

AMENDED IN SENATE AUGUST 12, 2013

AMENDED IN ASSEMBLY APRIL 18, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 971**

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**Introduced by Assembly Member Garcia**

February 22, 2013

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An act to amend Section 15975 of the Government Code, and to amend Sections 11105 and 13300 of the Penal Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 971, as amended, Garcia. Public agency employers: paratransit providers: criminal history information.

Existing law requires the Attorney General to furnish state summary criminal history information to a city, county, city and county, or district, or an officer or official thereof, when that information is needed in fulfilling employment, certification, or licensing duties, as specified, subject to specified restrictions as to arrests or detentions that did not result in a conviction. Other provisions of existing law authorize the Attorney General to provide summary criminal history information to specified persons or entities for specified purposes. Existing law provides a similar provision with respect to authorizing a local public entity to receive local criminal history information.

This bill additionally would ~~authorize~~ *require the Attorney General to furnish, and would authorize a local criminal justice agency to furnish, summary criminal information to a specified social services paratransit agency to receive specified state and local criminal history*

information with respect to its contracted providers, and would further make technical, nonsubstantive, and conforming changes.

~~By expanding the scope of criminal history information that a local agency is required to furnish, this bill would impose a state-mandated local program.~~

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

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

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

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

1 SECTION 1. Section 15975 of the Government Code is  
2 amended to read:  
3 15975. (a) The transportation planning agencies and the county  
4 transportation commissions shall prepare and adopt an action plan  
5 that describes in detail the steps required to accomplish the  
6 consolidation of social service transportation services. Funding  
7 for the action plan shall be provided from local transportation funds  
8 made available under Chapter 4 (commencing with Section 99200)  
9 of Part 11 of Division 10 of the Public Utilities Code. The action  
10 plan shall substantiate that one or more of the benefits indicated  
11 in Sections 15951 and 15952 are feasible for the services in a given  
12 geographic area. The action plan shall include, but not be limited  
13 to, the following:  
14 (1) The designation of consolidated transportation service  
15 agencies within the geographic area of jurisdiction of the  
16 transportation planning agency or county transportation  
17 commission. The action plan may designate more than a single  
18 agency or multiple agencies as consolidated transportation service  
19 agencies, if improved coordination of all services is demonstrated  
20 within the geographic area. In Ventura County, the county  
21 transportation commission is the consolidated transportation service  
22 agency.

1 The action plan may also specify that the consolidation of some  
2 services and the coordination of other services is the most feasible  
3 approach, at the time the action plan is submitted, which will  
4 provide improved efficiency and effectiveness of those services.

5 (2) The identification of the social service recipients to be  
6 served, of funds available for use by the consolidated or  
7 coordinated services, and of an orderly strategy and schedule  
8 detailing the steps required to develop the financial program and  
9 management structure necessary to implement consolidated or  
10 coordinated services.

11 (3) Measures to coordinate the services provided under  
12 paragraph (1) with existing fixed route service provided by public  
13 and private transportation providers.

14 (4) Measures for the effective coordination of specialized  
15 transportation service from one provider service area to another.

16 (5) Measures to ensure that the objectives of the action plan are  
17 consistent with the legislative intent declared in Section 15951.

18 (b) An entity formed by the regional transportation planning  
19 authority as a nonprofit public benefit corporation, designated as  
20 a consolidated transportation services agency under this section  
21 and charged with administering a countywide coordinated  
22 paratransit plan adopted pursuant to Section 37.141 of Chapter 49  
23 of the Code of Federal Regulations shall, for the purposes of  
24 paragraph (2) of subdivision (e) of Section 14055 and Part 1  
25 (commencing with Section 810) and Part 2 (commencing with  
26 Section 814) of Division 3.6, be deemed a “public agency” within  
27 the meaning of “public entity,” as defined in Section 811.2.

