

AMENDED IN ASSEMBLY AUGUST 16, 2010

AMENDED IN ASSEMBLY AUGUST 2, 2010

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)

February 19, 2010

An act to amend Sections 10400, 10404, 10405, 10406, 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 Sections 10401 and 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 authority to form these corporations for the prevention of cruelty to children and eliminate the requirement of endorsement of the articles of incorporation.

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 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~~ a society, *prior to filing a Petition for Order of Confirmation of Appointment, to submit to the Department of Justice fingerprint images and information regarding applicants in order to obtain state criminal record information, as specified, and to request subsequent arrest notification and would allow the Department of Justice to charge a reasonable fee to cover related costs. The bill would also require a society to include with its Petition for Order of Confirmation of Appointment of a Humane Officer, a copy of the resolution making the appointment, a copy of criminal record offender information, proof of proper incorporation and required liability insurance, as specified, and, if the society has not previously appointed a humane officer, an affidavit that demonstrates the society's competence to appoint a humane officer by providing specified information. The bill would require a society seeking confirmation of an appointment of a humane officer to serve a copy of the petition on the Department of the California Highway Patrol, the Department of Justice, the State Humane Association of California, and the police department and sheriff's department having jurisdiction in the county where the society's principal office is located. The bill would also authorize those parties to file opposition to the petition and for the filer*

to reply, as specified. The bill would also require the court, in determining whether to confirm the appointment, to consider any documentation submitted in support of, or opposition to, the proposed appointment. The bill would require the court to deny certification of the appointment if the society was incorporated on or after January 1, 2011, and certain criteria are not met. The bill would authorize the Department of Justice to charge a reasonable fee to cover the costs of maintaining records of orders confirming appointment.

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 each of the parties required to receive copies of a Petition for Confirmation of Appointment of a Humane Officer, as specified.

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 level 1 and level 2 humane officers. The bill would require a humane officer to certify compliance with specified continuing education and training requirements 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 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 10400 of the Corporations Code is
2 amended to read:

3 10400. Corporations for the prevention of cruelty to animals
4 may be formed under the Nonprofit Public Benefit Corporation
5 Law, Part 2 (commencing with Section 5110) of this division by
6 20 or more persons, who shall be citizens and residents of this
7 state. If the corporation is formed on or after January 1, 2011, its
8 articles of incorporation shall specifically state that the corporation
9 is being formed pursuant to this section.

10 SEC. 2. Section 10401 of the Corporations Code is repealed.

11 SEC. 3. Section 10402 of the Corporations Code is repealed.

12 SEC. 4. Section 10404 of the Corporations Code is amended
13 to read:

14 10404. Any such corporation, or humane officer thereof, may
15 ~~prefer~~ *proffer* a complaint against any person, before any court or
16 magistrate having jurisdiction, for the violation of any law relating
17 to or affecting animals, and may aid in the prosecution of the
18 offender before the court or magistrate.

19 SEC. 5. Section 10405 of the Corporations Code is amended
20 to read:

21 10405. All magistrates, sheriffs, and officers of police shall,
22 as occasion may require, aid any such corporation, its officers,
23 members, and agents, in the enforcement of all laws relating to or
24 affecting animals.

25 SEC. 6. Section 10406 of the Corporations Code is amended
26 to read:

27 10406. This part applies to all corporations for the prevention
28 of cruelty to animals, whether formed prior to or after May 20,
29 1905, but does not apply to any association, society, or corporation
30 that uses or specifies a name or style the same, or substantially the

1 same, as that of any previously existing society or corporation in
2 this state organized for a like purpose.

3 SEC. 7. The heading of Part 11 (commencing with Section
4 14500) of Division 3 of Title 1 of the Corporations Code is
5 amended to read:

6
7 **PART 11. SOCIETIES FOR THE PREVENTION OF CRUELTY**
8 **TO ANIMALS**
9

10 SEC. 8. Section 14500 of the Corporations Code is amended
11 to read:

12 14500. This title extends to all corporations heretofore formed
13 and existing for the prevention of cruelty to animals, but does not
14 extend or apply to any association, society, or corporation that
15 uses or specifies a name or style of the same, or substantially the
16 same, as that of any previously existing society or corporation in
17 this state organized for a like purpose.

