointment.*

30 (8)

31 (6) Notwithstanding any other provision of this section, a
32 humane officer shall not be authorized to carry firearms unless
33 and until his or her appointing agency has adopted a policy on the
34 use of deadly force by its officers and the officer has been
35 instructed in that policy.

36 (j) Every humane officer shall, when making an arrest, exhibit
37 and expose a suitable badge to be adopted by the corporation under
38 this title of which he or she is a member which shall bear its name
39 and a number. Uniforms worn by humane officers shall
40 prominently display the name of the appointing agency. Humane

1 officer uniforms shall not display the words “state” or “California,”
2 unless part of the appointing agency’s incorporated name.

3 (k) Any person resisting a humane officer in the performance
4 of his or her duty as provided in this section, is guilty of a
5 misdemeanor. Any person who has not been appointed and
6 qualified as a humane officer as provided in this section, or whose
7 appointment has been revoked as provided in this section, or whose
8 appointment, having expired, has not been renewed as provided
9 in this section, who shall represent himself or herself to be or shall
10 attempt to act as an officer shall be guilty of a misdemeanor.

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

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

19 (n) A humane society or a society for the prevention of cruelty
20 to animals seeking reaffirmation of a humane officer’s appointment
21 shall comply with each of the following provisions:

22 (1) Prior to the reaffirmation of the appointment of a humane
23 officer, the humane society or society for the prevention of cruelty
24 to animals shall serve a copy of the application on the agencies
25 and association described in paragraph (2) of subdivision (a) of
26 Section 10401, *the Department of the California Highway Patrol,*
27 *and the Department of Justice* of the society’s intent to enforce
28 laws for the prevention of cruelty to animals. Each application
29 shall include, as the last page, proof of service of a copy of the
30 application upon those parties.

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

38 (A) Any opposition shall be filed no later than 15 court days
39 after service of the complete application accepted by the court for
40 filing. In instances where a party is not served, opposition must

1 be filed within 15 court days of posting, if any, of notice of filing
2 of the application to reaffirm on the court’s Internet Web site. Any
3 opposition must be served on all parties indicated on the proof of
4 service attached to the application to reaffirm.

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

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

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

25 ~~SEC. 5.~~

26 *SEC. 7.* Section 14504 is added to the Corporations Code, to
27 read:

28 14504. All humane societies; *and* societies for the prevention
29 of cruelty to animals, and *all* humane officers shall be in full
30 compliance with this part on or before January 1, 2012.
31 *Notwithstanding any other provision in this part, a level 2 humane*
32 *officer shall be in compliance with subparagraph (D) of paragraph*
33 *(2) of subdivision (i) of Section 14502 on or before January 1,*
34 *2012. A level 2 humane officer whose appointment has been*
35 *reaffirmed prior to January 1, 2010, shall not be required to seek*
36 *a new court order, and shall instead provide proof of compliance*
37 *with subparagraph (D) of paragraph (2) of subdivision (i) of*
38 *Section 14502 by filing a certificate of compliance with the*
39 *Department of Justice on or before January 1, 2012.*

1 *SEC. 8. Section 14505 is added to the Corporations Code, to*
2 *read:*

3 *14505. The Department of Justice or any law enforcement*
4 *agency that is requested to provide summary criminal history*
5 *information pursuant to Penal Code Section 11105 or 13300 may*
6 *charge the humane society or society for the prevention of cruelty*
7 *to animals a fee not to exceed the reasonable costs of preparing*
8 *reports and costs to maintain certificates of compliance as required*
9 *by Section 14502.*

10 ~~SEC. 6.~~

11 *SEC. 9. Section 11105 of the Penal Code is amended to read:*

12 11105. (a) (1) The Department of Justice shall maintain state
13 summary criminal history information.

14 (2) As used in this section:

15 (A) “State summary criminal history information” means the
16 master record of information compiled by the Attorney General
17 pertaining to the identification and criminal history of any person,
18 such as name, date of birth, physical description, fingerprints,
19 photographs, date of arrests, arresting agencies and booking
20 numbers, charges, dispositions, and similar data about the person.

21 (B) “State summary criminal history information” does not refer
22 to records and data compiled by criminal justice agencies other
23 than the Attorney General, nor does it refer to records of complaints
24 to or investigations conducted by, or records of intelligence
25 information or security procedures of, the office of the Attorney
26 General and the Department of Justice.

