

AMENDED IN SENATE JUNE 19, 2014

AMENDED IN SENATE JUNE 3, 2014

AMENDED IN ASSEMBLY MARCH 17, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1511

Introduced by Assembly Member Beth Gaines

January 14, 2014

An act to amend Section 13300 of, and to add Section 11105.07 to, the Penal Code, relating to criminal history information.

LEGISLATIVE COUNSEL'S DIGEST

AB 1511, as amended, Beth Gaines. Criminal history information: animal control officers.

Existing law requires the Department of Justice to maintain state summary criminal history information, including the identification and criminal history of any person, which may include his or her name, date of birth, physical description, fingerprints, photographs, dates of arrest, arresting agencies and booking numbers, charges, dispositions, and similar data about the person. Existing law authorizes the department, upon a showing of compelling need, to furnish this information in response to a request from certain authorized agencies, organizations, or individuals, including a public utility.

Existing law similarly provides for the disclosure of local summary criminal history information by a local criminal justice agency, upon a showing of compelling need, to certain authorized agencies, organizations, or individuals.

Existing law makes it a misdemeanor for a person authorized by law to receive state summary criminal history information to knowingly furnish it to a person not authorized by law to receive it.

This bill would authorize an animal control officer, when necessary for the performance of his or her official duties, to obtain state summary criminal history information from a criminal justice agency. The bill would require the criminal justice agency, upon a showing of compelling need, to provide the animal control officer with information obtained from the California Law Enforcement Telecommunication Systems (CLETS). The bill would require the criminal justice agency to provide this information to the animal control officer in a timely manner and would permit the criminal justice agency to charge a reasonable fee sufficient to cover the costs of providing that information. The bill would prohibit an animal control officer who receives that information from using it for any purpose other than the performance of his or her official duties. By requiring local criminal justice agencies to provide this information and by expanding the scope of a crime, the bill would impose a state-mandated local program.

~~This bill would additionally also authorize the Department of Justice and local criminal justice agencies to provide state and local summary criminal history information to an animal control officer for the purposes of performing his or her official duties. The bill would require the Department of Justice to provide this information to the animal control officer in a timely manner and would prohibit an animal control officer who receives that information from using it for any purpose other than the performance of his or her official duties. The bill would permit a local agency to charge a reasonable fee sufficient to cover the costs of providing that information. By requiring local criminal justice agencies to provide this information and by expanding the scope of a crime, the 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 specified reasons.

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

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

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

3 ~~11105.07. (a) Subject to the requirements and conditions set~~
4 ~~forth in Section 11105, the Attorney General may furnish state~~
5 ~~summary criminal history information, as defined in Section 11105,~~
6 ~~to an animal control officer, authorized to exercise powers specified~~
7 ~~in Section 830.9, for the purpose of performing his or her official~~
8 ~~duties, upon a showing of a compelling need, provided that if~~
9 ~~information is furnished to assist the animal control officer in~~
10 ~~fulfilling any employment, certification, or licensing duties,~~
11 ~~Chapter 1321 of the Statutes of 1974 and Section 432.7 of the~~
12 ~~Labor Code shall apply.~~

13 *11105.07. (a) An animal control officer, when necessary for*
14 *performing his or her official duties, shall provide a compelling*
15 *reason to an appropriate criminal justice agency to obtain state*
16 *summary criminal history information.*

17 ~~(b) The department~~*Upon a showing of compelling need, the*
18 *criminal justice agency shall respond to the animal control officer*
19 *with information as delineated in subdivision (p) of Section 11105*
20 *of the Penal Code, obtained through the California Law*
21 *Enforcement Telecommunications Systems (CLETS). The*
22 ~~department~~*criminal justice agency shall provide this information*
23 *to the animal control officer in a timely manner. A criminal justice*
24 *agency may charge a reasonable fee sufficient to cover the costs*
25 *of providing information pursuant to this subdivision.*

26 (c) An animal control officer who receives state summary
27 criminal history information pursuant to this section shall not use
28 that information for any purpose other than for the performance
29 of his or her official duties.

30 ~~(d) An animal control officer~~*A law enforcement officer or other*
31 *person authorized by law to receive state summary criminal history*
32 *information provide information obtained through CLETS pursuant*
33 *to this section who knowingly furnishes the record or information*
34 *to a person who is not authorized by law to receive the record or*
35 *that information is guilty of violating Section 11142.*

36 (e) *For the purposes of this section, an animal control officer*
37 *is a person authorized to exercise the powers specified in Section*
38 *830.9.*

1 SEC. 2. Section 13300 of the Penal Code is amended to read:

2 13300. (a) As used in this section:

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

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

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

16 (b) A local agency shall furnish local summary criminal history
17 information to any of the following, when needed in the course of
18 their duties, provided that when information is furnished to assist
19 an agency, officer, or official of state or local government, a public
20 utility, or any entity, in fulfilling employment, certification, or
21 licensing duties, Chapter 1321 of the Statutes of 1974 and Section
22 432.7 of the Labor Code shall apply:

23 (1) The courts of the state.