18 SEC. 9. Section 14501 of the Corporations Code is amended
19 to read:

20 14501. Every society, incorporated and organized for the
21 prevention of cruelty to animals may enter into a contract with any
22 city, or city and county, or county, where the society is located, to
23 enforce the provisions of laws of this state for the prevention of
24 cruelty to animals, or arresting, or prosecuting offenders thereunder
25 or preventing cruelty to animals. A humane society may perform
26 those actions in the absence of a contract with a city, city and
27 county, or county.

28 SEC. 10. Section 14502 of the Corporations Code is amended
29 to read:

30 14502. (a) (1) (A) (i) On and after July 1, 1996, no entity,
31 other than a humane society or society for the prevention of cruelty
32 to animals, shall be eligible to petition for confirmation of an
33 appointment of any individual as a humane officer, the duty of
34 which shall be the enforcement of the laws for the prevention of
35 cruelty to animals.

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

39 (iii) Any person appointed as a humane officer prior to July 1,
40 1996, may continue to serve as a humane officer until the expiration

1 of the term of appointment only if the appointing society maintains
2 records pursuant to subparagraph (B) documenting that both the
3 appointing society and the humane officer meet the requirements
4 of this section.

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

14 (2) The humane society or society for the prevention of cruelty
15 to animals shall possess insurance of at least one million dollars
16 (\$1,000,000) for liability for bodily injury or property damage.

17 (3) Each appointment of a humane officer shall be by separate
18 resolution by the board of directors or trustees of the humane
19 society or society for the prevention of cruelty to animals duly
20 entered in its minutes. The resolution shall state the full name and
21 address of the principal office of the appointing society, the full
22 name of the person so appointed, the fact that he or she is a citizen
23 of the State of California, that he or she has met the training
24 requirements set forth in subdivision (h), and whether he or she is
25 authorized to carry a weapon pursuant to this section. The
26 resolution shall also designate the number of the badge to be
27 allotted to the officer, and the date on which the term of office
28 shall expire.

29 (b) A humane society or a society for the prevention of cruelty
30 to animals seeking confirmation of a humane officer's appointment
31 shall comply with each of the following provisions:

32 (1) Prior to filing a Petition for Order Confirming Appointment
33 of a Humane Officer under paragraph (3), the humane society or
34 society for the prevention of cruelty to animals shall ~~obtain criminal~~
35 ~~record offender information regarding the appointee from the~~
36 ~~Department of Justice. If the Department of Justice has no record~~
37 ~~of the appointee, it shall so report in writing. submit to the~~
38 *Department of Justice fingerprint images and related information*
39 *of all humane officer applicants for the purposes of obtaining*
40 *information as to the existence and content of a record of state*

1 *convictions and state arrests and also information as to the*
2 *existence and content of a record of state arrests for which the*
3 *Department of Justice establishes that the person is free on bail*
4 *or on his or her own recognizance pending trial or appeal.*

5 (A) *The Department of Justice shall provide a state response*
6 *to the humane society or society for the prevention of cruelty to*
7 *animals pursuant to paragraph (1) of subdivision (p) of Section*
8 *11105 of the Penal Code.*

9 (B) *The humane society or society for the prevention of cruelty*
10 *to animals shall request from the Department of Justice subsequent*
11 *arrest notification service, as provided pursuant to Section 11105.2*
12 *of the Penal Code, for persons whose appointments are confirmed*
13 *as described in subdivision (c).*

14 (C) *The Department of Justice shall charge a fee sufficient to*
15 *cover the cost of processing the request described in this*
16 *paragraph.*

17 (2) Prior to filing a Petition for Order Confirming Appointment
18 of a Humane Officer under paragraph (3), the humane society or
19 society for the prevention of cruelty to animals shall serve a copy
20 of the petition on each of the following:

21 (A) The police department having jurisdiction in the city in
22 which the principal office of the appointing society is located.

23 (B) The sheriff's department having jurisdiction in the county
24 in which the principal office of the appointing society is located.