27 (b) The Attorney General shall furnish state summary criminal
28 history information to any of the following, if needed in the course
29 of their duties, provided that when information is furnished to
30 assist an agency, officer, or official of state or local government,
31 a public utility, or any other entity, in fulfilling employment,
32 certification, or licensing duties, Chapter 1321 of the Statutes of
33 1974 and Section 432.7 of the Labor Code shall apply:

34 (1) The courts of the state.

35 (2) Peace officers of the state, as defined in Section 830.1,
36 subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section
37 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision
38 (a) of Section 830.31.

39 (3) District attorneys of the state.

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

1 (5) City attorneys pursuing civil gang injunctions pursuant to
2 Section 186.22a, or drug abatement actions pursuant to Section
3 3479 or 3480 of the Civil Code, or Section 11571 of the Health
4 and Safety Code.

5 (6) Probation officers of the state.

6 (7) Parole officers of the state.

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

10 (9) A public defender or attorney of record when representing
11 a person in a criminal case, or parole revocation or revocation
12 extension proceeding, and if authorized access by statutory or
13 decisional law.

14 (10) Any agency, officer, or official of the state if the criminal
15 history information is required to implement a statute or regulation
16 that expressly refers to specific criminal conduct applicable to the
17 subject person of the state summary criminal history information,
18 and contains requirements or exclusions, or both, expressly based
19 upon that specified criminal conduct. The agency, officer, or
20 official of the state authorized by this paragraph to receive state
21 summary criminal history information may also transmit fingerprint
22 images and related information to the Department of Justice to be
23 transmitted to the Federal Bureau of Investigation.

24 (11) Any city or county, city and county, district, or any officer
25 or official thereof if access is needed in order to assist that agency,
26 officer, or official in fulfilling employment, certification, or
27 licensing duties, and if the access is specifically authorized by the
28 city council, board of supervisors, or governing board of the city,
29 county, or district if the criminal history information is required
30 to implement a statute, ordinance, or regulation that expressly
31 refers to specific criminal conduct applicable to the subject person
32 of the state summary criminal history information, and contains
33 requirements or exclusions, or both, expressly based upon that
34 specified criminal conduct. The city or county, city and county,
35 district, or the officer or official thereof authorized by this
36 paragraph may also transmit fingerprint images and related
37 information to the Department of Justice to be transmitted to the
38 Federal Bureau of Investigation.

1 (12) The subject of the state summary criminal history
2 information under procedures established under Article 5
3 (commencing with Section 11120).

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

11 (14) Health officers of a city, county, city and county, or district
12 when in the performance of their official duties enforcing Section
13 120175 of the Health and Safety Code.

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

16 (16) Any humane society, or society for the prevention of cruelty
17 to animals, for the specific purpose of complying with Section
18 14502 of the Corporations Code for the appointment of humane
19 officers.

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

29 (18) County child welfare agency personnel who have been
30 delegated the authority of county probation officers to access state
31 summary criminal history information pursuant to Section 272 of
32 the Welfare and Institutions Code for the purposes specified in
33 Section 16504.5 of the Welfare and Institutions Code. Information
34 from criminal history records provided pursuant to this subdivision
35 shall not be used for any purposes other than those specified in
36 this section and Section 16504.5 of the Welfare and Institutions
37 Code. When an agency obtains records obtained both on the basis
38 of name checks and fingerprint checks, final placement decisions
39 shall be based only on the records obtained pursuant to the
40 fingerprint check.

1 (19) The court of a tribe, or court of a consortium of tribes, that
2 has entered into an agreement with the state pursuant to Section
3 10553.1 of the Welfare and Institutions Code. This information
4 may be used only for the purposes specified in Section 16504.5
5 of the Welfare and Institutions Code and for tribal approval or
6 tribal licensing of foster care or adoptive homes. Article 6
7 (commencing with Section 11140) shall apply to officers, members,
8 and employees of a tribal court receiving criminal record offender
9 information pursuant to this section.

