

AMENDED IN SENATE JUNE 18, 2013

AMENDED IN ASSEMBLY APRIL 18, 2013

AMENDED IN ASSEMBLY APRIL 4, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 465

Introduced by Assembly Members Bonilla and Maienschein

(Principal coauthor: Senator DeSaulnier)

**(Coauthors: Assembly Members Dahle, Dickinson, Medina, Mitchell,
Waldron, and Wilk)**

(Coauthor: Senator Anderson)

February 19, 2013

An act to amend Section 11105.3 of the Penal Code, relating to criminal history.

LEGISLATIVE COUNSEL'S DIGEST

AB 465, as amended, Bonilla. 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 authorize a community youth athletic program, as defined, to request state and federal level criminal offender record information and subsequent arrest notification. The bill would state that performing the 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) shall include
14 the applicant's fingerprints, which may be taken by the requester,
15 and any other data specified by the department. The request shall
16 be on a form approved by the department, and the department may
17 charge a fee to be paid by the employer, human resource agency,
18 or applicant for the actual cost of processing the request. However,
19 no fee shall be charged to a nonprofit organization. Requests
20 received by the department for federal level criminal offender
21 record information shall be forwarded to the Federal Bureau of
22 Investigation by the department to be searched for any record of
23 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
34 California shall be included in this notice if the offense would have
35 been a crime specified in this subdivision if committed in
36 California. The notice shall be given to the parents or guardians
37 with whom the child resides, and shall be given at least 10 days
38 prior to the day that the employee or volunteer begins his or her

1 duties or tasks. Notwithstanding any other provision of law, any
2 person who conveys or receives information in good faith and in
3 conformity with this section is exempt from prosecution under
4 Section 11142 or 11143 for that conveying or receiving of
5 information. Notwithstanding subdivision (d), the notification
6 requirements of this subdivision shall apply as an additional
7 requirement of any other provision of law requiring criminal record
8 access or dissemination of criminal history information.

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

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

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

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

32 (g) As used in this section, “human resource agency” means a
33 public or private entity, excluding any agency responsible for
34 licensing of facilities pursuant to the California Community Care
35 Facilities Act (Chapter 3 (commencing with Section 1500)), the
36 California Residential Care Facilities for the Elderly Act (Chapter
37 3.2 (commencing with Section 1569)), Chapter 3.01 (commencing
38 with Section 1568.01), and the California Child Day Care Facilities
39 Act (Chapter 3.4 (commencing with Section 1596.70)) of Division

- 1 2 of the Health and Safety Code, responsible for determining the
2 character and fitness of a person who is:
- 3 (1) Applying for a license, employment, or as a volunteer within
4 the human services field that involves the care and security of
5 children, the elderly, the handicapped, or the mentally impaired.
 - 6 (2) Applying to be a volunteer who transports individuals
7 impaired by drugs or alcohol.
 - 8 (3) Applying to adopt a child or to be a foster parent.
- 9 (h) Except as provided in subdivision (c), any criminal history
10 information obtained pursuant to this section is confidential and
11 no recipient shall disclose its contents other than for the purpose
12 for which it was acquired.
- 13 (i) As used in this subdivision, “community youth athletic
14 program” means an employer having as its primary purpose the
15 promotion or provision of athletic activities for youth under 18
16 years of age.
 - 17 (j) A community youth athletic program, as defined in
18 subdivision (i), may request state and federal level criminal history
19 information pursuant to subdivision (a) for a volunteer coach or
20 hired coach candidate. The director of the community youth athletic
21 program shall be the custodian of records.
 - 22 (k) The community youth athletic program may request from
23 the Department of Justice subsequent arrest notification service,
24 as provided in Section 11105.2, for a volunteer coach or a hired
25 head coach candidate.
 - 26 (l) Compliance with this section does not remove or limit the
27 liability of a mandated reporter pursuant to Section 11166.