25 (C) The Department of the California Highway Patrol.

26 (D) The State Humane Association of California.

27 (E) The Department of Justice.

28 (3) The humane society or society for the prevention of cruelty
29 to animals shall file with the superior court in and for the county
30 or city and county in which the principal office of the humane
31 society is located a Petition for Order Confirming Appointment
32 of a Humane Officer, and shall attach to the petition all of the
33 following:

34 (A) A copy of the resolution appointing the person, duly certified
35 to be correct by the president and secretary of the society and
36 attested by its seal.

37 ~~Criminal~~ (B) *A copy of the criminal record offender information,*
38 *if any, obtained regarding the person pursuant to paragraph (1).*

39 (C) Proof of the society's proper incorporation in compliance
40 with Part 9 (commencing with Section 10400) of Division 2,

1 including the date the articles of incorporation were filed with the
2 Secretary of State.

3 (D) A copy of the society's liability insurance policy for bodily
4 injury or property damage in the amount of at least one million
5 dollars (\$1,000,000).

6 (E) Documentation establishing that the appointee has
7 satisfactorily completed the training requirements set forth in this
8 section.

9 (F) Documentation establishing that the society has a written
10 agreement with another entity, such as a public or private animal
11 shelter or licensed veterinary clinic, that (i) provides for the humane
12 care and treatment of any animals seized by the society, (ii) is
13 capable of preserving evidence that may be used to prosecute an
14 animal cruelty case, and (iii) is compliant with all applicable
15 federal, state, and local laws, including licensing laws.
16 Alternatively, the society may provide documentation that it is
17 operating its own animal shelter that meets the requirements of
18 clauses (i), (ii), and (iii).

19 (G) If the society has not previously appointed a humane officer:

20 (i) An affidavit signed under penalty of perjury from the
21 president of the society that demonstrates the society's competence
22 to appoint a humane officer by providing information, including,
23 but not limited to, the following:

24 (I) Partnerships or collaborations, if any, with other nonprofit
25 or community agencies.

26 (II) Cash reserve on hand, if any, to pay for veterinary expenses,
27 housing, food, and care of seized animals.

28 (III) Established donor base, if any.

29 (IV) Current or prior law enforcement, legal, or other relevant
30 experience, if any, of persons who will supervise the appointee.

31 (V) Current or prior experience of managers, if any, in operating
32 a society or other nonprofit organization.

33 (VI) Statement that each board member is in good standing in
34 the community and has not been convicted of a misdemeanor or
35 felony involving animals.

36 (VII) Ongoing training beyond the minimum required for
37 appointment of the humane officer, if any.

38 (VIII) The need for a humane officer in the society's county.

39 (IX) Any other documentation demonstrating compliance with
40 applicable federal, state, or local laws.

1 (ii) Affidavits, if any, from personnel of local animal control
2 agencies, law enforcement agencies, or other societies pertaining
3 to the appointee’s fitness to act as a humane officer.

4 (H) As the last page, proof of service of a copy of the petition
5 upon those parties required to be served.

6 (4) Any party described in paragraph (2) may file an opposition
7 to the petition described in paragraph (3). All papers filed in
8 opposition to the petition and in reply to the opposition shall
9 conform to law and motion pleading requirements, pursuant to
10 Rule 3.1113(d) of the California Rules of Court. An opposition
11 shall not exceed 15 pages and a reply shall not exceed 10 pages,
12 excluding exhibits and declarations. The opposition shall be limited
13 to the competency of the society to appoint and supervise a humane
14 officer and the qualifications, background, and fitness of the
15 appointee that are specific to the work of a humane officer.

16 (A) Any opposition shall be filed no later than 15 court days
17 after the petition is filed with the court. Any opposition shall be
18 served on all parties indicated on the proof of service attached to
19 the petition.

20 (B) The petitioner’s reply, if any, to the opposition shall be filed
21 within 10 court days after service of the opposition. The reply shall
22 be served on all parties listed in the proof of service attached to
23 the petition and to any other person who has filed an opposition.

