

AMENDED IN ASSEMBLY APRIL 4, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 465**

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**Introduced by Assembly Member Maienschein**  
*(Coauthors: Assembly Members Waldron and Wilk)*  
*(Coauthor: Senator Anderson)*

February 19, 2013

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An act to ~~add Section 11105.07 to~~ *amend Section 11105.3 of the Penal Code*, relating to criminal history.

LEGISLATIVE COUNSEL'S DIGEST

AB 465, as amended, Maienschein. Youth sports: criminal background checks.

Existing law authorizes specified entities to receive state summary criminal history information from the Department of Justice. Existing law also requires mandated reporters, as defined, to report child abuse and neglect to local law enforcement.

This bill would ~~require the department to provide state summary criminal history information to the director of a community youth athletics program, or his or her designee, for the purposes of screening volunteer or hired coaches and would prohibit a person from having access to minors as a coach or volunteer until the community youth athletics program has received and reviewed the state summary criminal history information, prior to an employed or volunteer coach applicant having contact with children through a community youth athletic program, as defined, the applicant to submit to a state and federal level criminal offender record information search and the community youth athletic program to make a suitability determination.~~ The bill would

state that performing the required background check does not remove or limit the liability of a mandated reporter.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

1     SECTION 1. Section 11105.3 of the Penal Code is amended  
2 to read:

3     11105.3. (a) Notwithstanding any other law, a human resource  
4 agency or an employer may request from the Department of Justice  
5 records of all convictions or any arrest pending adjudication  
6 involving the offenses specified in subdivision (a) of Section 15660  
7 of the Welfare and Institutions Code of a person who applies for  
8 a license, employment, or volunteer position, in which he or she  
9 would have supervisory or disciplinary power over a minor or any  
10 person under his or her care. The department shall furnish the  
11 information to the requesting employer and shall also send a copy  
12 of the information to the applicant.

13     (b) Any request for records under subdivision (a) *or (i)* shall  
14 include the applicant’s fingerprints, which may be taken by the  
15 requester, and any other data specified by the department. The  
16 request shall be on a form approved by the department, and the  
17 department may charge a fee to be paid by the employer, human  
18 resource agency, or applicant for the actual cost of processing the  
19 request. However, no fee shall be charged to a nonprofit  
20 organization. Requests received by the department for federal level  
21 criminal offender record information shall be forwarded to the  
22 Federal Bureau of Investigation by the department to be searched  
23 for any record of arrests or convictions.

24     (c) (1) Where a request pursuant to this section reveals that a  
25 prospective employee or volunteer has been convicted of a  
26 violation or attempted violation of Section 220, 261.5, 262, 273a,  
27 273d, or 273.5, or any sex offense listed in Section 290, except  
28 for the offense specified in subdivision (d) of Section 243.4, and  
29 where the agency or employer hires the prospective employee or  
30 volunteer, the agency or employer shall notify the parents or  
31 guardians of any minor who will be supervised or disciplined by  
32 the employee or volunteer. A conviction for a violation or  
33 attempted violation of an offense committed outside the State of

1 California shall be included in this notice if the offense would have  
2 been a crime specified in this subdivision if committed in  
3 California. The notice shall be given to the parents or guardians  
4 with whom the child resides, and shall be given at least 10 days  
5 prior to the day that the employee or volunteer begins his or her  
6 duties or tasks. Notwithstanding any other provision of law, any  
7 person who conveys or receives information in good faith and in  
8 conformity with this section is exempt from prosecution under  
9 Section 11142 or 11143 for that conveying or receiving of  
10 information. Notwithstanding subdivision (d), the notification  
11 requirements of this subdivision shall apply as an additional  
12 requirement of any other provision of law requiring criminal record  
13 access or dissemination of criminal history information.

14 (2) The notification requirement pursuant to paragraph (1) shall  
15 not apply to a misdemeanor conviction for violating Section 261.5  
16 or to a conviction for violating Section 262 or 273.5. Nothing in  
17 this paragraph shall preclude an employer from requesting records  
18 of convictions for violating Section 261.5, 262, or 273.5 from the  
19 Department of Justice pursuant to this section.