10 (20) Child welfare agency personnel of a tribe or consortium
11 of tribes that has entered into an agreement with the state pursuant
12 to Section 10553.1 of the Welfare and Institutions Code and to
13 whom the state has delegated duties under paragraph (2) of
14 subdivision (a) of Section 272 of the Welfare and Institutions Code.
15 The purposes for use of the information shall be for the purposes
16 specified in Section 16504.5 of the Welfare and Institutions Code
17 and for tribal approval or tribal licensing of foster care or adoptive
18 homes. When an agency obtains records on the basis of name
19 checks and fingerprint checks, final placement decisions shall be
20 based only on the records obtained pursuant to the fingerprint
21 check. Article 6 (commencing with Section 11140) shall apply to
22 child welfare agency personnel receiving criminal record offender
23 information pursuant to this section.

24 (21) An officer providing conservatorship investigations
25 pursuant to Sections 5351, 5354, and 5356 of the Welfare and
26 Institutions Code.

27 (22) A court investigator providing investigations or reviews
28 in conservatorships pursuant to Section 1826, 1850, 1851, or
29 2250.6 of the Probate Code.

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

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

34 (c) The Attorney General may furnish state summary criminal
35 history information and, when specifically authorized by this
36 subdivision, federal level criminal history information upon a
37 showing of a compelling need to any of the following, provided
38 that when information is furnished to assist an agency, officer, or
39 official of state or local government, a public utility, or any other
40 entity in fulfilling employment, certification, or licensing duties,

1 Chapter 1321 of the Statutes of 1974 and Section 432.7 of the
2 Labor Code shall apply:

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

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

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

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

14 (5) To public officers, other than peace officers, of the United
15 States, other states, or possessions or territories of the United
16 States, provided that access to records similar to state summary
17 criminal history information is expressly authorized by a statute
18 of the United States, other states, or possessions or territories of
19 the United States if the information is needed for the performance
20 of their official duties.

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

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

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

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

32 (10) (A) Any public utility, as defined in Section 216 of the
33 Public Utilities Code, or any cable corporation as defined in
34 subparagraph (B), if receipt of criminal history information is
35 needed in order to assist in employing current or prospective
36 employees, contract employees, or subcontract employees who,
37 in the course of their employment may be seeking entrance to
38 private residences or adjacent grounds. The information provided
39 shall be limited to the record of convictions and any arrest for

1 which the person is released on bail or on his or her own
2 recognizance pending trial.

3 If the Attorney General supplies the data pursuant to this
4 paragraph, the Attorney General shall furnish a copy of the data
5 to the current or prospective employee to whom the data relates.

6 Any information obtained from the state summary criminal
7 history is confidential and the receiving public utility or cable
8 corporation shall not disclose its contents, other than for the
9 purpose for which it was acquired. The state summary criminal
10 history information in the possession of the public utility or cable
11 corporation and all copies made from it shall be destroyed not
12 more than 30 days after employment or promotion or transfer is
13 denied or granted, except for those cases where a current or
14 prospective employee is out on bail or on his or her own
15 recognizance pending trial, in which case the state summary
16 criminal history information and all copies shall be destroyed not
17 more than 30 days after the case is resolved.

18 A violation of this paragraph is a misdemeanor, and shall give
19 the current or prospective employee who is injured by the violation
20 a cause of action against the public utility or cable corporation to
21 recover damages proximately caused by the violations. Any public
22 utility's or cable corporation's request for state summary criminal
23 history information for purposes of employing current or
24 prospective employees who may be seeking entrance to private
25 residences or adjacent grounds in the course of their employment
26 shall be deemed a "compelling need" as required to be shown in
27 this subdivision.

28 Nothing in this section shall be construed as imposing any duty
29 upon public utilities or cable corporations to request state summary
30 criminal history information on any current or prospective
31 employees.

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

36 (C) Requests for federal level criminal history information
37 received by the Department of Justice from entities authorized
38 pursuant to subparagraph (A) shall be forwarded to the Federal
39 Bureau of Investigation by the Department of Justice. Federal level
40 criminal history information received or compiled by the

1 Department of Justice may then be disseminated to the entities
2 referenced in subparagraph (A), as authorized by law.

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

6 (ii) Authority for a public utility to request federal level criminal
7 history information under this paragraph shall commence July 1,
8 2005.

9 (11) To any campus of the California State University or the
10 University of California, or any four year college or university
11 accredited by a regional accreditation organization approved by
12 the United States Department of Education, if needed in
13 conjunction with an application for admission by a convicted felon
14 to any special education program for convicted felons, including,
15 but not limited to, university alternatives and halfway houses. Only
16 conviction information shall be furnished. The college or university
17 may require the convicted felon to be fingerprinted, and any inquiry
18 to the department under this section shall include the convicted
19 felon's fingerprints and any other information specified by the
20 department.