24 (C) The court shall rule on the petition without a hearing unless
25 the court notifies the parties of an intention to hold a hearing.

26 (D) The petitioner shall serve a certified copy of the court’s
27 order ruling on the petition on all parties listed in the proof of
28 service attached to the petition and to any other person or entity
29 who has filed an opposition.

30 (c) (1) Upon receipt of the Petition for Order Confirming
31 Appointment of a Humane Officer, the court shall first determine
32 the society’s date of incorporation, and the length of time between
33 the date the society filed its articles of incorporation with the
34 Secretary of State and the date it filed the petition described in
35 paragraph (3) of subdivision (b) with the court. If the society was
36 incorporated on or after January 1, 2011, then the following shall
37 apply:

38 (A) For a petition to confirm appointment of a level 1 humane
39 officer, the court shall issue an order denying confirmation of the
40 appointment if a minimum of five years has not elapsed from the

1 date the society filed its articles of incorporation with the Secretary
2 of State to the date it filed the petition.

3 (B) For a petition to confirm appointment of a level 2 humane
4 officer, the court shall issue an order denying confirmation of the
5 appointment if a minimum of one year has not elapsed from the
6 date the society filed its articles of incorporation with the Secretary
7 of State to the date it filed the petition.

8 (C) For a petition to confirm appointment of either a level 1 or
9 level 2 humane officer, the court shall issue an order denying
10 confirmation of the appointment if the society has not established,
11 through submission of appropriate documentation, that the society
12 is either operating its own animal shelter; or has a written
13 agreement with another entity, in compliance with subparagraph
14 (F) of paragraph (3) of subdivision (b).

15 (2) If the court has not issued an order denying the petition
16 pursuant to paragraph (1), then the court shall review the matter
17 of the appointee's qualifications and fitness to act as a humane
18 officer. The court shall also consider any documentation it has
19 received in support of, or in opposition to, the confirmation of the
20 person's appointment. If the court finds that the appointee is
21 qualified and fit to act as a humane officer, the court shall issue
22 an order confirming the appointment. The society shall thereupon
23 file a certified copy of the court order in the office of the county
24 clerk of the county or city and county in which the court is located.
25 The appointee shall, at the same time, take and subscribe the oath
26 of office prescribed for constables or other peace officers. The
27 society shall also provide a copy of the Order Confirming
28 Appointment to the State Humane Association of California and
29 the Department of Justice. The Department of Justice may charge
30 a reasonable fee sufficient to cover the costs of maintaining records
31 of Orders Confirming Appointment. If the court does not find the
32 appointee qualified and fit to act as a humane officer, the court
33 shall issue an order denying confirmation of the appointment.

34 ~~The county clerk shall thereupon~~ *If the court grants the*
35 *petition, the county clerk shall* immediately enter in a book to be
36 kept in his or her office and designated "Record of Humane
37 Officers" the name of the officer, the name of the society
38 appointing him or her, the number of his or her badge, the date of
39 the filing, and the case number of the court order confirming the
40 appointment. At the time of the filing, the county clerk shall collect

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

4 (e) All appointments of humane officers shall automatically
5 expire if the society disbands or legally dissolves.

6 (f) (1) The society appointing an officer may revoke an
7 appointment at any time by filing in the office of the county clerk
8 in which the appointment of the officer is recorded a copy of the
9 revocation in writing under the letterhead of the society and duly
10 certified by its executive officer. Upon the filing the county clerk
11 shall enter the fact of the revocation and the date of the filing
12 thereof opposite the name of the officer in the record of humane
13 officers.

14 (2) Notwithstanding paragraph (1), any duly authorized sheriff
15 or local police agency or the State Humane Association of
16 California may initiate a revocation hearing by filing a petition to
17 Revoke Appointment of a Humane Officer. The petition shall show
18 cause why an appointment should be revoked and shall be made
19 to the superior court in the jurisdiction of the appointment. Filing,
20 service, and format of the petition and any oppositions and reply
21 papers shall conform to the law and motion requirements under
22 the Code of Civil Procedure, California Rules of Court, and this
23 code. A proceeding pursuant to this paragraph shall be a special
24 proceeding within the meaning of Section 23 of the Code of Civil
25 Procedure.