20 (d) Nothing in this section supersedes any law requiring criminal  
21 record access or dissemination of criminal history information. In  
22 any conflict with another statute, dissemination of criminal history  
23 information shall be pursuant to the mandatory statute. This  
24 subdivision applies to, but is not limited to, requirements pursuant  
25 to Article 1 (commencing with Section 1500) of Chapter 3 of, and  
26 Chapter 3.2 (commencing with Section 1569) and Chapter 3.4  
27 (commencing with Section 1596.70) of, Division 2 of, and Section  
28 1522 of, the Health and Safety Code, and Sections 8712, 8811,  
29 and 8908 of the Family Code.

30 (e) The department may adopt regulations to implement the  
31 provisions of this section as necessary.

32 (f) As used in this section, “employer” means any nonprofit  
33 corporation or other organization specified by the Attorney General  
34 which employs or uses the services of volunteers in positions in  
35 which the volunteer or employee has supervisory or disciplinary  
36 power over a child or children.

37 (g) As used in this section, “human resource agency” means a  
38 public or private entity, excluding any agency responsible for  
39 licensing of facilities pursuant to the California Community Care  
40 Facilities Act (Chapter 3 (commencing with Section 1500)), the

1 California Residential Care Facilities for the Elderly Act (Chapter  
 2 3.2 (commencing with Section 1569)), Chapter 3.01 (commencing  
 3 with Section 1568.01), and the California Child Day Care Facilities  
 4 Act (Chapter 3.4 (commencing with Section 1596.70)) of Division  
 5 2 of the Health and Safety Code, responsible for determining the  
 6 character and fitness of a person who is:

7 (1) Applying for a license, employment, or as a volunteer within  
 8 the human services field that involves the care and security of  
 9 children, the elderly, the handicapped, or the mentally impaired.

10 (2) Applying to be a volunteer who transports individuals  
 11 impaired by drugs or alcohol.

12 (3) Applying to adopt a child or to be a foster parent.

13 (h) Except as provided in subdivision (c), any criminal history  
 14 information obtained pursuant to this section is confidential and  
 15 no recipient shall disclose its contents other than for the purpose  
 16 for which it was acquired.

17 (i) (1) *As used in this subdivision, "community youth athletic*  
 18 *program" means an organization having as its exclusive purpose*  
 19 *the promotion or provision of athletic activities for children 18*  
 20 *years of age and under.*

21 (2) *Prior to contact with children through a community youth*  
 22 *athletic program, employed or volunteer coach applicants shall*  
 23 *submit to the state and federal level criminal offender record*  
 24 *information search as defined in this section and the community*  
 25 *youth athletic program shall make a suitability determination. A*  
 26 *violation of this subdivision is not a crime.*

27 (3) *Compliance with this section does not remove or limit the*  
 28 *liability of a mandated reporter pursuant to Section 11166.*

29 SECTION 1. Section 11105.07 is added to the Penal Code, to  
 30 read:

31 ~~11105.07. (a) In addition to furnishing state summary criminal~~  
 32 ~~history information to the persons and entities set forth in Section~~  
 33 ~~11105 and subject to the requirements and conditions set forth in~~  
 34 ~~that section, the Attorney General shall furnish state summary~~  
 35 ~~criminal history information to the director of a community youth~~  
 36 ~~athletics program, or his or her designee, for the purposes of~~  
 37 ~~screening volunteer or hired coaches. No recipient may disclose~~  
 38 ~~the contents on the state summary criminal history information or~~  
 39 ~~provide copies of information. Information received shall be stored~~

1 ~~in a locked file, separate from other files, and shall only be~~  
2 ~~accessible to the custodian of records.~~

3 ~~(b) A person may not have access to minors as a volunteer or~~  
4 ~~hired coach until the community youth athletics program has~~  
5 ~~received and reviewed the state summary criminal history~~  
6 ~~information relating to that person. Violation of this subdivision~~  
7 ~~is not a crime.~~

8 ~~(c) Compliance with this section does not remove or limit the~~  
9 ~~liability of a mandated reporter pursuant to Section 11166.~~