

AMENDED IN SENATE AUGUST 19, 2014

AMENDED IN ASSEMBLY MAY 23, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1585**

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**Introduced by Assembly Members Alejo and Campos  
(Coauthor: Assembly Member Skinner)**

February 3, 2014

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An act to amend Sections 8712, 8811, and 8908 of the Family Code, and to amend Section 11105 of, and to add Section 1203.49 to, the Penal Code, relating to human trafficking.

LEGISLATIVE COUNSEL'S DIGEST

AB 1585, as amended, Alejo. Human trafficking.

Existing law defines and proscribes the crimes of human trafficking, solicitation, and prostitution. Existing law authorizes a court, in its discretion and in the interests of justice, to grant various forms of relief to a petitioner who completes conditions of probation, including the dismissal of the accusation or information against that person.

Existing law requires the Department of Justice to maintain state summary criminal history information, and to furnish that information to specified entities for various purposes, including for purposes of fulfilling employment, licensing, and certification requirements. Existing law also authorizes the State Department of Social Services and county or licensed adoption agencies to secure a person's full criminal record in connection with an adoption application, as specified.

This bill would provide that if a defendant has been convicted of solicitation or prostitution and has completed any term of probation for that conviction, the defendant may petition the court for relief if the

defendant can establish by clear and convincing evidence that the conviction was the result of his or her status as a victim of human trafficking, and would authorize a court to issue an order that (1) sets forth a finding that the defendant was a victim of human trafficking, as specified, (2) dismisses the accusation or information against the defendant, or orders other relief, and (3) notifies the department that the defendant was a victim of human trafficking when he or she committed the crime and the relief that has been ordered.

The bill would also exclude records of conviction for which the relief described above has been granted from the criminal records that may be disseminated for various purposes, including the full criminal record obtained in connection with an adoption application.

*This bill would incorporate additional changes in Section 11105 of the Penal Code proposed by AB 2404, to be operative only if AB 2404 and this bill are both chaptered and become effective January 1, 2015, and this bill is chaptered last.*

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 8712 of the Family Code is amended to  
 2 read:  
 3 8712. (a) The department, county adoption agency, or licensed  
 4 adoption agency shall require each person who files an application  
 5 for adoption to be fingerprinted and shall secure from an  
 6 appropriate law enforcement agency any criminal record of that  
 7 person to determine whether the person has ever been convicted  
 8 of a crime other than a minor traffic violation. The department,  
 9 county adoption agency, or licensed adoption agency may also  
 10 secure the person’s full criminal record, if any, with the exception  
 11 of any convictions for which relief has been granted pursuant to  
 12 Section 1203.49 of the Penal Code. Any federal-level criminal  
 13 offender record requests to the Department of Justice shall be  
 14 submitted with fingerprint images and related information required  
 15 by the Department of Justice for the purposes of obtaining  
 16 information as to the existence and content of a record of an  
 17 out-of-state or federal conviction or arrest of a person or  
 18 information regarding any out-of-state or federal crimes or arrests  
 19 for which the Department of Justice establishes that the person is

1 free on bail, or on his or her own recognizance pending trial or  
2 appeal. The Department of Justice shall forward to the Federal  
3 Bureau of Investigation any requests for federal summary criminal  
4 history information received pursuant to this section. The  
5 Department of Justice shall review the information returned from  
6 the Federal Bureau of Investigation and shall compile and  
7 disseminate a response to the department, county adoption agency,  
8 or licensed adoption agency.

9 (b) Notwithstanding subdivision (c), the criminal record, if any,  
10 shall be taken into consideration when evaluating the prospective  
11 adoptive parent, and an assessment of the effects of any criminal  
12 history on the ability of the prospective adoptive parent to provide  
13 adequate and proper care and guidance to the child shall be  
14 included in the report to the court.

15 (c) (1) Under no circumstances shall the department, county  
16 adoption agency, or licensed adoption agency give final approval  
17 for an adoptive placement in any home where the prospective  
18 adoptive parent or any adult living in the prospective adoptive  
19 home has either of the following:

20 (A) A felony conviction for child abuse or neglect, spousal  
21 abuse, crimes against a child, including child pornography, or for  
22 a crime involving violence, including rape, sexual assault, or  
23 homicide, but not including other physical assault and battery. For  
24 purposes of this subdivision, crimes involving violence means  
25 those violent crimes contained in clause (i) of subparagraph (A),  
26 and subparagraph (B), of paragraph (1) of subdivision (g) of  
27 Section 1522 of the Health and Safety Code.

28 (B) A felony conviction that occurred within the last five years  
29 for physical assault, battery, or a drug- or alcohol-related offense.

30 (2) This subdivision shall become operative on October 1, 2008,  
31 and shall remain operative only to the extent that compliance with  
32 its provisions is required by federal law as a condition of receiving  
33 funding under Title IV-E of the federal Social Security Act (42  
34 U.S.C. Sec. 670 and following).

35 (d) Any fee charged by a law enforcement agency for  
36 fingerprinting or for checking or obtaining the criminal record of  
37 the applicant shall be paid by the applicant. The department, county  
38 adoption agency, or licensed adoption agency may defer, waive,  
39 or reduce the fee when its payment would cause economic hardship  
40 to prospective adoptive parents detrimental to the welfare of the

1 adopted child, when the child has been in the foster care of the  
2 prospective adoptive parents for at least one year, or if necessary  
3 for the placement of a special-needs child.