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

32 (B) Upon a finding of good cause, the court shall issue an order
33 granting the petition to revoke the appointment. The county clerk
34 shall immediately enter the revocation and the date of the court
35 order opposite the name of the officer in the record of humane
36 officers. The clerk of the superior court shall give notice of the
37 order to the parties described in subparagraph (A) and to the county
38 clerk-recorder.

1 (g) The society appointing the humane officer shall pay the
2 training expenses of the humane officer attending the training
3 required pursuant to this section.

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

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

14 (C) A level 1 humane officer is authorized to carry firearms
15 while exercising the duties of a humane officer, upon satisfactory
16 completion of the training specified in subparagraph (D), if the
17 requirements in subparagraph (F) are met.

18 (D) A level 1 humane officer shall, prior to appointment,
19 provide evidence satisfactory to the appointing society that he or
20 she has successfully completed the following requirements:

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

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

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

34 (E) A person shall not be appointed as a level 1 humane officer
35 until he or she meets the criteria in Sections 1029, 1030, and 1031
36 of the Government Code. A humane society or society for the
37 prevention of cruelty to animals shall complete a background
38 investigation, using standards defined by the Commission on Peace
39 Officer Standards and Training as guidelines for all level 1 humane
40 officer appointments.

1 (F) (i) Notwithstanding any other provision of this section, a
2 level 1 humane officer may carry a firearm only if authorized by,
3 and only under the terms and conditions specified by, his or her
4 appointing society.

5 (ii) Notwithstanding any other provision of this section, a level
6 1 humane officer shall not be authorized to carry a firearm unless
7 and until his or her appointing society has adopted a policy on the
8 use of deadly force by its officers and the officer has been
9 instructed in that policy.

10 (2) (A) A level 2 humane officer is not a peace officer, but may
11 exercise the powers of a peace officer at all places within the state
12 in order to prevent the perpetration of any act of cruelty upon any
13 animal and to that end may summon to his or her aid any bystander.
14 A level 2 humane officer may use reasonable force necessary to
15 prevent the perpetration of any act of cruelty upon any animal.

16 (B) A level 2 humane officer may make arrests for the violation
17 of any penal law of this state relating to or affecting animals in the
18 same manner as any peace officer and may serve search warrants
19 during the course and within the scope of appointment, upon the
20 successful completion of a course relating to the exercise of the
21 police powers specified in Section 832 of the Penal Code, except
22 the power to carry and use firearms.

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

24 (D) A level 2 humane officer shall, prior to appointment, provide
25 evidence satisfactory to the appointing society that he or she has
26 successfully completed courses of training in the following
27 subjects:

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

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

38 (E) A person shall not be appointed as a level 2 humane officer
39 until he or she has satisfied the requirements in Sections 1029,
40 1030, and 1031 of the Government Code. A humane society or

1 society for the prevention of cruelty to animals shall complete a
2 background investigation, using standards defined by the
3 Commission on Peace Officer Standards and Training as
4 guidelines, for all level 2 humane officer appointments.

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

33 (4) If the humane officer is authorized to carry a firearm, he or
34 she shall complete ongoing weapons training and range
35 qualifications at least every six months pursuant to subdivision (t)
36 of Section 830.3 of the Penal Code. A certificate of compliance
37 pursuant to this section shall be served no later than 21 days after
38 the expiration of a six-month period on the Department of Justice
39 with copies served on the superior court, and on the agencies and
40 associations described in paragraph (2) of subdivision (b). The

1 Department of Justice may charge a reasonable fee sufficient to
2 cover the costs of maintaining records of ~~Orders Confirming~~
3 ~~Appointment~~ *certificates of compliance*. The certificate of
4 compliance shall also include documentation that the humane
5 society or society for the prevention of cruelty to animals is in
6 compliance with subparagraph (F) of paragraph (2) of subdivision
7 (b). Service on the Department of Justice shall be in compliance
8 with procedures set forth by the Department of Justice. The
9 Department of Justice shall post the filing procedures, as they may
10 be updated from time to time, on its Internet Web site. Failure to
11 file the certificate of compliance with the Department of Justice
12 no later than 21 days after the expiration of a six-month period
13 shall result in immediate revocation of the appointment.

