

AMENDED IN SENATE MAY 18, 2010
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 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 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 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 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 prevention of cruelty to animals* 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 *shall* 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 Petition for Order Endorsing *Articles of Incorporation* 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 impose additional specified *training* requirements for a level 1 humane officer to carry firearms, including requiring and level 2 humane officers. *The bill would require* 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.~~

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

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
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 “Petition for Order Endorsing Articles of Incorporation of a
9 Corporation/Society for the Prevention of Cruelty to Animals,”
10 together with a proposed order entitled “Order Endorsing the
11 Articles of Incorporation of [insert name] as a Society for the
12 Prevention of Cruelty to Animals.” The petition shall include
13 evidence regarding the need for the corporation.
14 (2) The incorporators shall serve a copy of the application on
15 the local city police departments and the sheriff’s department
16 having jurisdiction in the county in which the society is located,
17 on the animal control agencies in that county, and on the State
18 Humane Association of California.
19 (b) (1) Any person served with an application pursuant to
20 paragraph (2) of subdivision (a) may file with the court an
21 opposition to the application no later than 15 court days after
22 service of the application and shall serve the incorporators with a
23 copy of the opposition. The opposition shall include evidence
24 regarding the need for the corporation.
25 (2) The incorporators may file a reply to the opposition no later
26 than 10 court days after service of the opposition.
27 (3) Opposition and reply papers shall comply with the provisions
28 of Rule 3.1113 of the California Rules of Court.
29 (4) The court shall rule on the application without a hearing
30 unless the court notifies the parties of an intention to hold a hearing.
31 (5) The incorporators shall serve notification of endorsement
32 on the agencies and association described in paragraph (2) of
33 subdivision (a).

1 (6) All moving papers, including the application, opposition
2 and reply papers, and notification under this section, shall be served
3 by personal delivery, express mail, or other means reasonably
4 calculated to ensure delivery not later than the close of the next
5 business day after the application, opposition, or reply was filed
6 or the endorsement was received by the humane society or society
7 for the prevention of cruelty to animals.

8 (7) The proceeding described in paragraph (4) shall be a special
9 proceeding within the meaning of Section 23 of the Code of Civil
10 Procedure.

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

12 SEC. 3. The heading of Part 11 (commencing with Section
13 14500) of Division 3 of Title 1 of the Corporations Code is
14 amended to read:

15
16 PART 11. SOCIETIES FOR THE PREVENTION OF CRUELTY
17 TO ANIMALS
18

19 SEC. 4. Section 14500 of the Corporations Code is amended
20 to read:

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

27 SEC. 5. Section 14501 of the Corporations Code is amended
28 to read:

29 14501. Every society, incorporated and organized for the
30 prevention of cruelty to animals may enter into a contract with any
31 city, or city and county, or county, where the society is located, to
32 enforce the provisions of laws of this state for the prevention of
33 cruelty to animals, or arresting, or prosecuting offenders thereunder
34 or preventing cruelty to animals. A humane society may perform
35 those actions in the absence of a contract with a city, city and
36 county, or county.

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

39 14502. (a) (1) (A) (i) On and after July 1, 1996, no entity,
40 other than a humane society or society for the prevention of cruelty

1 to animals, shall be eligible to apply for an appointment of any
2 individual as a humane officer, the duty of which shall be the
3 enforcement of the laws for the prevention of cruelty to animals.
4 A society shall only be eligible to apply for an appointment of a
5 humane officer if the following conditions are met:

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

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

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

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

19 (iii) Any person appointed as a humane officer prior to July 1,
20 1996, may continue to serve as a humane officer until the expiration
21 of the term of appointment only if the appointing agency maintains
22 records pursuant to subparagraph (C) documenting that both the
23 appointing agency and the humane officer meet the requirements
24 of this section.

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

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

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

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

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

32 (c) Prior to filing the Petition for Order Confirming the
33 Appointment of a Humane Officer, the humane society or society
34 for the prevention of cruelty to animals shall obtain criminal record
35 offender information from the Department of Justice. If the
36 Department of Justice has no record of the appointee, it shall so
37 report in writing.