4 SEC. 2. Section 8811 of the Family Code is amended to read:

5 8811. (a) The department or delegated county adoption agency  
6 shall require each person who files an adoption petition to be  
7 fingerprinted and shall secure from an appropriate law enforcement  
8 agency any criminal record of that person to determine whether  
9 the person has ever been convicted of a crime other than a minor  
10 traffic violation. The department or delegated county adoption  
11 agency may also secure the person's full criminal record, if any,  
12 with the exception of any convictions for which relief has been  
13 granted pursuant to Section 1203.49 of the Penal Code. Any  
14 federal-level criminal offender record requests to the Department  
15 of Justice shall be submitted with fingerprint images and related  
16 information required by the Department of Justice for the purposes  
17 of obtaining information as to the existence and content of a record  
18 of an out-of-state or federal conviction or arrest of a person or  
19 information regarding any out-of-state or federal crimes or arrests  
20 for which the Department of Justice establishes that the person is  
21 free on bail, or on his or her own recognizance pending trial or  
22 appeal. The Department of Justice shall forward to the Federal  
23 Bureau of Investigation any requests for federal summary criminal  
24 history information received pursuant to this section. The  
25 Department of Justice shall review the information returned from  
26 the Federal Bureau of Investigation and shall compile and  
27 disseminate a response to the department or delegated county  
28 adoption agency.

29 (b) Notwithstanding subdivision (c), the criminal record, if any,  
30 shall be taken into consideration when evaluating the prospective  
31 adoptive parent, and an assessment of the effects of any criminal  
32 history on the ability of the prospective adoptive parent to provide  
33 adequate and proper care and guidance to the child shall be  
34 included in the report to the court.

35 (c) (1) Under no circumstances shall the department or a  
36 delegated county adoption agency give final approval for an  
37 adoptive placement in any home where the prospective adoptive  
38 parent or any adult living in the prospective adoptive home has  
39 either of the following:

1 (A) A felony conviction for child abuse or neglect, spousal  
2 abuse, crimes against a child, including child pornography, or for  
3 a crime involving violence, including rape, sexual assault, or  
4 homicide, but not including other physical assault and battery. For  
5 purposes of this subdivision, crimes involving violence means  
6 those violent crimes contained in clause (i) of subparagraph (A),  
7 and subparagraph (B), of paragraph (1) of subdivision (g) of  
8 Section 1522 of the Health and Safety Code.

9 (B) A felony conviction that occurred within the last five years  
10 for physical assault, battery, or a drug- or alcohol-related offense.

11 (2) This subdivision shall become operative on October 1, 2008,  
12 and shall remain operative only to the extent that compliance with  
13 its provisions is required by federal law as a condition of receiving  
14 funding under Title IV-E of the federal Social Security Act (42  
15 U.S.C. 670 and following).

16 (d) Any fee charged by a law enforcement agency for  
17 fingerprinting or for checking or obtaining the criminal record of  
18 the petitioner shall be paid by the petitioner. The department or  
19 delegated county adoption agency may defer, waive, or reduce the  
20 fee when its payment would cause economic hardship to the  
21 prospective adoptive parents detrimental to the welfare of the  
22 adopted child, when the child has been in the foster care of the  
23 prospective adoptive parents for at least one year, or if necessary  
24 for the placement of a special-needs child.

25 SEC. 3. Section 8908 of the Family Code is amended to read:

26 8908. (a) A licensed adoption agency shall require each person  
27 filing an application for adoption to be fingerprinted and shall  
28 secure from an appropriate law enforcement agency any criminal  
29 record of that person to determine whether the person has ever  
30 been convicted of a crime other than a minor traffic violation. The  
31 licensed adoption agency may also secure the person's full criminal  
32 record, if any, with the exception of any convictions for which  
33 relief has been granted pursuant to Section 1203.49 of the Penal  
34 Code. Any federal-level criminal offender record requests to the  
35 Department of Justice shall be submitted with fingerprint images  
36 and related information required by the Department of Justice for  
37 the purposes of obtaining information as to the existence and  
38 content of a record of an out-of-state or federal conviction or arrest  
39 of a person or information regarding any out-of-state or federal  
40 crimes or arrests for which the Department of Justice establishes

1 that the person is free on bail, or on his or her own recognizance  
2 pending trial or appeal. The Department of Justice shall forward  
3 to the Federal Bureau of Investigation any requests for federal  
4 summary criminal history information received pursuant to this  
5 section. The Department of Justice shall review the information  
6 returned from the Federal Bureau of Investigation and shall compile  
7 and disseminate a fitness determination to the licensed adoption  
8 agency.

9 (b) Notwithstanding subdivision (c), the criminal record, if any,  
10 shall be taken into consideration when evaluating the prospective  
11 adoptive parent, and an assessment of the effects of any criminal  
12 history on the ability of the prospective adoptive parent to provide  
13 adequate and proper care and guidance to the child shall be  
14 included in the report to the court.

15 (c) (1) Under no circumstances shall a licensed adoption agency  
16 give final approval for an adoptive placement in any home where  
17 the prospective adoptive parent, or any adult living in the  
18 prospective adoptive home, has a felony conviction for either of  
19 the following:

20 (A) Any felony conviction for child abuse or neglect, spousal  
21 abuse, crimes against a child, including child pornography, or for  
22 a crime involving violence, including rape, sexual assault, or  
23 homicide, but not including other physical assault and battery. For  
24 purposes of this subdivision, crimes involving violence means  
25 those violent crimes contained in clause (i) of subparagraph (A),  
26 and subparagraph (B), of paragraph (1) of subdivision (g) of  
27 Section 1522 of the Health and Safety Code.

28 (B) A felony conviction that occurred within the last five years  
29 for physical assault, battery, or a drug- or alcohol-related offense.

30 (2) This subdivision shall become operative on October 1, 2008,  
31 and shall remain operative only to the extent that compliance with  
32 its provisions is required by federal law as a condition of receiving  
33 funding under Title IV-E of the federal Social Security Act (42  
34 U.S.C. 670 and following).

