

AMENDED IN ASSEMBLY JUNE 26, 2013

AMENDED IN ASSEMBLY JUNE 11, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1428**

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**Introduced by Assembly Member Conway**  
**(Coauthors: Assembly Members Bigelow, Dahle, Hagman, Harkey,**  
**Morrell, Patterson, Wagner, Waldron, and Wilk)**

April 30, 2013

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An act to ~~add~~ *amend* Section 1043 to the Government Code, relating to health care coverage, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1428, as amended, Conway. California Health Benefit Exchange: employees and contractors.

Under the federal Patient Protection and Affordable Care Act (PPACA), each state is required, by January 1, 2014, to establish an American Health Benefit Exchange that makes available qualified health plans to qualified individuals and small employers. Existing state law establishes the California Health Benefit Exchange (Exchange) within state government, specifies the powers and duties of the board governing the Exchange, and requires the board to facilitate the purchase of qualified health plans through the Exchange by qualified individuals and small employers by January 1, 2014. Existing law requires the board to employ necessary staff and authorizes the board to enter into contracts.

~~This bill would require the board, consistent with specified federal standards, to submit to the Department of Justice fingerprint images~~

~~and related information of all employees, prospective employees, contractors, subcontractors, volunteers, or vendors, whose duties include or would include access to specified information, for the purposes of obtaining prescribed criminal history information. The bill would require the board to require any services contract, interagency agreement, or public entity agreement that includes or would include access to the specified information to include a provision requiring the contractor to agree to criminal background checks on its employees, contractors, agents, or subcontractors who will have access to that information as part of their services contract, interagency agreement, or public entity agreement. The bill would require the department to forward to the Federal Bureau of Investigation (FBI) requests for federal summary criminal history information, and would require the department to review the information returned from the FBI and compile and disseminate a response to the board. The bill would require the department to charge a fee sufficient to cover the costs of processing requests pursuant to the bill.~~

*Existing law requires the board, consistent with federal guidance applicable to state-based exchanges, to submit to the Department of Justice fingerprint images and related information of specified individuals whose duties include or would include access to confidential information, personal identifying information, personal health information, federal tax information, financial information, or any other information as required by federal law or guidance applicable to state-based exchanges for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her recognizance pending trial or appeal.*

*This bill would revise these provisions to require that the fingerprint images and related information be submitted to the Department of Justice consistent with the federal Centers for Medicare and Medicaid Services (CMS), Catalog of Minimum Acceptable Risk Standards for Exchanges (MARS-E), Exchange Reference Architecture Supplement version 1.0, issued on August 12, 2012, or further updates, guidance, or regulations. The bill would provide that the fingerprint images and related information submitted to the Department of Justice include those of the specified individuals whose duties include or would include access to any information contained in the information systems and devices of the Exchange.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . 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 1043 of the Government Code is amended  
2 to read:

3     1043. (a) (1) The executive board of the California Health  
4 Benefit Exchange, as established by Section 100500, shall,  
5 consistent with ~~federal guidance applicable to state-based~~  
6 ~~exchanges~~ *the federal Centers for Medicare and Medicaid Services*  
7 *(CMS), Catalog of Minimum Acceptable Risk Standards for*  
8 *Exchanges (MARS-E), Exchange Reference Architecture*  
9 *Supplement version 1.0, issued on August 12, 2012, or further*  
10 *updates, guidance, or regulations, submit to the Department of*  
11 ~~Justice, Justice~~ *fingerprints and related information required*  
12 *by the Department of Justice of all employees, prospective*  
13 *employees, contractors, subcontractors, volunteers, or* ~~vendors~~  
14 *vendors, whose duties include or would include access to any*  
15 *information contained in the information systems and devices of*  
16 *the Exchange, including, but not limited to, confidential*  
17 *information, personal identifying information, personal health*  
18 *information, federal tax information, financial information, or any*  
19 *other information as required by federal law or guidance applicable*  
20 *to state-based exchanges for the purposes of obtaining information*  
21 *as to the existence and content of a record of state or federal*  
22 *convictions and also information as to the existence and content*  
23 *of a record of state or federal arrests for which the Department of*  
24 *Justice establishes that the person is free on bail or on his or her*  
25 *recognizance pending trial or appeal.*

26     (2) The board shall require any services contract, interagency  
27 agreement, or public entity agreement that includes or would  
28 include access to information described in paragraph (1), and  
29 entered into, renewed, or amended on or after the effective date  
30 of this section, to include a provision requiring the contractor to  
31 agree to criminal background checks on its employees, contractors,  
32 agents, or subcontractors who will have access to information

1 described in paragraph (1) as part of their services contract,  
2 interagency agreement, or public entity agreement with the board.