38 (d) Upon receipt of the Petition for Order Confirming
39 Appointment of a Humane Officer, the court shall review the matter
40 of the appointee's qualifications and fitness to act as a humane

1 officer, taking into consideration any documentation it has received
2 in support of, or in opposition to, the person's appointment. If the
3 court finds cause to confirm the appointment of the humane officer,
4 it shall so state on a court order. The appointee shall thereupon
5 file a certified copy of the court order in the office of the county
6 clerk of the county or city and county and shall, at the same time,
7 take and subscribe the oath of office prescribed for constables or
8 other peace officers. The appointee shall also provide a copy of
9 the Order Confirming Appointment to the State Humane
10 Association of California and the Department of Justice.

11 (e) The county clerk shall thereupon immediately enter in a
12 book to be kept in his or her office and designated "Record of
13 Humane Officers" the name of the officer, the name of the agency
14 appointing him or her, the number of his or her badge, the name
15 of the judge appointing him or her, and the date of the filing. At
16 the time of the filing the county clerk shall collect from the officer
17 a fee of five dollars (\$5), which shall be in full for all services to
18 be performed by the county clerk under this section.

19 (f) All appointments of humane officers shall automatically
20 expire if the society disbands or legally dissolves.

21 (g) (1) The corporation appointing an officer may revoke an
22 appointment at any time by filing in the office of the county clerk
23 in which the appointment of the officer is recorded a copy of the
24 revocation in writing under the letterhead of the corporation and
25 duly certified by its executive officer. Upon the filing the county
26 clerk shall enter the fact of the revocation and the date of the filing
27 thereof opposite the name of the officer in the record of humane
28 officers.

29 (2) Notwithstanding paragraph (1), any duly authorized sheriff
30 or local police agency or the State Humane Association of
31 California may initiate a revocation hearing by filing a petition to
32 Revoke Appointment of a Humane Officer. The petition shall show
33 cause why an appointment should be revoked and shall be made
34 to the superior court in the jurisdiction of the appointment. Filing,
35 service, and format protocol shall conform to the law and motion
36 requirements under the Code of Civil Procedure, California Rules
37 of Court, and this code. A proceeding pursuant to this paragraph
38 shall be a special proceeding within the meaning of Section 23 of
39 the Code of Civil Procedure.

1 (A) Notice of the hearing date and a copy of the petition shall
2 be served in the same manner as a summons upon the humane
3 officer subject to the petition, the corporation that appointed the
4 officer, the agencies and association described in paragraph (2) of
5 subdivision (a) of Section 10401; except the party filing the petition
6 shall not be required to serve copies of those documents upon
7 itself.

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

10 (C) Upon a finding of good cause, the court shall issue an order
11 granting the petition to revoke the appointment. The county clerk
12 shall immediately enter the revocation and the date of the court
13 order opposite the name of the officer in the record of humane
14 officers. The clerk of the superior court shall give notice of the
15 order to the parties described in subparagraph (A) and to the county
16 clerk-recorder.

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

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

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

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

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

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

1 (ii) At least 40 hours of a course of training in the state humane
2 laws relating to the powers and duties of a humane officer,
3 sponsored or provided by an accredited postsecondary institution,
4 law enforcement agency, or the State Humane Association of
5 California.

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

9 (E) A person shall not be appointed as a level 1 humane officer
10 until he or she has satisfied the requirements in Sections 1029,
11 1030 and 1031 of the Government Code. A humane society or
12 society for the prevention of cruelty to animals shall complete a
13 background investigation, using standards defined by the
14 Commission on Peace Officer Standards and Training as guidelines
15 for all level 1 humane officer appointments.

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

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

25 (2) (A) A level 2 humane officer may make arrests for the
26 violation of any penal law of this state relating to or affecting
27 animals in the same manner as any peace officer and may serve
28 search warrants during the course and within the scope of
29 employment, upon the successful completion of a course relating
30 to the exercise of the police powers specified in Section 832 of the
31 Penal Code, except the power to carry and use firearms.