35 (d) Any fee charged by a law enforcement agency for  
36 fingerprinting or for checking or obtaining the criminal record of  
37 the applicant shall be paid by the applicant. The licensed adoption  
38 agency may defer, waive, or reduce the fee when its payment would  
39 cause economic hardship to the prospective adoptive parents  
40 detrimental to the welfare of the adopted child.

1 SEC. 4. Section 1203.49 is added to the Penal Code, to read:

2 1203.49. If a defendant has been convicted of solicitation or  
3 prostitution, as described in subdivision (b) of Section 647, and if  
4 the defendant has completed any term of probation for that  
5 conviction, the defendant may petition the court for relief under  
6 this section. If the defendant can establish by clear and convincing  
7 evidence that the conviction was the result of his or her status as  
8 a victim of human trafficking, the court may issue an order that  
9 does all of the following:

10 (a) Sets forth a finding that the petitioner was a victim of human  
11 trafficking when he or she committed the crime.

12 (b) Orders any of the relief described in Section 1203.4.

13 (c) Notifies the Department of Justice that the petitioner was a  
14 victim of human trafficking when he or she committed the crime  
15 and the relief that has been ordered.

16 SEC. 5. Section 11105 of the Penal Code is amended to read:

17 11105. (a) (1) The Department of Justice shall maintain state  
18 summary criminal history information.

19 (2) As used in this section:

20 (A) "State summary criminal history information" means the  
21 master record of information compiled by the Attorney General  
22 pertaining to the identification and criminal history of any person,  
23 such as name, date of birth, physical description, fingerprints,  
24 photographs, dates of arrests, arresting agencies and booking  
25 numbers, charges, dispositions, and similar data about the person.

26 (B) "State summary criminal history information" does not refer  
27 to records and data compiled by criminal justice agencies other  
28 than the Attorney General, nor does it refer to records of complaints  
29 to or investigations conducted by, or records of intelligence  
30 information or security procedures of, the office of the Attorney  
31 General and the Department of Justice.

32 (b) The Attorney General shall furnish state summary criminal  
33 history information to any of the following, if needed in the course  
34 of their duties, provided that when information is furnished to  
35 assist an agency, officer, or official of state or local government,  
36 a public utility, or any other entity, in fulfilling employment,  
37 certification, or licensing duties, Chapter 1321 of the Statutes of  
38 1974 and Section 432.7 of the Labor Code shall apply:

39 (1) The courts of the state.

- 1 (2) Peace officers of the state, as defined in Section 830.1,  
2 subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section  
3 830.3, subdivision (a) of Section 830.31, and subdivisions (a) and  
4 (b) of Section 830.5.
- 5 (3) District attorneys of the state.
- 6 (4) Prosecuting city attorneys of any city within the state.
- 7 (5) City attorneys pursuing civil gang injunctions pursuant to  
8 Section 186.22a, or drug abatement actions pursuant to Section  
9 3479 or 3480 of the Civil Code, or Section 11571 of the Health  
10 and Safety Code.
- 11 (6) Probation officers of the state.
- 12 (7) Parole officers of the state.
- 13 (8) A public defender or attorney of record when representing  
14 a person in proceedings upon a petition for a certificate of  
15 rehabilitation and pardon pursuant to Section 4852.08.
- 16 (9) A public defender or attorney of record when representing  
17 a person in a criminal case, or a parole, mandatory supervision  
18 pursuant to paragraph (5) of subdivision (h) of Section 1170, or  
19 postrelease community supervision revocation or revocation  
20 extension proceeding, and if authorized access by statutory or  
21 decisional law.
- 22 (10) Any agency, officer, or official of the state if the criminal  
23 history information is required to implement a statute or regulation  
24 that expressly refers to specific criminal conduct applicable to the  
25 subject person of the state summary criminal history information,  
26 and contains requirements or exclusions, or both, expressly based  
27 upon that specified criminal conduct. The agency, officer, or  
28 official of the state authorized by this paragraph to receive state  
29 summary criminal history information may also transmit fingerprint  
30 images and related information to the Department of Justice to be  
31 transmitted to the Federal Bureau of Investigation.
- 32 (11) Any city or county, city and county, district, or any officer  
33 or official thereof if access is needed in order to assist that agency,  
34 officer, or official in fulfilling employment, certification, or  
35 licensing duties, and if the access is specifically authorized by the  
36 city council, board of supervisors, or governing board of the city,  
37 county, or district if the criminal history information is required  
38 to implement a statute, ordinance, or regulation that expressly  
39 refers to specific criminal conduct applicable to the subject person  
40 of the state summary criminal history information, and contains

1 requirements or exclusions, or both, expressly based upon that  
2 specified criminal conduct. The city or county, city and county,  
3 district, or the officer or official thereof authorized by this  
4 paragraph may also transmit fingerprint images and related  
5 information to the Department of Justice to be transmitted to the  
6 Federal Bureau of Investigation.

7 (12) The subject of the state summary criminal history  
8 information under procedures established under Article 5  
9 (commencing with Section 11120).

10 (13) Any person or entity when access is expressly authorized  
11 by statute if the criminal history information is required to  
12 implement a statute or regulation that expressly refers to specific  
13 criminal conduct applicable to the subject person of the state  
14 summary criminal history information, and contains requirements  
15 or exclusions, or both, expressly based upon that specified criminal  
16 conduct.

17 (14) Health officers of a city, county, city and county, or district  
18 when in the performance of their official duties enforcing Section  
19 120175 of the Health and Safety Code.

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

22 (16) Any humane society, or society for the prevention of cruelty  
23 to animals, for the specific purpose of complying with Section  
24 14502 of the Corporations Code for the appointment of humane  
25 officers.