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

28 (3) District attorneys of the state.

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

30 (5) City attorneys pursuing civil gang injunctions pursuant to
31 Section 186.22a, or drug abatement actions pursuant to Section
32 3479 or 3480 of the Civil Code, or Section 11571 of the Health
33 and Safety Code.

34 (6) Probation officers of the state.

35 (7) Parole officers of the state.

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

39 (9) A public defender or attorney of record when representing
40 a person in a criminal case, or a parole, mandatory supervision, or

1 postrelease community supervision revocation or revocation
2 extension hearing, and when authorized access by statutory or
3 decisional law.

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

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

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

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

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

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

1 failed to provide support for the minor children, consistent with
2 Section 17531 of the Family Code.

3 (16) County child welfare agency personnel who have been
4 delegated the authority of county probation officers to access state
5 summary criminal information pursuant to Section 272 of the
6 Welfare and Institutions Code for the purposes specified in Section
7 16504.5 of the Welfare and Institutions Code.

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

12 (c) The local agency may furnish local summary criminal history
13 information, upon a showing of a compelling need, to any of the
14 following, 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) Any public utility, as defined in Section 216 of the Public
20 Utilities Code, which operates a nuclear energy facility when access
21 is needed to assist in employing persons to work at the facility,
22 provided that, if the local agency supplies the information, it shall
23 furnish a copy of this information to the person to whom the
24 information relates.

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

27 (3) An animal control officer, authorized to exercise powers
28 specified in Section 830.9, for the purposes of performing his or
29 her official duties. A local agency may charge a reasonable fee
30 sufficient to cover the costs of providing information pursuant to
31 this paragraph.

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

33 (5) To public officers, other than peace officers, of the United
34 States, other states, or possessions or territories of the United
35 States, provided that access to records similar to local summary
36 criminal history information is expressly authorized by a statute
37 of the United States, other states, or possessions or territories of
38 the United States when this information is needed for the
39 performance 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 local
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 when needed in conjunction with an application to enter the United
11 States or any foreign nation.

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

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

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

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

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

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

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

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

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

35 (12) A public agency described in subdivision (b) of Section
36 15975 of the Government Code, for the purpose of oversight and
37 enforcement policies with respect to its contracted providers.

38 (d) Whenever an authorized request for local summary criminal
39 history information pertains to a person whose fingerprints are on
40 file with the local agency and the local agency has no criminal

1 history of that person, and the information is to be used for
2 employment, licensing, or certification purposes, the fingerprint
3 card accompanying the request for information, if any, may be
4 stamped “no criminal record” and returned to the person or entity
5 making the request.

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

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

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

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

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

34 (j) Notwithstanding any other law, a public prosecutor may, in
35 response to a written request made pursuant to Section 6253 of
36 the Government Code, provide information from a local summary
37 criminal history, if release of the information would enhance public
38 safety, the interest of justice, or the public’s understanding of the
39 justice system and the person making the request declares that the
40 request is made for a scholarly or journalistic purpose. If a person

1 in a declaration required by this subdivision willfully states as true
2 any material fact that he or she knows to be false, he or she shall
3 be subject to a civil penalty not exceeding ten thousand dollars
4 (\$10,000). The requestor shall be informed in writing of this
5 penalty. An action to impose a civil penalty under this subdivision
6 may be brought by any public prosecutor and shall be enforced as
7 a civil judgment.

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

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

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

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

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

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

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

4 SEC. 3. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 a local agency or school district has the authority to levy service
7 charges, fees, or assessments sufficient to pay for the program or
8 level of service mandated by this and because other costs that may
9 be incurred by a local agency or school district will be incurred
10 because this act creates a new crime or infraction, eliminates a
11 crime or infraction, or changes the penalty for a crime or infraction,
12 within the meaning of Section 17556 of the Government Code, or
13 changes the definition of a crime within the meaning of Section 6
14 of Article XIII B of the California Constitution.

15 *SEC. 4. No reimbursement is required by this act pursuant to*
16 *Section 6 of Article XIII B of the California Constitution because*
17 *the only costs that may be incurred by a local agency or school*
18 *district will be incurred because this act creates a new crime or*
19 *infraction, eliminates a crime or infraction, or changes the penalty*
20 *for a crime or infraction, within the meaning of Section 17556 of*
21 *the Government Code, or changes the definition of a crime within*
22 *the meaning of Section 6 of Article XIII B of the California*
23 *Constitution.*