

**Senate Bill No. 1417**

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Passed the Senate August 26, 2010

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*Secretary of the Senate*

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Passed the Assembly August 17, 2010

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2010, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

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, 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 a society, prior to filing a Petition for Order Confirming Appointment of a Humane Officer, 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 Confirming Appointment of a Humane Officer, a copy of the resolution making the appointment, a copy of criminal record offender information, proof of the society's 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 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.

Existing law provides that all appointments of humane officers expire 3 years from the date the court order is submitted to the county clerk.

This bill would eliminate that provision.

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 Order Confirming 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. Existing law requires humane officers to complete specified continuing education every 3 years.

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 to the Department of Justice compliance with the continuing education and training requirements and would provide that failure to comply shall result in revocation of the appointment. 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. The bill would authorize the Department of Justice to charge a reasonable fee to maintain records of certificates of compliance.

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. The bill would authorize a local agency to impose a fee to cover the reasonable costs of providing that 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.

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

SECTION 1. Section 10400 of the Corporations Code is amended to read:

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

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

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

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

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

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

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

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

10406. This part applies to all corporations for the prevention of cruelty to animals, whether formed prior to or after May 20, 1905, but does not apply to any association, society, or corporation that uses or specifies a name or style the same, or substantially the same, as that of any previously existing society or corporation in this state organized for a like purpose.

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

**PART 11. SOCIETIES FOR THE PREVENTION OF CRUELTY  
TO ANIMALS**

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

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

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

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

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

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

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

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

(B) Each humane society or society for the prevention of cruelty to animals for which an individual is acting as a humane officer shall maintain complete and accurate records documenting that the individual has successfully completed all requirements established in this section and shall make those records available,

upon request, to the superior court, the Attorney General, or any entity duly authorized to review that information, including the State Humane Association of California. The records shall include the full name and address of each humane officer.

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

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

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

(1) Prior to filing a Petition for Order Confirming Appointment of a Humane Officer under paragraph (3), the humane society or society for the prevention of cruelty to animals shall submit to the Department of Justice fingerprint images and related information of all humane officer applicants for the purposes of obtaining information as to the existence and content of a record of state convictions and state arrests and also information as to the existence and content of a record of state arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

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

(B) The humane society or society for the prevention of cruelty to animals shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2

of the Penal Code, for persons whose appointments are confirmed as described in subdivision (c).

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

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

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

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

(C) The Department of the California Highway Patrol.

(D) The State Humane Association of California.

(E) The Department of Justice.

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

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

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

(C) Proof of the society's proper incorporation in compliance with Part 9 (commencing with Section 10400) of Division 2, including the date the articles of incorporation were filed with the Secretary of State.

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

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

(F) Documentation establishing that the society has a written agreement with another entity, such as a public or private animal shelter or licensed veterinary clinic, that (i) provides for the humane care and treatment of any animals seized by the society, (ii) is



capable of preserving evidence that may be used to prosecute an animal cruelty case, and (iii) is compliant with all applicable federal, state, and local laws, including licensing laws. Alternatively, the society may provide documentation that it is operating its own animal shelter that meets the requirements of clauses (i), (ii), and (iii).

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

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

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

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

(III) Established donor base, if any.

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

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

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

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

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

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

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

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

(4) Any party described in paragraph (2) may file an opposition to the petition described in paragraph (3). All papers filed in opposition to the petition and in reply to the opposition shall conform to law and motion pleading requirements, pursuant to Rule 3.1113(d) of the California Rules of Court. An opposition shall not exceed 15 pages and a reply shall not exceed 10 pages, excluding exhibits and declarations. The opposition shall be limited

to the competency of the society to appoint and supervise a humane officer and the qualifications, background, and fitness of the appointee that are specific to the work of a humane officer.

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

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

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

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

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

(A) For a petition to confirm appointment of a level 1 humane officer, the court shall issue an order denying confirmation of the appointment if a minimum of five years has not elapsed from the date the society filed its articles of incorporation with the Secretary of State to the date it filed the petition.

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

(C) For a petition to confirm appointment of either a level 1 or level 2 humane officer, the court shall issue an order denying confirmation of the appointment if the society has not established, through submission of appropriate documentation, that the society is either operating its own animal shelter or has a written agreement

with another entity, in compliance with subparagraph (F) of paragraph (3) of subdivision (b).

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

(d) If the court grants the petition, the county clerk shall immediately enter in a book to be kept in his or her office and designated "Record of Humane Officers" the name of the officer, the name of the society appointing him or her, the number of his or her badge, the date of the filing, and the case number of the court order confirming the appointment. At the time of the filing, the county clerk shall collect from the society a fee of five dollars (\$5), which shall be full payment for all services to be performed by the county clerk under this section.