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

35 (18) County child welfare agency personnel who have been  
36 delegated the authority of county probation officers to access state  
37 summary criminal history information pursuant to Section 272 of  
38 the Welfare and Institutions Code for the purposes specified in  
39 Section 16504.5 of the Welfare and Institutions Code. Information  
40 from criminal history records provided pursuant to this subdivision

1 shall not be used for any purposes other than those specified in  
2 this section and Section 16504.5 of the Welfare and Institutions  
3 Code. When an agency obtains records obtained both on the basis  
4 of name checks and fingerprint checks, final placement decisions  
5 shall be based only on the records obtained pursuant to the  
6 fingerprint check.

7 (19) The court of a tribe, or court of a consortium of tribes, that  
8 has entered into an agreement with the state pursuant to Section  
9 10553.1 of the Welfare and Institutions Code. This information  
10 may be used only for the purposes specified in Section 16504.5  
11 of the Welfare and Institutions Code and for tribal approval or  
12 tribal licensing of foster care or adoptive homes. Article 6  
13 (commencing with Section 11140) shall apply to officers, members,  
14 and employees of a tribal court receiving criminal record offender  
15 information pursuant to this section.

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

30 (21) An officer providing conservatorship investigations  
31 pursuant to Sections 5351, 5354, and 5356 of the Welfare and  
32 Institutions Code.

33 (22) A court investigator providing investigations or reviews  
34 in conservatorships pursuant to Section 1826, 1850, 1851, or  
35 2250.6 of the Probate Code.

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

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

1 (25) A public agency described in subdivision (b) of Section  
2 15975 of the Government Code, for the purpose of oversight and  
3 enforcement policies with respect to its contracted providers.

4 (c) The Attorney General may furnish state summary criminal  
5 history information and, when specifically authorized by this  
6 subdivision, federal level criminal history information upon a  
7 showing of a compelling need to any of the following, provided  
8 that when information is furnished to assist an agency, officer, or  
9 official of state or local government, a public utility, or any other  
10 entity in fulfilling 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 (1) Any public utility, as defined in Section 216 of the Public  
14 Utilities Code, that operates a nuclear energy facility when access  
15 is needed in order to assist in employing persons to work at the  
16 facility, provided that, if the Attorney General supplies the data,  
17 he or she shall furnish a copy of the data to the person to whom  
18 the data relates.

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

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

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

24 (5) To public officers, other than peace officers, of the United  
25 States, other states, or possessions or territories of the United  
26 States, provided that access to records similar to state summary  
27 criminal history information is expressly authorized by a statute  
28 of the United States, other states, or possessions or territories of  
29 the United States if the information is needed for the performance  
30 of their official duties.

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

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

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

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

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

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

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

29 (iv) A violation of this paragraph is a misdemeanor, and shall  
30 give the current or prospective employee who is injured by the  
31 violation a cause of action against the public utility or cable  
32 corporation to recover damages proximately caused by the  
33 violations. Any public utility's or cable corporation's request for  
34 state summary criminal history information for purposes of  
35 employing current or prospective employees who may be seeking  
36 entrance to private residences or adjacent grounds in the course  
37 of their employment shall be deemed a "compelling need" as  
38 required to be shown in this subdivision.

39 (v) Nothing in this section shall be construed as imposing any  
40 duty upon public utilities or cable corporations to request state

1 summary criminal history information on any current or prospective  
2 employees.

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

7 (C) Requests for federal level criminal history information  
8 received by the Department of Justice from entities authorized  
9 pursuant to subparagraph (A) shall be forwarded to the Federal  
10 Bureau of Investigation by the Department of Justice. Federal level  
11 criminal history information received or compiled by the  
12 Department of Justice may then be disseminated to the entities  
13 referenced in subparagraph (A), as authorized by law.

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

17 (ii) Authority for a public utility to request federal level criminal  
18 history information under this paragraph shall commence July 1,  
19 2005.

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

32 (12) To any foreign government, if requested by the individual  
33 who is the subject of the record requested, if needed in conjunction  
34 with the individual’s application to adopt a minor child who is a  
35 citizen of that foreign nation. Requests for information pursuant  
36 to this paragraph shall be in accordance with the process described  
37 in Sections 11122 to 11124, inclusive. The response shall be  
38 provided to the foreign government or its designee and to the  
39 individual who requested the information.

1 (d) Whenever an authorized request for state summary criminal  
2 history information pertains to a person whose fingerprints are on  
3 file with the Department of Justice and the department has no  
4 criminal history of that person, and the information is to be used  
5 for employment, licensing, or certification purposes, the fingerprint  
6 card accompanying the request for information, if any, may be  
7 stamped “no criminal record” and returned to the person or entity  
8 making the request.

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

28 (f) Whenever there is a conflict, the processing of criminal  
29 fingerprints and fingerprints of applicants for security guard or  
30 alarm agent registrations or firearms qualification permits  
31 submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4  
32 of the Business and Professions Code shall take priority over the  
33 processing of other applicant fingerprints.

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

37 (h) It is not a violation of this section to include information  
38 obtained from a record in (1) a transcript or record of a judicial or  
39 administrative proceeding or (2) any other public record if the

1 inclusion of the information in the public record is authorized by  
2 a court, statute, or decisional law.

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

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

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

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

22 (A) Every conviction rendered against the applicant.

23 (B) Every arrest for an offense for which the applicant is  
24 presently awaiting trial, whether the applicant is incarcerated or  
25 has been released on bail or on his or her own recognizance  
26 pending trial.