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

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

38 (C) A level 2 humane officer shall, prior to appointment, provide
39 evidence satisfactory to the appointing agency that he or she has

1 successfully completed courses of training in the following
2 subjects:

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

8 (ii) At least 40 hours of a course of training in the state humane
9 laws relating to the powers and duties of a humane officer,
10 sponsored or provided by an accredited postsecondary institution,
11 law enforcement agency, or the State Humane Association of
12 California.

13 (D) A person shall not be appointed as a level 2 humane officer
14 until he or she has satisfied the requirements in Sections 1029,
15 1030, and 1031 of the Government Code. A humane society or
16 society for the prevention of cruelty to animals shall complete a
17 background investigation, using standards defined by the
18 Commission on Peace Officer Standards and Training as guidelines
19 for all level 2 humane officer appointments.

20 ~~(4)~~

21 (3) During each three-year period following the date on which
22 the certified copy of the court order was filed with the county clerk,
23 the humane officer shall complete 40 hours of continuing education
24 and training relating to the powers and duties of a humane officer,
25 which education and training shall be sponsored or provided by
26 an accredited postsecondary institution, law enforcement agency,
27 or the State Humane Association of California. The appointing
28 agency shall obtain the criminal record offender information
29 regarding the humane officer from the Department of Justice no
30 more than 60 days prior to the end of the three-year period. A
31 certificate of compliance shall be served no later than 21 days after
32 the expiration of each three-year period on the Department of
33 Justice with copies served on the superior court, agencies, and
34 associations described in paragraph (2) of subdivision (a) of Section
35 10401. The certificate of compliance shall also include a statement
36 that the humane society or society for the prevention of cruelty to
37 animals is in compliance with subclause (II) of clause (ii) of
38 subparagraph (A) of paragraph (1) of subdivision (a). Service on
39 the Department of Justice shall be in compliance with procedures
40 set forth by the Department of Justice. The Department of Justice

1 shall post the filing procedures, as they may be updated from time
2 to time, on its Internet Web site. Failure to file the certificate of
3 compliance with the Department of Justice no later than 21 days
4 after the expiration of a six-month period shall result in immediate
5 revocation of the appointment.

6 ~~(5)~~

7 (4) If the humane officer is authorized to carry a firearm, he or
8 she shall complete ongoing weapons training and range
9 qualifications at least every six months pursuant to subdivision (t)
10 of Section 830.3 of the Penal Code. A certificate of compliance
11 pursuant to this section shall be served no later than 21 days after
12 the expiration of a six-month period on the Department of Justice
13 with copies served on the superior court, and on the agencies and
14 associations described in paragraph (2) of subdivision (a) of Section
15 10401. The certificate of compliance shall also include a statement
16 that the humane society or society for the prevention of cruelty to
17 animals is in compliance with subclause (II) of clause (ii) of
18 subparagraph (A) of paragraph (1) of subdivision (a). Service on
19 the Department of Justice shall be in compliance with procedures
20 set forth by the Department of Justice. The Department of Justice
21 shall post the filing procedures, as they may be updated from time
22 to time, on its Internet Web site. Failure to file the certificate of
23 compliance with the Department of Justice no later than 21 days
24 after the expiration of a six-month period shall result in immediate
25 revocation of the appointment.

26 ~~(6)~~

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

32 (j) Every humane officer shall, when making an arrest, exhibit
33 and expose a suitable badge to be adopted by the corporation under
34 this title of which he or she is a member which shall bear its name
35 and a number. Uniforms worn by humane officers shall
36 prominently display the name of the appointing agency. Humane
37 officer uniforms shall not display the words “state” or “California,”
38 unless part of the appointing agency’s incorporated name.