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

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

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

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

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

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

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

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

(C) A level 1 humane officer is authorized to carry firearms while exercising the duties of a humane officer, upon satisfactory

completion of the training specified in subparagraph (D), if the requirements in subparagraph (F) are met.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) During each three-year period following the date on which the certified copy of the court order confirming the appointment of a humane officer was filed with the county clerk, the humane officer shall complete 40 hours of continuing education and training relating to the powers and duties of a humane officer, which education and training shall be sponsored or provided by an accredited postsecondary institution, law enforcement agency, or the State Humane Association of California. A certificate of compliance shall be served no later than 21 days after the expiration of each three-year period on the Department of Justice with copies served on the superior court, agencies, and associations described

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

(4) If the humane officer is authorized to carry a firearm, he or she shall complete ongoing weapons training and range qualifications at least every six months pursuant to subdivision (t) of Section 830.3 of the Penal Code. A certificate of compliance pursuant to this section shall be served no later than 21 days after the expiration of a six-month period on the Department of Justice with copies served on the superior court, and on the agencies and associations described in paragraph (2) of subdivision (b). The Department of Justice may charge a reasonable fee sufficient to cover the costs of maintaining records of certificates of compliance. The certificate of compliance shall also include documentation that the humane society or society for the prevention of cruelty to animals is in compliance with subparagraph (F) of paragraph (2) of subdivision (b). Service on the Department of Justice shall be in compliance with procedures set forth by the Department of Justice. The Department of Justice shall post the filing procedures, as they may be updated from time to time, on its Internet Web site. Failure to file the certificate of compliance with the Department of Justice no later than 21 days after the expiration of a six-month period shall result in immediate revocation of the appointment.

(i) Every humane officer shall, when making an arrest, exhibit and expose a suitable badge to be adopted by the society under this part of which he or she is an appointee which shall bear its name and a number. Uniforms worn by humane officers shall prominently display the name of the appointing society. Humane officer uniforms shall not display the words “state” or “California,”

except to the extent that one or both of those words are part of the appointing society's incorporated name.

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

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

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

(m) Except as otherwise provided by this section, a humane officer shall serve only in the county in which the court that appointed him or her sits. A humane officer may serve in another county if the humane officer gives notice requesting consent to the sheriff of the county in which he or she intends to serve, and acquires consent from that sheriff of the county in which he or she intends to serve, or from a person authorized by the sheriff to give that consent. A sheriff shall promptly respond to any request by a humane officer to serve in his or her jurisdiction and any request shall not be unreasonably denied.

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

14504. All humane societies and societies for the prevention of cruelty to animals, and all humane officers shall be in full compliance with Section 14502 on or before January 1, 2012. Notwithstanding any other provision of this part, a level 1 or level 2 humane officer confirmed prior to January 1, 2012, shall not be required to seek a new court order confirming his or her appointment. However, a level 2 humane officer shall provide proof of compliance with subparagraph (E) of paragraph (2) of subdivision (h) of Section 14502 by filing a certificate of compliance with the Department of Justice on or before January



1, 2012, or that humane officer's appointment shall be immediately revoked.

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

14505. Any law enforcement agency that is requested to provide summary criminal history information pursuant to Section 13300 of the Penal Code may charge the humane society or society for the prevention of cruelty to animals a fee not to exceed the reasonable costs of preparing reports and costs to maintain certificates of compliance as required by Section 14502.

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

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

(2) As used in this section:

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

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

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

(1) The courts of the state.

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

(3) District attorneys of the state.

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

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

(6) Probation officers of the state.

(7) Parole officers of the state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) To a peace officer of another country.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

(A) Every conviction rendered against the applicant.

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

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

(D) Every successful diversion.

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

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

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

(A) Every conviction rendered against the applicant.

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) Section 11105.3 or 11105.4.

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

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

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

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

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

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

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

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

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

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

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

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

(A) Every conviction rendered against the applicant.

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

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

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

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

SEC. 14. Section 13300 of the Penal Code is amended to read:  
13300. (a) As used in this section:

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

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

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

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

(1) The courts of the state.

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

(3) District attorneys of the state.

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

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

(6) Probation officers of the state.

(7) Parole officers of the state.

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

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

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

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

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

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

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

(15) Local child support agencies established by Section 17304 of the Family Code. When a local child support agency closes a support enforcement case containing summary criminal history information, the agency shall delete or purge from the file and

destroy any documents or information concerning or arising from offenses for or of which the parent has been arrested, charged, or convicted, other than for offenses related to the parents having failed to provide support for the minor children, consistent with Section 17531 of the Family Code.

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

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

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

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

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

(3) To a peace officer of another country.

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

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the local

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

may be brought by any public prosecutor and shall be enforced as a civil judgment.

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

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

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

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

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

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

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

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or

level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

























Approved \_\_\_\_\_, 2010

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*Governor*