21 (12) To any foreign government, if requested by the individual
22 who is the subject of the record requested, if needed in conjunction
23 with the individual's application to adopt a minor child who is a
24 citizen of that foreign nation. Requests for information pursuant
25 to this paragraph shall be in accordance with the process described
26 in Sections 11122 to 11124, inclusive. The response shall be
27 provided to the foreign government or its designee and to the
28 individual who requested the information.

29 (d) Whenever an authorized request for state summary criminal
30 history information pertains to a person whose fingerprints are on
31 file with the Department of Justice and the department has no
32 criminal history of that person, and the information is to be used
33 for employment, licensing, or certification purposes, the fingerprint
34 card accompanying the request for information, if any, may be
35 stamped "no criminal record" and returned to the person or entity
36 making the request.

37 (e) Whenever state summary criminal history information is
38 furnished as the result of an application and is to be used for
39 employment, licensing, or certification purposes, the Department
40 of Justice may charge the person or entity making the request a

1 fee that it determines to be sufficient to reimburse the department
2 for the cost of furnishing the information. In addition, the
3 Department of Justice may add a surcharge to the fee to fund
4 maintenance and improvements to the systems from which the
5 information is obtained. Notwithstanding any other law, any person
6 or entity required to pay a fee to the department for information
7 received under this section may charge the applicant a fee sufficient
8 to reimburse the person or entity for this expense. All moneys
9 received by the department pursuant to this section, Sections
10 11105.3 and 12054 of the Penal Code, and Section 13588 of the
11 Education Code shall be deposited in a special account in the
12 General Fund to be available for expenditure by the department
13 to offset costs incurred pursuant to those sections and for
14 maintenance and improvements to the systems from which the
15 information is obtained upon appropriation by the Legislature.

16 (f) Whenever there is a conflict, the processing of criminal
17 fingerprints and fingerprints of applicants for security guard or
18 alarm agent registrations or firearms qualification permits
19 submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4
20 of the Business and Professions Code shall take priority over the
21 processing of other applicant fingerprints.

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

25 (h) It is not a violation of this section to include information
26 obtained from a record in (1) a transcript or record of a judicial or
27 administrative proceeding or (2) any other public record if the
28 inclusion of the information in the public record is authorized by
29 a court, statute, or decisional law.

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

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

38 (k) (1) This subdivision shall apply whenever state or federal
39 summary criminal history information is furnished by the
40 Department of Justice as the result of an application by an

1 authorized agency or organization and the information is to be
2 used for peace officer employment or certification purposes. As
3 used in this subdivision, a peace officer is defined in Chapter 4.5
4 (commencing with Section 830) of Title 3 of Part 2.

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

9 (A) Every conviction rendered against the applicant.

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

14 (C) Every arrest or detention, except for an arrest or detention
15 resulting in an exoneration, provided however that where the
16 records of the Department of Justice do not contain a disposition
17 for the arrest, the Department of Justice first makes a genuine effort
18 to determine the disposition of the arrest.

19 (D) Every successful diversion.

20 (E) Every date and agency name associated with all retained
21 peace officer or nonsworn law enforcement agency employee
22 preemployment criminal offender record information search
23 requests.

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

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

34 (A) Every conviction rendered against the applicant.

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

39 (C) Every arrest for an offense for which the records of the
40 Department of Justice do not contain a disposition or did not result

1 in a conviction, provided that the Department of Justice first makes
2 a genuine effort to determine the disposition of the arrest. However,
3 information concerning an arrest shall not be disclosed if the
4 records of the Department of Justice indicate or if the genuine
5 effort reveals that the subject was exonerated, successfully
6 completed a diversion or deferred entry of judgment program, or
7 the arrest was deemed a detention.

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

12 (m) (1) This subdivision shall apply whenever state or federal
13 summary criminal history information is furnished by the
14 Department of Justice as the result of an application by an
15 authorized agency or organization pursuant to Section 1522,
16 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
17 any statute that incorporates the criteria of any of those sections
18 or this subdivision by reference, and the information is to be used
19 for employment, licensing, or certification purposes.

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

24 (A) Every conviction of an offense rendered against the
25 applicant.