14 (i) Every humane officer shall, when making an arrest, exhibit
15 and expose a suitable badge to be adopted by the society under
16 this part of which he or she is an appointee which shall bear its
17 name and a number. Uniforms worn by humane officers shall
18 prominently display the name of the appointing society. Humane
19 officer uniforms shall not display the words “state” or “California,”
20 except to the extent that one or both of those words are part of the
21 appointing society’s incorporated name.

22 (j) Any person resisting a humane officer in the performance
23 of his or her duty as provided in this section is guilty of a
24 misdemeanor. Any person who has not been appointed and
25 qualified as a humane officer as provided in this section, or whose
26 appointment has been revoked as provided in this section, or whose
27 appointment, having expired, has not been renewed as provided
28 in this section, who shall represent himself or herself to be or shall
29 attempt to act as an officer shall be guilty of a misdemeanor.

30 (k) No humane officer shall serve a search warrant without
31 providing prior notice to local law enforcement agencies operating
32 within that jurisdiction.

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

38 (m) Except as otherwise provided by this section, a humane
39 officer shall serve only in the county in which the court that
40 appointed him or her sits. A humane officer may serve in another

1 county if the humane officer gives notice requesting consent to
2 the sheriff of the county in which he or she intends to serve, and
3 acquires consent from that sheriff of the county in which he or she
4 intends to serve, or from a person authorized by the sheriff to give
5 that consent. A sheriff shall promptly respond to any request by a
6 humane officer to serve in his or her jurisdiction and any request
7 shall not be unreasonably denied.

8 SEC. 11. Section 14504 is added to the Corporations Code, to
9 read:

10 14504. All humane societies and societies for the prevention
11 of cruelty to animals, and all humane officers shall be in full
12 compliance with Section 14502 on or before January 1, 2012.
13 Notwithstanding any other provision of this part, a level 1 or level
14 2 humane officer confirmed prior to January 1, 2012, shall not be
15 required to seek a new court order confirming his or her
16 appointment. However, a level 2 humane officer shall provide
17 proof of compliance with subparagraph (E) of paragraph (2) of
18 subdivision (h) of Section 14502 by filing a certificate of
19 compliance with the Department of Justice on or before January
20 1, 2012, or that humane officer's appointment shall be immediately
21 revoked.

22 SEC. 12. Section 14505 is added to the Corporations Code, to
23 read:

24 14505. ~~The Department of Justice or any~~ Any law enforcement
25 agency that is requested to provide summary criminal history
26 information pursuant to ~~Penal Code Section 11105 or 13300~~
27 *Section 13300 of the Penal Code* may charge the humane society
28 or society for the prevention of cruelty to animals a fee not to
29 exceed the reasonable costs of preparing reports and costs to
30 maintain certificates of compliance as required by Section 14502.

31 SEC. 13. Section 11105 of the Penal Code is amended to read:

32 11105. (a) (1) The Department of Justice shall maintain state
33 summary criminal history information.

34 (2) As used in this section:

35 (A) "State summary criminal history information" means the
36 master record of information compiled by the Attorney General
37 pertaining to the identification and criminal history of any person,
38 such as name, date of birth, physical description, fingerprints,
39 photographs, date of arrests, arresting agencies and booking
40 numbers, charges, dispositions, and similar data about the person.

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

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

14 (1) The courts of the state.

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

19 (3) District attorneys of the state.

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

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

25 (6) Probation officers of the state.

26 (7) Parole officers of the state.

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

30 (9) A public defender or attorney of record when representing
31 a person in a criminal case, or parole revocation or revocation
32 extension proceeding, and if authorized access by statutory or
33 decisional law.