3 (b) The Department of Justice shall forward to the Federal  
4 Bureau of Investigation requests for federal summary criminal  
5 history information received pursuant to paragraph (1) of  
6 subdivision (a). The Department of Justice shall review the  
7 information returned from the Federal Bureau of Investigation and  
8 compile and disseminate a response to the board.

9 (c) The Department of Justice shall provide a state or federal  
10 level response to the board pursuant to subdivision (p) of Section  
11 11105 of the Penal Code.

12 (d) The board shall request from the Department of Justice  
13 subsequent notification service, as provided pursuant to Section  
14 11105.2 of the Penal Code, for persons listed in paragraph (1) of  
15 subdivision (a).

16 (e) The Department of Justice shall charge a fee sufficient to  
17 cover the cost of processing requests pursuant to this section.

18 ~~SECTION 1. Section 1043 is added to the Government Code,~~  
19 ~~to read:~~

20 ~~1043. (a) (1) The executive board of the California Health~~  
21 ~~Benefit Exchange, as established by Section 100500, shall,~~  
22 ~~consistent with the Centers for Medicare and Medicaid Services~~  
23 ~~(CMS), Catalog of Minimum Acceptable Risk Standards for~~  
24 ~~Exchanges (MARS-E), Exchange Reference Architecture~~  
25 ~~Supplement version 1.0, issued on August 12, 2012, or further~~  
26 ~~updates, guidance, or regulations, submit to the Department of~~  
27 ~~Justice fingerprint images and related information required by the~~  
28 ~~Department of Justice of all employees, prospective employees,~~  
29 ~~contractors, subcontractors, volunteers, or vendors whose duties~~  
30 ~~include or would include access to any information contained in~~  
31 ~~the information systems and devices of the Exchange, including,~~  
32 ~~but not limited to, confidential information, personal identifying~~  
33 ~~information, personal health information, federal tax information,~~  
34 ~~or financial information, or for the purposes of obtaining~~  
35 ~~information as to the existence and content of a record of state or~~  
36 ~~federal convictions and also information as to the existence and~~  
37 ~~content of a record of state or federal arrests for which the~~  
38 ~~Department of Justice establishes that the person is free on bail or~~  
39 ~~on his or her recognizance pending trial or appeal.~~

1 ~~(2) The board shall require any services contract, interagency~~  
2 ~~agreement, or public entity agreement that includes or would~~  
3 ~~include access to information described in paragraph (1), and~~  
4 ~~entered into, renewed, or amended on or after the effective date~~  
5 ~~of this section, to include a provision requiring the contractor to~~  
6 ~~agree to criminal background checks on its employees, contractors,~~  
7 ~~agents, or subcontractors who will have access to information~~  
8 ~~described in paragraph (1) as part of their services contract,~~  
9 ~~interagency agreement, or public entity agreement with the board.~~

10 ~~(b) The Department of Justice shall forward to the Federal~~  
11 ~~Bureau of Investigation requests for federal summary criminal~~  
12 ~~history information received pursuant to paragraph (1) of~~  
13 ~~subdivision (a). The Department of Justice shall review the~~  
14 ~~information returned from the Federal Bureau of Investigation and~~  
15 ~~compile and disseminate a response to the board.~~

16 ~~(c) The Department of Justice shall provide a state or federal~~  
17 ~~level response to the board pursuant to subdivision (p) of Section~~  
18 ~~11105 of the Penal Code.~~

19 ~~(d) The board shall request from the Department of Justice~~  
20 ~~subsequent notification service, as provided pursuant to Section~~  
21 ~~11105.2 of the Penal Code, for persons listed in paragraph (1) of~~  
22 ~~subdivision (a).~~

23 ~~(e) The Department of Justice shall charge a fee sufficient to~~  
24 ~~cover the cost of processing requests pursuant to this section.~~

25 SEC. 2. This act is an urgency statute necessary for the  
26 immediate preservation of the public peace, health, or safety within  
27 the meaning of Article IV of the Constitution and shall go into  
28 immediate effect. The facts constituting the necessity are:

29 In order to protect and safeguard customers from the  
30 unauthorized and illegal access to, or disclosure of, their personal  
31 identifying information, personal health information, or federal  
32 tax information when the California Health Benefit Exchange  
33 begins enrolling customers into health care plans for coverage  
34 beginning as early as January 1, 2014, it is necessary that this act  
35 take effect immediately.