39 (k) Any person resisting a humane officer in the performance
40 of his or her duty as provided in this section, is guilty of a

1 misdemeanor. Any person who has not been appointed and
2 qualified as a humane officer as provided in this section, or whose
3 appointment has been revoked as provided in this section, or whose
4 appointment, having expired, has not been renewed as provided
5 in this section, who shall represent himself or herself to be or shall
6 attempt to act as an officer shall be guilty of a misdemeanor.

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

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

15 (n) A humane society or a society for the prevention of cruelty
16 to animals seeking reaffirmation of a humane officer's appointment
17 shall comply with each of the following provisions:

18 (1) Prior to the reaffirmation of the appointment of a humane
19 officer, the humane society or society for the prevention of cruelty
20 to animals shall serve a copy of the application on the agencies
21 and association described in paragraph (2) of subdivision (a) of
22 Section 10401, the Department of the California Highway Patrol,
23 and the Department of Justice of the society's intent to enforce
24 laws for the prevention of cruelty to animals. Each application
25 shall include, as the last page, proof of service of a copy of the
26 application upon 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 proof
8 of service attached to the application to reaffirm and to any other
9 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. 7. Section 14504 is added to the Corporations Code, to
22 read:

23 14504. All humane societies and societies for the prevention
24 of cruelty to animals, and all humane officers shall be in full
25 compliance with this part on or before January 1, 2012.
26 Notwithstanding any other provision in this part, a level 2 humane
27 officer shall be in compliance with subparagraph (D) of paragraph
28 (2) of subdivision (i) of Section 14502 on or before January 1,
29 2012. A level 2 humane officer whose appointment has been
30 reaffirmed prior to January 1, 2010, shall not be required to seek
31 a new court order, and shall instead provide proof of compliance
32 with subparagraph (D) of paragraph (2) of subdivision (i) of Section
33 14502 by filing a certificate of compliance with the Department
34 of Justice on or before January 1, 2012.

35 SEC. 8. Section 14505 is added to the Corporations Code, to
36 read:

37 14505. The Department of Justice or any law enforcement
38 agency that is requested to provide summary criminal history
39 information pursuant to Penal Code Section 11105 or 13300 may
40 charge the humane society or society for the prevention of cruelty

1 to animals a fee not to exceed the reasonable costs of preparing
2 reports and costs to maintain certificates of compliance as required
3 by Section 14502.

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

5 11105. (a) (1) The Department of Justice shall maintain state
6 summary criminal history information.

7 (2) As used in this section:

8 (A) “State summary criminal history information” means the
9 master record of information compiled by the Attorney General
10 pertaining to the identification and criminal history of any person,
11 such as name, date of birth, physical description, fingerprints,
12 photographs, date of arrests, arresting agencies and booking
13 numbers, charges, dispositions, and similar data about the person.

14 (B) “State summary criminal history information” does not refer
15 to records and data compiled by criminal justice agencies other
16 than the Attorney General, nor does it refer to records of complaints
17 to or investigations conducted by, or records of intelligence
18 information or security procedures of, the office of the Attorney
19 General and the Department of Justice.

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

27 (1) The courts of the state.

28 (2) Peace officers of the state, as defined in Section 830.1,
29 subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section
30 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision
31 (a) of Section 830.31.

32 (3) District attorneys of the state.

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

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

38 (6) Probation officers of the state.

39 (7) Parole officers of the state.

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

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

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

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

33 (12) The subject of the state summary criminal history
34 information under procedures established under Article 5
35 (commencing with Section 11120).

36 (13) Any person or entity when access is expressly authorized
37 by statute if the criminal history information is required to
38 implement a statute or regulation that expressly refers to specific
39 criminal conduct applicable to the subject person of the state
40 summary criminal history information, and contains requirements

1 or exclusions, or both, expressly based upon that specified criminal
2 conduct.

3 (14) Health officers of a city, county, city and county, or district
4 when in the performance of their official duties enforcing Section
5 120175 of the Health and Safety Code.

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

8 (16) Any humane society, or society for the prevention of cruelty
9 to animals, for the specific purpose of complying with Section
10 14502 of the Corporations Code for the appointment of humane
11 officers.