34 (10) Any agency, officer, or official of the state if the criminal
35 history information is required to implement a statute or regulation
36 that expressly refers to specific criminal conduct applicable to the
37 subject person of the state summary criminal history information,
38 and contains requirements or exclusions, or both, expressly based
39 upon that specified criminal conduct. The agency, officer, or
40 official of the state authorized by this paragraph to receive state

1 summary criminal history information may also transmit fingerprint
2 images and related information to the Department of Justice to be
3 transmitted to the Federal Bureau of Investigation.

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

19 (12) The subject of the state summary criminal history
20 information under procedures established under Article 5
21 (commencing with Section 11120).

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

29 (14) Health officers of a city, county, city and county, or district
30 when in the performance of their official duties enforcing Section
31 120175 of the Health and Safety Code.

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

34 (16) Any humane society, or society for the prevention of cruelty
35 to animals, for the specific purpose of complying with Section
36 14502 of the Corporations Code for the appointment of humane
37 officers.

38 (17) 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 parent's having
5 failed to provide support for minor children, consistent with the
6 requirements of Section 17531 of the Family Code.

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

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

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

1 child welfare agency personnel receiving criminal record offender
2 information pursuant to this section.

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

6 (22) A court investigator providing investigations or reviews
7 in conservatorships pursuant to Section 1826, 1850, 1851, or
8 2250.6 of the Probate Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 If the Attorney General supplies the data pursuant to this
25 paragraph, the Attorney General shall furnish a copy of the data
26 to the current or prospective employee to whom the data relates.

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

39 A violation of this paragraph is a misdemeanor, and shall give
40 the current or prospective employee who is injured by the violation

1 a cause of action against the public utility or cable corporation to
2 recover damages proximately caused by the violations. Any public
3 utility's or cable corporation's request for state summary criminal
4 history information for purposes of employing current or
5 prospective employees who may be seeking entrance to private
6 residences or adjacent grounds in the course of their employment
7 shall be deemed a "compelling need" as required to be shown in
8 this subdivision.

9 Nothing in this section shall be construed as imposing any duty
10 upon public utilities or cable corporations to request state summary
11 criminal history information on any current or prospective
12 employees.

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

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

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

27 (ii) Authority for a public utility to request federal level criminal
28 history information under this paragraph shall commence July 1,
29 2005.

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

1 felon’s fingerprints and any other information specified by the
2 department.

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

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

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

38 (f) Whenever there is a conflict, the processing of criminal
39 fingerprints and fingerprints of applicants for security guard or
40 alarm agent registrations or firearms qualification permits

1 submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4
2 of the Business and Professions Code shall take priority over the
3 processing of other applicant fingerprints.

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

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

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

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

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

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

31 (A) Every conviction rendered against the applicant.

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

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

1 (D) Every successful diversion.

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

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

12 (2) 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.

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

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

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

34 (m) (1) This subdivision shall apply whenever state or federal
35 summary criminal history information is furnished by the
36 Department of Justice as the result of an application by an
37 authorized agency or organization pursuant to Section 1522,
38 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
39 any statute that incorporates the criteria of any of those sections

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

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

7 (A) Every conviction of an offense rendered against the
8 applicant.

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

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

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

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

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

32 (B) Section 11105.3 or 11105.4.

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

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

37 (2) With the exception of applications submitted by
38 transportation companies authorized pursuant to Section 11105.3,
39 and 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
5 subdivision (a) of Section 15660 of the Welfare and Institutions
6 Code. However, with the exception of those offenses for which
7 registration is required pursuant to Section 290, the Department
8 of Justice shall not disseminate information pursuant to this
9 subdivision unless the conviction occurred within 10 years of the
10 date of the agency's request for information or the conviction is
11 over 10 years old but the subject of the request was incarcerated
12 within 10 years of the agency's request for information.

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

18 (o) (1) This subdivision shall apply whenever state or federal
19 summary criminal history information is furnished by the
20 Department of Justice as the result of an application by an
21 authorized agency or organization pursuant to Section 261 or 550
22 of the Financial Code, or any statute that incorporates the criteria
23 of either of those sections or this subdivision by reference, and the
24 information is to be used for employment, licensing, or certification
25 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 for a
31 violation or attempted violation of any offense specified in Section
32 550 of the Financial Code.