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

30 (C) Every arrest for an offense for which the Department of
31 Social Services is required by paragraph (1) of subdivision (a) of
32 Section 1522 of the Health and Safety Code to determine if an
33 applicant has been arrested. However, if the records of the
34 Department of Justice do not contain a disposition for an arrest,
35 the Department of Justice shall first make a genuine effort to
36 determine the disposition of the arrest.

37 (3) Notwithstanding the requirements of the sections referenced
38 in paragraph (1) of this subdivision, the Department of Justice
39 shall not disseminate information about an arrest subsequently

1 deemed a detention or an arrest that resulted in either the successful
2 completion of a diversion program or exoneration.

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

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

10 (B) Section 11105.3 or 11105.4.

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

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

15 (2) With the exception of applications submitted by
16 transportation companies authorized pursuant to Section 11105.3,
17 and notwithstanding any other provision of law, whenever state
18 summary criminal history information is furnished pursuant to
19 paragraph (1), the Department of Justice shall disseminate the
20 following information:

21 (A) Every conviction rendered against the applicant for a
22 violation or attempted violation of any offense specified in
23 subdivision (a) of Section 15660 of the Welfare and Institutions
24 Code. However, with the exception of those offenses for which
25 registration is required pursuant to Section 290, the Department
26 of Justice shall not disseminate information pursuant to this
27 subdivision unless the conviction occurred within 10 years of the
28 date of the agency's request for information or the conviction is
29 over 10 years old but the subject of the request was incarcerated
30 within 10 years of the agency's request for information.

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

36 (o) (1) This subdivision shall apply whenever state or federal
37 summary criminal history information is furnished by the
38 Department of Justice as the result of an application by an
39 authorized agency or organization pursuant to Section 261 or 550
40 of the Financial Code, or any statute that incorporates the criteria

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

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

8 (A) Every conviction rendered against the applicant for a
9 violation or attempted violation of any offense specified in Section
10 550 of the Financial Code.

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

16 (p) (1) This subdivision shall apply whenever state or federal
17 criminal history information is furnished by the Department of
18 Justice as the result of an application by an agency, organization,
19 or individual not defined in subdivision (k), (l), (m), (n), or (o), or
20 by a transportation company authorized pursuant to Section
21 11105.3, or any statute that incorporates the criteria of that section
22 or this subdivision by reference, and the information is to be used
23 for employment, licensing, or certification purposes.

24 (2) Notwithstanding any other provisions 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 (q) All agencies, organizations, or individuals defined in
34 subdivisions (k), (l), (m), (n), (o), and (p) may contract with the
35 Department of Justice for subsequent arrest notification pursuant
36 to Section 11105.2. This subdivision shall not supersede sections
37 that mandate an agency, organization, or individual to contract
38 with the Department of Justice for subsequent arrest notification
39 pursuant to Section 11105.2.

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

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

7 ~~SEC. 7.~~

8 *SEC. 10.* Section 13300 of the Penal Code is amended to read:
9 13300. (a) As used in this section:

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

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

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

23 (b) A local agency shall furnish local summary criminal history
24 information to any of the following, when needed in the course of
25 their duties, provided that when information is furnished to assist
26 an agency, officer, or official of state or local government, a public
27 utility, or any entity, in fulfilling employment, certification, or
28 licensing duties, Chapter 1321 of the Statutes of 1974 and Section
29 432.7 of the Labor Code shall apply:

30 (1) The courts of the state.

31 (2) Peace officers of the state, as defined in Section 830.1,
32 subdivisions (a) and (d) of Section 830.2, subdivisions (a), (b),
33 and (j) of Section 830.3, and subdivisions (a), (b), and (c) of
34 Section 830.5.

35 (3) District attorneys of the state.

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

37 (5) City attorneys pursuing civil gang injunctions pursuant to
38 Section 186.22a, or drug abatement actions pursuant to Section
39 3479 or 3480 of the Civil Code, or Section 11571 of the Health
40 and Safety Code.

1 (6) Probation officers of the state.

2 (7) Parole officers of the state.

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

6 (9) A public defender or attorney of record when representing
7 a person in a criminal case and when authorized access by statutory
8 or 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 (c) The local agency may furnish local summary criminal history
15 information, upon a showing of a compelling need, to any of the
16 following, provided that when information is furnished to assist
17 an agency, officer, or official of state or local government, a public
18 utility, or any entity, in fulfilling employment, certification, or
19 licensing duties, Chapter 1321 of the Statutes of 1974 and Section
20 432.7 of the Labor Code shall apply:

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

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

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

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

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

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

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

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

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

15 If the local agency supplies the information pursuant to this
16 paragraph, it shall furnish a copy of the information to the person
17 to whom the information relates.