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

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

33 (19) The court of a tribe, or court of a consortium of tribes, that
34 has entered into an agreement with the state pursuant to Section
35 10553.1 of the Welfare and Institutions Code. This information
36 may be used only for the purposes specified in Section 16504.5
37 of the Welfare and Institutions Code and for tribal approval or
38 tribal licensing of foster care or adoptive homes. Article 6
39 (commencing with Section 11140) shall apply to officers, members,

1 and employees of a tribal court receiving criminal record offender
2 information pursuant to this section.

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

17 (21) An officer providing conservatorship investigations
18 pursuant to Sections 5351, 5354, and 5356 of the Welfare and
19 Institutions Code.

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

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

25 (24) A humane officer pursuant to Section 14502 of the
26 Corporations Code for the purposes of performing his or her duties.
27 *The Department of Justice may charge a reasonable fee sufficient*
28 *to cover the costs of providing information pursuant to this*
29 *paragraph.*

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

39 (1) Any public utility, as defined in Section 216 of the Public
40 Utilities Code, that operates a nuclear energy facility when access

1 is needed in order to assist in employing persons to work at the
2 facility, provided that, if the Attorney General supplies the data,
3 he or she shall furnish a copy of the data to the person to whom
4 the data relates.

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

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

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

10 (5) 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 state 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 if the information is needed for the performance
16 of their official duties.

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

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

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

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

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

38 If the Attorney General supplies the data pursuant to this
39 paragraph, the Attorney General shall furnish a copy of the data
40 to the current or prospective employee to whom the data relates.

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

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

23 Nothing in this section shall be construed as imposing any duty
24 upon public utilities or cable corporations to request state summary
25 criminal history information on any current or prospective
26 employees.

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

31 (C) Requests for federal level criminal history information
32 received by the Department of Justice from entities authorized
33 pursuant to subparagraph (A) shall be forwarded to the Federal
34 Bureau of Investigation by the Department of Justice. Federal level
35 criminal history information received or compiled by the
36 Department of Justice may then be disseminated to the entities
37 referenced in subparagraph (A), as authorized by law.

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

1 (ii) Authority for a public utility to request federal level criminal
2 history information under this paragraph shall commence July 1,
3 2005.

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

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

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

32 (e) Whenever state summary criminal history information is
33 furnished as the result of an application and is to be used for
34 employment, licensing, or certification purposes, the Department
35 of Justice may charge the person or entity making the request a
36 fee that it determines to be sufficient to reimburse the department
37 for the cost of furnishing the information. In addition, the
38 Department of Justice may add a surcharge to the fee to fund
39 maintenance and improvements to the systems from which the
40 information is obtained. Notwithstanding any other law, any person

1 or entity required to pay a fee to the department for information
2 received under this section may charge the applicant a fee sufficient
3 to reimburse the person or entity for this expense. All moneys
4 received by the department pursuant to this section, Sections
5 11105.3 and 12054 of the Penal Code, and Section 13588 of the
6 Education Code shall be deposited in a special account in the
7 General Fund to be available for expenditure by the department
8 to offset costs incurred pursuant to those sections and for
9 maintenance and improvements to the systems from which the
10 information is obtained upon appropriation by the Legislature.

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

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

20 (h) It is not a violation of this section to include information
21 obtained from a record in (1) a transcript or record of a judicial or
22 administrative proceeding or (2) any other public record if the
23 inclusion of the information in the public record is authorized by
24 a court, statute, or decisional law.

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

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

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

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

5 (A) Every conviction rendered against the applicant.

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

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

15 (D) Every successful diversion.

16 (E) Every date and agency name associated with all retained
17 peace officer or nonsworn law enforcement agency employee
18 preemployment criminal offender record information search
19 requests.

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

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

30 (A) Every conviction rendered against the applicant.