28 SEC. 2. Section 11105 of the Penal Code is amended to read:

29 11105. (a) (1) The Department of Justice shall maintain state  
30 summary criminal history information.

31 (2) As used in this section:

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

38 (B) “State summary criminal history information” does not refer  
39 to records and data compiled by criminal justice agencies other  
40 than the Attorney General, nor does it refer to records of complaints

1 to or investigations conducted by, or records of intelligence  
2 information or security procedures of, the office of the Attorney  
3 General and the Department of Justice.

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

11 (1) The courts of the state.

12 (2) Peace officers of the state, as defined in Section 830.1,  
13 subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section  
14 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision  
15 (a) of Section 830.31.

16 (3) District attorneys of the state.

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

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

22 (6) Probation officers of the state.

23 (7) Parole officers of the state.

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

27 (9) A public defender or attorney of record when representing  
28 a person in a criminal case, or a parole, mandatory supervision  
29 pursuant to paragraph (5) of subdivision (h) of Section 1170, or  
30 postrelease community supervision revocation or revocation  
31 extension proceeding, and if authorized access by statutory or  
32 decisional law.

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

1 images and related information to the Department of Justice to be  
2 transmitted to the Federal Bureau of Investigation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (25) A public agency described in subdivision (b) of Section  
12 15975 of the Government Code, for the purpose of oversight and  
13 enforcement policies with respect to its contracted providers.

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

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

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

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

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

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

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

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

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

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

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

22 (ii) If the Attorney General supplies the data pursuant to this  
23 paragraph, the Attorney General shall furnish a copy of the data  
24 to the current or prospective employee to whom the data relates.

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

37 (iv) A violation of this paragraph is a misdemeanor, and shall  
38 give the current or prospective employee who is injured by the  
39 violation a cause of action against the public utility or cable  
40 corporation to recover damages proximately caused by the

1 violations. Any public utility’s or cable corporation’s request for  
2 state summary criminal history information for purposes of  
3 employing current or prospective employees who may be seeking  
4 entrance to private residences or adjacent grounds in the course  
5 of their employment shall be deemed a “compelling need” as  
6 required to be shown in this subdivision.

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

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

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

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

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

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

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

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

17 (e) Whenever state summary criminal history information is  
18 furnished as the result of an application and is to be used for  
19 employment, licensing, or certification purposes, the Department  
20 of Justice may charge the person or entity making the request a  
21 fee that it determines to be sufficient to reimburse the department  
22 for the cost of furnishing the information. In addition, the  
23 Department of Justice may add a surcharge to the fee to fund  
24 maintenance and improvements to the systems from which the  
25 information is obtained. Notwithstanding any other law, any person  
26 or entity required to pay a fee to the department for information  
27 received under this section may charge the applicant a fee sufficient  
28 to reimburse the person or entity for this expense. All moneys  
29 received by the department pursuant to this section, Sections  
30 11105.3 and 26190, and former Section 13588 of the Education  
31 Code shall be deposited in a special account in the General Fund  
32 to be available for expenditure by the department to offset costs  
33 incurred pursuant to those sections and for maintenance and  
34 improvements to the systems from which the information is  
35 obtained upon appropriation by the Legislature.

36 (f) Whenever there is a conflict, the processing of criminal  
37 fingerprints and fingerprints of applicants for security guard or  
38 alarm agent registrations or firearms qualification permits  
39 submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4

1 of the Business and Professions Code shall take priority over the  
2 processing of other applicant fingerprints.

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

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

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

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

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

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

30 (A) Every conviction rendered against the applicant.

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

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

40 (D) Every successful diversion.

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

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

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

15 (A) Every conviction rendered against the applicant.

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

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

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

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

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

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

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

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

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

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

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

30 (B) Section 11105.3 or 11105.4.