27 (C) Every arrest or detention, except for an arrest or detention  
28 resulting in an exoneration, provided, however, that where the  
29 records of the Department of Justice do not contain a disposition  
30 for the arrest, the Department of Justice first makes a genuine effort  
31 to determine the disposition of the arrest.

32 (D) Every successful diversion.

33 (E) Every date and agency name associated with all retained  
34 peace officer or nonsworn law enforcement agency employee  
35 preemployment criminal offender record information search  
36 requests.

37 (l) (1) This subdivision shall apply whenever state or federal  
38 summary criminal history information is furnished by the  
39 Department of Justice as the result of an application by a criminal  
40 justice agency or organization as defined in Section 13101, and

1 the information is to be used for criminal justice employment,  
2 licensing, or certification purposes.

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

7 (A) Every conviction rendered against the applicant.

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

12 (C) Every arrest for an offense for which the records of the  
13 Department of Justice do not contain a disposition or did not result  
14 in a conviction, provided that the Department of Justice first makes  
15 a genuine effort to determine the disposition of the arrest. However,  
16 information concerning an arrest shall not be disclosed if the  
17 records of the Department of Justice indicate or if the genuine  
18 effort reveals that the subject was exonerated, successfully  
19 completed a diversion or deferred entry of judgment program, or  
20 the arrest was deemed a detention.

21 (D) Every date and agency name associated with all retained  
22 peace officer or nonsworn law enforcement agency employee  
23 preemployment criminal offender record information search  
24 requests.

25 (m) (1) This subdivision shall apply whenever state or federal  
26 summary criminal history information is furnished by the  
27 Department of Justice as the result of an application by an  
28 authorized agency or organization pursuant to Section 1522,  
29 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or  
30 any statute that incorporates the criteria of any of those sections  
31 or this subdivision by reference, and the information is to be used  
32 for employment, licensing, or certification purposes.

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

37 (A) Every conviction of an offense rendered against the  
38 applicant, except a conviction for which relief has been granted  
39 pursuant to Section 1203.49.

1 (B) Every arrest for an offense for which the applicant is  
2 presently awaiting trial, whether the applicant is incarcerated or  
3 has been released on bail or on his or her own recognizance  
4 pending trial.

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

12 (3) Notwithstanding the requirements of the sections referenced  
13 in paragraph (1) of this subdivision, the Department of Justice  
14 shall not disseminate information about an arrest subsequently  
15 deemed a detention or an arrest that resulted in either the successful  
16 completion of a diversion program or exoneration.

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

22 (A) Paragraph (10) of subdivision (c), when the information is  
23 to be used by a cable corporation.

24 (B) Section 11105.3 or 11105.4.

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

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

29 (2) With the exception of applications submitted by  
30 transportation companies authorized pursuant to Section 11105.3,  
31 and notwithstanding any other provision of law, whenever state  
32 summary criminal history information is initially furnished  
33 pursuant to paragraph (1), the Department of Justice shall  
34 disseminate the following information:

35 (A) Every conviction, except a conviction for which relief has  
36 been granted pursuant to Section 1203.49, rendered against the  
37 applicant for a violation or attempted violation of any offense  
38 specified in subdivision (a) of Section 15660 of the Welfare and  
39 Institutions Code. However, with the exception of those offenses  
40 for which registration is required pursuant to Section 290, the

1 Department of Justice shall not disseminate information pursuant  
2 to this subdivision unless the conviction occurred within 10 years  
3 of the date of the agency's request for information or the conviction  
4 is over 10 years old but the subject of the request was incarcerated  
5 within 10 years of the agency's request for information.

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

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

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

23 (A) Every conviction rendered against the applicant for a  
24 violation or attempted violation of any offense specified in Section  
25 550 of the Financial Code, except a conviction for which relief  
26 has been granted pursuant to Section 1203.49.

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

32 (p) (1) This subdivision shall apply whenever state or federal  
33 criminal history information is furnished by the Department of  
34 Justice as the result of an application by an agency, organization,  
35 or individual not defined in subdivision (k), (l), (m), (n), or (o), or  
36 by a transportation company authorized pursuant to Section  
37 11105.3, or any statute that incorporates the criteria of that section  
38 or this subdivision by reference, and the information is to be used  
39 for employment, licensing, or certification purposes.

1 (2) Notwithstanding any other provisions 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 rendered against the applicant, except a  
6 conviction for which relief has been granted pursuant to Section  
7 1203.49.

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

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

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

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

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

36 *SEC. 5.5. Section 11105 of the Penal Code is amended to read:*

37 11105. (a) (1) The Department of Justice shall maintain state  
38 summary criminal history information.

39 (2) As used in this section:

1 (A) “State summary criminal history information” means the  
2 master record of information compiled by the Attorney General  
3 pertaining to the identification and criminal history of any person,  
4 such as name, date of birth, physical description, fingerprints,  
5 photographs, dates of arrests, arresting agencies and booking  
6 numbers, charges, dispositions, and similar data about the person.

7 (B) “State summary criminal history information” does not refer  
8 to records and data compiled by criminal justice agencies other  
9 than the Attorney General, nor does it refer to records of complaints  
10 to or investigations conducted by, or records of intelligence  
11 information or security procedures of, the office of the Attorney  
12 General and the Department of Justice.

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

20 (1) The courts of the state.

21 (2) Peace officers of the state, as defined in Section 830.1,  
22 subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section  
23 830.3, *subdivision (a) of Section 830.31*, and subdivisions (a) and  
24 (b) of Section ~~830.5~~, and ~~subdivision (a) of Section 830.31~~ 830.5.

25 (3) District attorneys of the state.

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

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

31 (6) Probation officers of the state.

32 (7) Parole officers of the state.