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

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

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

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

39 (10) Any city, county, city and county, or district, or any officer
40 or official thereof, if a written request is made to a local law

1 enforcement agency and the information is needed to assist in the
2 screening of a prospective concessionaire, and any affiliate or
3 associate thereof, as these terms are defined in subdivision (k) of
4 Section 432.7 of the Labor Code, for the purposes of consenting
5 to, or approving of, the prospective concessionaire's application
6 for, or acquisition of, any beneficial interest in a concession, lease,
7 or other property interest.

8 Any local government's request for local summary criminal
9 history information for purposes of screening a prospective
10 concessionaire and their affiliates or associates before approving
11 or denying an application for, or acquisition of, any beneficial
12 interest in a concession, lease, or other property interest is deemed
13 a "compelling need" as required by this subdivision. However,
14 only local summary criminal history information pertaining to
15 criminal convictions may be obtained pursuant to this paragraph.

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

30 (d) Whenever an authorized request for local summary criminal
31 history information pertains to a person whose fingerprints are on
32 file with the local agency and the local agency has no criminal
33 history of that person, and the information is to be used for
34 employment, licensing, or certification purposes, the fingerprint
35 card accompanying the request for information, if any, may be
36 stamped "no criminal record" and returned to the person or entity
37 making the request.

38 (e) A local agency taking fingerprints of a person who is an
39 applicant for licensing, employment, or certification may charge

1 a fee to cover the cost of taking the fingerprints and processing
2 the required documents.

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

16 (g) Whenever there is a conflict, the processing of criminal
17 fingerprints shall take priority over the processing of applicant
18 fingerprints.

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

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

27 (j) Notwithstanding any other law, a public prosecutor may, in
28 response to a written request made pursuant to Section 6253 of
29 the Government Code, provide information from a local summary
30 criminal history, if release of the information would enhance public
31 safety, the interest of justice, or the public's understanding of the
32 justice system and the person making the request declares that the
33 request is made for a scholarly or journalistic purpose. If a person
34 in a declaration required by this subdivision willfully states as true
35 any material fact that he or she knows to be false, he or she shall
36 be subject to a civil penalty not exceeding ten thousand dollars
37 (\$10,000). The requestor shall be informed in writing of this
38 penalty. An action to impose a civil penalty under this subdivision
39 may be brought by any public prosecutor and shall be enforced as
40 a civil judgment.

1 (k) Notwithstanding any other law, the Department of Justice
2 or any state or local law enforcement agency may require the
3 submission of fingerprints for the purpose of conducting summary
4 criminal history information record checks which are authorized
5 by law.

6 (l) Any local criminal justice agency may release, within five
7 years of the arrest, information concerning an arrest or detention
8 of a peace officer or applicant for a position as a peace officer, as
9 defined in Section 830, which did not result in conviction, and for
10 which the person did not complete a postarrest diversion program
11 or a deferred entry of judgment program, to a government agency
12 employer of that peace officer or applicant.

13 (m) Any local criminal justice agency may release information
14 concerning an arrest of a peace officer or applicant for a position
15 as a peace officer, as defined in Section 830, which did not result
16 in conviction but for which the person completed a postarrest
17 diversion program or a deferred entry of judgment program, or
18 information concerning a referral to and participation in any
19 postarrest diversion program or a deferred entry of judgment
20 program to a government agency employer of that peace officer
21 or applicant.

22 (n) Notwithstanding subdivision (l) or (m), a local criminal
23 justice agency shall not release information under the following
24 circumstances:

25 (1) Information concerning an arrest for which diversion or a
26 deferred entry of judgment program has been ordered without
27 attempting to determine whether diversion or a deferred entry of
28 judgment program has been successfully completed.

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

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

35 ~~SEC. 8.~~

36 *SEC. 11.* If the Commission on State Mandates determines that
37 this act contains costs mandated by the state, reimbursement to
38 local agencies and school districts for those costs shall be made
39 pursuant to Part 7 (commencing with Section 17500) of Division
40 4 of Title 2 of the Government Code.

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2 **CORRECTIONS:**
3 **Text—Page 1.**
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