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

35 (C) Every arrest for an offense for which the records of the
36 Department of Justice do not contain a disposition or did not result
37 in a conviction, provided that the Department of Justice first makes
38 a genuine effort to determine the disposition of the arrest. However,
39 information concerning an arrest shall not be disclosed if the
40 records of the Department of Justice indicate or if the genuine

1 effort reveals that the subject was exonerated, successfully
2 completed a diversion or deferred entry of judgment program, or
3 the arrest was deemed a detention.

4 (D) Every date and agency name associated with all retained
5 peace officer or nonsworn law enforcement agency employee
6 preemployment criminal offender record information search
7 requests.

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

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

20 (A) Every conviction of an offense rendered against the
21 applicant.

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

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

33 (3) Notwithstanding the requirements of the sections referenced
34 in paragraph (1) of this subdivision, the Department of Justice
35 shall not disseminate information about an arrest subsequently
36 deemed a detention or an arrest that resulted in either the successful
37 completion of a diversion program or exoneration.

38 (n) (1) This subdivision shall apply whenever state or federal
39 summary criminal history information, to be used for employment,
40 licensing, or certification purposes, is furnished by the Department

1 of Justice as the result of an application by an authorized agency,
2 organization, or individual pursuant to any of the following:

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

5 (B) Section 11105.3 or 11105.4.

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

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

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

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

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

31 (o) (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 261 or 550
35 of the Financial Code, or any statute that incorporates the criteria
36 of either of those sections or this subdivision by reference, and the
37 information is to be used for employment, licensing, or certification
38 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 rendered against the applicant for a
4 violation or attempted violation of any offense specified in Section
5 550 of the Financial Code.

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

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

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

23 (A) Every conviction rendered against the applicant.

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

28 (q) All agencies, organizations, or individuals defined in
29 subdivisions (k), (l), (m), (n), (o), and (p) may contract with the
30 Department of Justice for subsequent arrest notification pursuant
31 to Section 11105.2. This subdivision shall not supersede sections
32 that mandate an agency, organization, or individual to contract
33 with the Department of Justice for subsequent arrest notification
34 pursuant to Section 11105.2.

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

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

1 SEC. 10. Section 13300 of the Penal Code is amended to read:

2 13300. (a) As used in this section:

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

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

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

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

23 (1) The courts of the state.

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

28 (3) District attorneys of the state.

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

30 (5) City attorneys pursuing civil gang injunctions pursuant to
31 Section 186.22a, or drug abatement actions pursuant to Section
32 3479 or 3480 of the Civil Code, or Section 11571 of the Health
33 and Safety Code.

34 (6) Probation officers of the state.

35 (7) Parole officers of the state.

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

1 (9) A public defender or attorney of record when representing
2 a person in a criminal case and when authorized access by statutory
3 or decisional law.

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

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

22 (12) The subject of the local summary criminal history
23 information.

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

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

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

1 failed to provide support for the minor children, consistent with
2 Section 17531 of the Family Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (10) Any city, county, city and county, or district, or any officer
38 or official thereof, if a written request is made to a local law
39 enforcement agency and the information is needed to assist in the
40 screening of a prospective concessionaire, and any affiliate or

1 associate thereof, as these terms are defined in subdivision (k) of
2 Section 432.7 of the Labor Code, for the purposes of consenting
3 to, or approving of, the prospective concessionaire’s application
4 for, or acquisition of, any beneficial interest in a concession, lease,
5 or other property interest.

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

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

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

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

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

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

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

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

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

39 (k) Notwithstanding any other law, the Department of Justice
40 or any state or local law enforcement agency may require the

1 submission of fingerprints for the purpose of conducting summary
2 criminal history information record checks which are authorized
3 by law.

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

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

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

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

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

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

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

38 *SEC. 11. No reimbursement is required by this act pursuant*
39 *to Section 6 of Article XIII B of the California Constitution because*
40 *a local agency or school district has the authority to levy service*

- 1 *charges, fees, or assessments sufficient to pay for the program or*
- 2 *level of service mandated by this act, within the meaning of Section*
- 3 *17556 of the Government Code.*

O