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

36 (9) A public defender or attorney of record when representing  
37 a person in a criminal case, or a parole, mandatory supervision  
38 pursuant to paragraph (5) of subdivision (h) of Section 1170, or  
39 postrelease community supervision revocation or revocation

1 extension proceeding, and if authorized access by statutory or  
2 decisional law.

3 (10) Any agency, officer, or official of the state if the criminal  
4 history information is required to implement a statute or regulation  
5 that expressly refers to specific criminal conduct applicable to the  
6 subject person of the state summary criminal history information,  
7 and contains requirements or exclusions, or both, expressly based  
8 upon that specified criminal conduct. The agency, officer, or  
9 official of the state authorized by this paragraph to receive state  
10 summary criminal history information may also transmit fingerprint  
11 images and related information to the Department of Justice to be  
12 transmitted to the Federal Bureau of Investigation.

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

28 (12) The subject of the state summary criminal history  
29 information under procedures established under Article 5  
30 (commencing with Section 11120).

31 (13) Any person or entity when access is expressly authorized  
32 by statute if the criminal history information is required to  
33 implement a statute or regulation that expressly refers to specific  
34 criminal conduct applicable to the subject person of the state  
35 summary criminal history information, and contains requirements  
36 or exclusions, or both, expressly based upon that specified criminal  
37 conduct.

38 (14) Health officers of a city, county, city and county, or district  
39 when in the performance of their official duties enforcing Section  
40 120175 of the Health and Safety Code.

- 1 (15) Any managing or supervising correctional officer of a  
2 county jail or other county correctional facility.
- 3 (16) Any humane society, or society for the prevention of cruelty  
4 to animals, for the specific purpose of complying with Section  
5 14502 of the Corporations Code for the appointment of humane  
6 officers.
- 7 (17) Local child support agencies established by Section 17304  
8 of the Family Code. When a local child support agency closes a  
9 support enforcement case containing summary criminal history  
10 information, the agency shall delete or purge from the file and  
11 destroy any documents or information concerning or arising from  
12 offenses for or of which the parent has been arrested, charged, or  
13 convicted, other than for offenses related to the parent's having  
14 failed to provide support for minor children, consistent with the  
15 requirements of Section 17531 of the Family Code.
- 16 (18) County child welfare agency personnel who have been  
17 delegated the authority of county probation officers to access state  
18 summary criminal history information pursuant to Section 272 of  
19 the Welfare and Institutions Code for the purposes specified in  
20 Section 16504.5 of the Welfare and Institutions Code. Information  
21 from criminal history records provided pursuant to this subdivision  
22 shall not be used for any purposes other than those specified in  
23 this section and Section 16504.5 of the Welfare and Institutions  
24 Code. When an agency obtains records obtained both on the basis  
25 of name checks and fingerprint checks, final placement decisions  
26 shall be based only on the records obtained pursuant to the  
27 fingerprint check.
- 28 (19) The court of a tribe, or court of a consortium of tribes, that  
29 has entered into an agreement with the state pursuant to Section  
30 10553.1 of the Welfare and Institutions Code. This information  
31 may be used only for the purposes specified in Section 16504.5  
32 of the Welfare and Institutions Code and for tribal approval or  
33 tribal licensing of foster care or adoptive homes. Article 6  
34 (commencing with Section 11140) shall apply to officers, members,  
35 and employees of a tribal court receiving criminal record offender  
36 information pursuant to this section.
- 37 (20) Child welfare agency personnel of a tribe or consortium  
38 of tribes that has entered into an agreement with the state pursuant  
39 to Section 10553.1 of the Welfare and Institutions Code and to  
40 whom the state has delegated duties under paragraph (2) of

1 subdivision (a) of Section 272 of the Welfare and Institutions Code.  
2 The purposes for use of the information shall be for the purposes  
3 specified in Section 16504.5 of the Welfare and Institutions Code  
4 and for tribal approval or tribal licensing of foster care or adoptive  
5 homes. When an agency obtains records on the basis of name  
6 checks and fingerprint checks, final placement decisions shall be  
7 based only on the records obtained pursuant to the fingerprint  
8 check. Article 6 (commencing with Section 11140) shall apply to  
9 child welfare agency personnel receiving criminal record offender  
10 information pursuant to this section.

11 (21) An officer providing conservatorship investigations  
12 pursuant to Sections 5351, 5354, and 5356 of the Welfare and  
13 Institutions Code.

14 (22) A court investigator providing investigations or reviews  
15 in conservatorships pursuant to Section 1826, 1850, 1851, or  
16 2250.6 of the Probate Code.

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

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

21 (25) A public agency described in subdivision (b) of Section  
22 15975 of the Government Code, for the purpose of oversight and  
23 enforcement policies with respect to its contracted providers.

24 (c) The Attorney General may furnish state summary criminal  
25 history information and, when specifically authorized by this  
26 subdivision, federal level criminal history information upon a  
27 showing of a compelling need to any of the following, provided  
28 that when information is furnished to assist an agency, officer, or  
29 official of state or local government, a public utility, or any other  
30 entity in fulfilling employment, certification, or licensing duties,  
31 Chapter 1321 of the Statutes of 1974 and Section 432.7 of the  
32 Labor Code shall apply:

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

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

- 1 (3) To an illegal dumping enforcement officer as defined in  
2 subdivision (j) of Section 830.7.
- 3 (4) To a peace officer of another country.
- 4 (5) To public officers, other than peace officers, of the United  
5 States, other states, or possessions or territories of the United  
6 States, provided that access to records similar to state summary  
7 criminal history information is expressly authorized by a statute  
8 of the United States, other states, or possessions or territories of  
9 the United States if the information is needed for the performance  
10 of their official duties.
- 11 (6) To any person when disclosure is requested by a probation,  
12 parole, or peace officer with the consent of the subject of the state  
13 summary criminal history information and for purposes of  
14 furthering the rehabilitation of the subject.
- 15 (7) The courts of the United States, other states, or territories  
16 or possessions of the United States.
- 17 (8) Peace officers of the United States, other states, or territories  
18 or possessions of the United States.
- 19 (9) To any individual who is the subject of the record requested  
20 if needed in conjunction with an application to enter the United  
21 States or any foreign nation.
- 22 (10) (A) (i) Any public utility, as defined in Section 216 of the  
23 Public Utilities Code, or any cable corporation as defined in  
24 subparagraph (B), if receipt of criminal history information is  
25 needed in order to assist in employing current or prospective  
26 employees, contract employees, or subcontract employees who,  
27 in the course of their employment, may be seeking entrance to  
28 private residences or adjacent grounds. The information provided  
29 shall be limited to the record of convictions and any arrest for  
30 which the person is released on bail or on his or her own  
31 recognizance pending trial.
- 32 (ii) If the Attorney General supplies the data pursuant to this  
33 paragraph, the Attorney General shall furnish a copy of the data  
34 to the current or prospective employee to whom the data relates.
- 35 (iii) Any information obtained from the state summary criminal  
36 history is confidential and the receiving public utility or cable  
37 corporation shall not disclose its contents, other than for the  
38 purpose for which it was acquired. The state summary criminal  
39 history information in the possession of the public utility or cable  
40 corporation and all copies made from it shall be destroyed not

1 more than 30 days after employment or promotion or transfer is  
2 denied or granted, except for those cases where a current or  
3 prospective employee is out on bail or on his or her own  
4 recognizance pending trial, in which case the state summary  
5 criminal history information and all copies shall be destroyed not  
6 more than 30 days after the case is resolved.

7 (iv) A violation of this paragraph is a misdemeanor, and shall  
8 give the current or prospective employee who is injured by the  
9 violation a cause of action against the public utility or cable  
10 corporation to recover damages proximately caused by the  
11 violations. Any public utility's or cable corporation's request for  
12 state summary criminal history information for purposes of  
13 employing current or prospective employees who may be seeking  
14 entrance to private residences or adjacent grounds in the course  
15 of their employment shall be deemed a "compelling need" as  
16 required to be shown in this subdivision.

17 (v) ~~Nothing in this~~ This section shall *not* be construed as  
18 imposing any duty upon public utilities or cable corporations to  
19 request state summary criminal history information on any current  
20 or prospective employees.

21 (B) For purposes of this paragraph, "cable corporation" means  
22 any corporation or firm that transmits or provides television,  
23 computer, or telephone services by cable, digital, fiber optic,  
24 satellite, or comparable technology to subscribers for a fee.

25 (C) Requests for federal level criminal history information  
26 received by the Department of Justice from entities authorized  
27 pursuant to subparagraph (A) shall be forwarded to the Federal  
28 Bureau of Investigation by the Department of Justice. Federal level  
29 criminal history information received or compiled by the  
30 Department of Justice may then be disseminated to the entities  
31 referenced in subparagraph (A), as authorized by law.

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

35 (ii) Authority for a public utility to request federal level criminal  
36 history information under this paragraph shall commence July 1,  
37 2005.

38 (11) To any campus of the California State University or the  
39 University of California, or any four year college or university  
40 accredited by a regional accreditation organization approved by

1 the United States Department of Education, if needed in  
2 conjunction with an application for admission by a convicted felon  
3 to any special education program for convicted felons, including,  
4 but not limited to, university alternatives and halfway houses. Only  
5 conviction information shall be furnished. The college or university  
6 may require the convicted felon to be fingerprinted, and any inquiry  
7 to the department under this section shall include the convicted  
8 felon's fingerprints and any other information specified by the  
9 department.

10 (12) To any foreign government, if requested by the individual  
11 who is the subject of the record requested, if needed in conjunction  
12 with the individual's application to adopt a minor child who is a  
13 citizen of that foreign nation. Requests for information pursuant  
14 to this paragraph shall be in accordance with the process described  
15 in Sections 11122 to 11124, inclusive. The response shall be  
16 provided to the foreign government or its designee and to the  
17 individual who requested the information.

18 (d) Whenever an authorized request for state summary criminal  
19 history information pertains to a person whose fingerprints are on  
20 file with the Department of Justice and the department has no  
21 criminal history of that person, and the information is to be used  
22 for employment, licensing, or certification purposes, the fingerprint  
23 card accompanying the request for information, if any, may be  
24 stamped "no criminal record" and returned to the person or entity  
25 making the request.

26 (e) Whenever state summary criminal history information is  
27 furnished as the result of an application and is to be used for  
28 employment, licensing, or certification purposes, the Department  
29 of Justice may charge the person or entity making the request a  
30 fee that it determines to be sufficient to reimburse the department  
31 for the cost of furnishing the information. In addition, the  
32 Department of Justice may add a surcharge to the fee to fund  
33 maintenance and improvements to the systems from which the  
34 information is obtained. Notwithstanding any other law, any person  
35 or entity required to pay a fee to the department for information  
36 received under this section may charge the applicant a fee sufficient  
37 to reimburse the person or entity for this expense. All moneys  
38 received by the department pursuant to this section, Sections  
39 11105.3 and 26190, and former Section 13588 of the Education  
40 Code shall be deposited in a special account in the General Fund

1 to be available for expenditure by the department to offset costs  
2 incurred pursuant to those sections and for maintenance and  
3 improvements to the systems from which the information is  
4 obtained upon appropriation by the Legislature.