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

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

1 or individual not defined in subdivision (k), (l), (m), (n), or (o), or
2 by a transportation company authorized pursuant to Section
3 11105.3, or any statute that incorporates the criteria of that section
4 or this subdivision by reference, and the information is to be used
5 for employment, licensing, or certification purposes.

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

10 (A) Every conviction rendered against the applicant.

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

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

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

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

28 SEC. 14. Section 13300 of the Penal Code is amended to read:

29 13300. (a) As used in this section:

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

37 (2) “Local summary criminal history information” does not
38 refer to records and data compiled by criminal justice agencies
39 other than that local agency, nor does it refer to records of

1 complaints to or investigations conducted by, or records of
2 intelligence information or security procedures of, the local agency.

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

4 (b) A local agency shall furnish local summary criminal history
5 information to any of the following, when needed in the course of
6 their duties, provided that when information is furnished to assist
7 an agency, officer, or official of state or local government, a public
8 utility, or any entity, in fulfilling employment, certification, or
9 licensing duties, Chapter 1321 of the Statutes of 1974 and Section
10 432.7 of the Labor Code shall apply:

11 (1) The courts of the state.

12 (2) Peace officers of the state, as defined in Section 830.1,
13 subdivisions (a) and (d) of Section 830.2, subdivisions (a), (b),
14 and (j) of Section 830.3, and subdivisions (a), (b), and (c) of
15 Section 830.5.

16 (3) District attorneys of the state.

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

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

22 (6) Probation officers of the state.

23 (7) Parole officers of the state.

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

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

30 (10) Any agency, officer, or official of the state when the local
31 summary criminal history information is required to implement a
32 statute, regulation, or ordinance that expressly refers to specific
33 criminal conduct applicable to the subject person of the local
34 summary criminal history information, and contains requirements
35 or exclusions, or both, expressly based upon the specified criminal
36 conduct.

37 (11) Any city, county, city and county, or district, or any officer
38 or official thereof, when access is needed in order to assist the
39 agency, officer, or official in fulfilling employment, certification,
40 or licensing duties, and when the access is specifically authorized

1 by the city council, board of supervisors, or governing board of
2 the city, county, or district when the local summary criminal history
3 information is required to implement a statute, regulation, or
4 ordinance that expressly refers to specific criminal conduct
5 applicable to the subject person of the local summary criminal
6 history information, and contains requirements or exclusions, or
7 both, expressly based upon the specified criminal conduct.

8 (12) The subject of the local summary criminal history
9 information.

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

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

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

28 (16) County child welfare agency personnel who have been
29 delegated the authority of county probation officers to access state
30 summary criminal information pursuant to Section 272 of the
31 Welfare and Institutions Code for the purposes specified in Section
32 16504.5 of the Welfare and Institutions Code.

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

37 (c) The local agency may furnish local summary criminal history
38 information, upon a showing of a compelling need, to any of the
39 following, provided that when information is furnished to assist
40 an agency, officer, or official of state or local government, a public

1 utility, or any entity, in fulfilling employment, certification, or
2 licensing duties, Chapter 1321 of the Statutes of 1974 and Section
3 432.7 of the Labor Code shall apply:

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

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

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

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

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

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

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

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

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

38 If the local agency supplies the information pursuant to this
39 paragraph, it shall furnish a copy of the information to the person
40 to whom the information relates.

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

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

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

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

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

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

39 Any information obtained from the local summary criminal
40 history is confidential and the receiving local government shall

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

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

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

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

38 (g) Whenever there is a conflict, the processing of criminal
39 fingerprints shall take priority over the processing of applicant
40 fingerprints.

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

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

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

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

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

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

1 postarrest diversion program or a deferred entry of judgment
2 program to a government agency employer of that peace officer
3 or applicant.

4 (n) Notwithstanding subdivision (l) or (m), a local criminal
5 justice agency shall not release information under the following
6 circumstances:

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

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

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

17 SEC. 15. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 a local agency or school district has the authority to levy service
20 charges, fees, or assessments sufficient to pay for the program or
21 level of service mandated by this act, within the meaning of Section
22 17556 of the Government Code.