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

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

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

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

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

16 (o) (1) This subdivision shall apply whenever state or federal  
17 summary criminal history information is furnished by the  
18 Department of Justice as the result of an application by an  
19 authorized agency or organization pursuant to Section 379 or 550  
20 of the Financial Code, or any statute that incorporates the criteria  
21 of either of those sections or this subdivision by reference, and the  
22 information is to be used for employment, licensing, or certification  
23 purposes.

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

28 (A) Every conviction rendered against the applicant for a  
29 violation or attempted violation of any offense specified in Section  
30 550 of the Financial Code.

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

36 (p) (1) This subdivision shall apply whenever state or federal  
37 criminal history information is furnished by the Department of  
38 Justice as the result of an application by an agency, organization,  
39 or individual not defined in subdivision (k), (l), (m), (n), or (o), or  
40 by a transportation company authorized pursuant to Section

1 11105.3, or any statute that incorporates the criteria of that section  
2 or this subdivision by reference, and the information is to be used  
3 for employment, licensing, or certification purposes.

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

8 (A) Every conviction rendered against the applicant.

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

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

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

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

26 (t) Whenever state or federal summary criminal history  
27 information is furnished by the Department of Justice as the result  
28 of an application by an authorized agency, organization, or  
29 individual defined in subdivisions (k) to (p), inclusive, and the  
30 information is to be used for employment, licensing, or certification  
31 purposes, the authorized agency, organization, or individual shall  
32 expeditiously furnish a copy of the information to the person to  
33 whom the information relates if the information is a basis for an  
34 adverse employment, licensing, or certification decision. When  
35 furnished other than in person, the copy shall be delivered to the  
36 last contact information provided by the applicant.

37 SEC. 3. Section 13300 of the Penal Code is amended to read:

38 13300. (a) As used in this section:

39 (1) "Local summary criminal history information" means the  
40 master record of information compiled by any local criminal justice

1 agency pursuant to Chapter 2 (commencing with Section 13100)  
2 of Title 3 of Part 4 pertaining to the identification and criminal  
3 history of any person, such as name, date of birth, physical  
4 description, dates of arrests, arresting agencies and booking  
5 numbers, charges, dispositions, and similar data about the person.

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

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

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

19 (1) The courts of the state.

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

24 (3) District attorneys of the state.

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

26 (5) City attorneys pursuing civil gang injunctions pursuant to  
27 Section 186.22a, or drug abatement actions pursuant to Section  
28 3479 or 3480 of the Civil Code, or Section 11571 of the Health  
29 and Safety Code.

30 (6) Probation officers of the state.

31 (7) Parole officers of the state.

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

35 (9) A public defender or attorney of record when representing  
36 a person in a criminal case, or a parole, mandatory supervision, or  
37 postrelease community supervision revocation or revocation  
38 extension hearing, and when authorized access by statutory or  
39 decisional law.

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

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

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

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

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

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

39 (16) County child welfare agency personnel who have been  
40 delegated the authority of county probation officers to access state

1 summary criminal information pursuant to Section 272 of the  
2 Welfare and Institutions Code for the purposes specified in Section  
3 16504.5 of the Welfare and Institutions Code.

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

8 ~~(18) A public agency described in subdivision (b) of Section~~  
9 ~~15975 of the Government Code, for the purpose of oversight and~~  
10 ~~enforcement policies with respect to its contracted providers.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 *(11) A public agency described in subdivision (b) of Section*  
29 *15975 of the Government Code, for the purpose of oversight and*  
30 *enforcement policies with respect to its contracted providers.*

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

39 (e) A local agency taking fingerprints of a person who is an  
40 applicant for licensing, employment, or certification may charge

1 a fee to cover the cost of taking the fingerprints and processing  
2 the required documents.

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

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

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

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

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

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

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

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

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

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

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

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

35 ~~SEC. 4. If the Commission on State Mandates determines that~~  
36 ~~this act contains costs mandated by the state, reimbursement to~~  
37 ~~local agencies and school districts for those costs shall be made~~  
38 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
39 ~~4 of Title 2 of the Government Code.~~

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