5 (f) Whenever there is a conflict, the processing of criminal  
6 fingerprints and fingerprints of applicants for security guard or  
7 alarm agent registrations or firearms qualification permits  
8 submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4  
9 of the Business and Professions Code shall take priority over the  
10 processing of other applicant fingerprints.

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

14 (h) It is not a violation of this section to include information  
15 obtained from a record in (1) a transcript or record of a judicial or  
16 administrative proceeding or (2) any other public record if the  
17 inclusion of the information in the public record is authorized by  
18 a court, statute, or decisional law.

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

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

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

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

38 (A) Every conviction rendered against the applicant.

39 (B) Every arrest for an offense for which the applicant is  
40 presently awaiting trial, whether the applicant is incarcerated or

1 has been released on bail or on his or her own recognizance  
2 pending trial.

3 (C) Every arrest or detention, except for an arrest or detention  
4 resulting in an exoneration, provided, however, that where the  
5 records of the Department of Justice do not contain a disposition  
6 for the arrest, the Department of Justice first makes a genuine effort  
7 to determine the disposition of the arrest.

8 (D) Every successful diversion.

9 (E) Every date and agency name associated with all retained  
10 peace officer or nonsworn law enforcement agency employee  
11 preemployment criminal offender record information search  
12 requests.

13 (F) *Sex offender registration status of the applicant.*

14 (I) (1) This subdivision shall apply whenever state or federal  
15 summary criminal history information is furnished by the  
16 Department of Justice as the result of an application by a criminal  
17 justice agency or organization as defined in Section 13101, and  
18 the information is to be used for criminal justice employment,  
19 licensing, or certification purposes.

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

24 (A) Every conviction rendered against the applicant.

25 (B) Every arrest for an offense for which the applicant is  
26 presently awaiting trial, whether the applicant is incarcerated or  
27 has been released on bail or on his or her own recognizance  
28 pending trial.

29 (C) Every arrest for an offense for which the records of the  
30 Department of Justice do not contain a disposition or did not result  
31 in a conviction, provided that the Department of Justice first makes  
32 a genuine effort to determine the disposition of the arrest. However,  
33 information concerning an arrest shall not be disclosed if the  
34 records of the Department of Justice indicate or if the genuine  
35 effort reveals that the subject was exonerated, successfully  
36 completed a diversion or deferred entry of judgment program, or  
37 the arrest was deemed a detention.

38 (D) Every date and agency name associated with all retained  
39 peace officer or nonsworn law enforcement agency employee

1 preemployment criminal offender record information search  
2 requests.

3 *(E) Sex offender registration status of the applicant.*

4 (m) (1) This subdivision shall apply whenever state or federal  
5 summary criminal history information is furnished by the  
6 Department of Justice as the result of an application by an  
7 authorized agency or organization pursuant to Section 1522,  
8 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or  
9 any statute that incorporates the criteria of any of those sections  
10 or this subdivision by reference, and the information is to be used  
11 for employment, licensing, or certification purposes.

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

16 (A) Every conviction of an offense rendered against the  
17 applicant, *except a conviction for which relief has been granted*  
18 *pursuant to Section 1203.49.*

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

23 (C) Every arrest for an offense for which the Department of  
24 Social Services is required by paragraph (1) of subdivision (a) of  
25 Section 1522 of the Health and Safety Code to determine if an  
26 applicant has been arrested. However, if the records of the  
27 Department of Justice do not contain a disposition for an arrest,  
28 the Department of Justice shall first make a genuine effort to  
29 determine the disposition of the arrest.

30 *(D) Sex offender registration status of the applicant.*

31 (3) Notwithstanding the requirements of the sections referenced  
32 in paragraph (1) of this subdivision, the Department of Justice  
33 shall not disseminate information about an arrest subsequently  
34 deemed a detention or an arrest that resulted in either the successful  
35 completion of a diversion program or exoneration.

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

1 (A) Paragraph ~~(9)~~ (10) of subdivision (c), when the information  
2 is to be used by a cable corporation.

3 (B) Section 11105.3 or 11105.4.

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

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

8 (2) With the exception of applications submitted by  
9 transportation companies authorized pursuant to Section 11105.3,  
10 and notwithstanding any other ~~provision of~~ law, whenever state  
11 summary criminal history information is initially furnished  
12 pursuant to paragraph (1), the Department of Justice shall  
13 disseminate the following information:

14 (A) Every conviction, *except a conviction for which relief has*  
15 *been granted pursuant to Section 1203.49*, rendered against the  
16 applicant for a violation or attempted violation of any offense  
17 specified in subdivision (a) of Section 15660 of the Welfare and  
18 Institutions Code. However, with the exception of those offenses  
19 for which registration is required pursuant to Section 290, the  
20 Department of Justice shall not disseminate information pursuant  
21 to this subdivision unless the conviction occurred within 10 years  
22 of the date of the agency’s request for information or the conviction  
23 is over 10 years old but the subject of the request was incarcerated  
24 within 10 years of the agency’s request for information.

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

30 (C) *Sex offender registration status of the applicant.*

31 (o) (1) This subdivision shall apply whenever state or federal  
32 summary criminal history information is furnished by the  
33 Department of Justice as the result of an application by an  
34 authorized agency or organization pursuant to Section 379 or 550  
35 of the Financial Code, or any statute that incorporates the criteria  
36 of either of those sections or this subdivision by reference, and the  
37 information is to be used for employment, licensing, or certification  
38 purposes.

39 (2) Notwithstanding any other ~~provision of~~ law, whenever state  
40 summary criminal history information is initially furnished

1 pursuant to paragraph (1), the Department of Justice shall  
2 disseminate the following information:

3 (A) Every conviction rendered against the applicant for a  
4 violation or attempted violation of any offense specified in Section  
5 550 of the Financial Code, *except a conviction for which relief has*  
6 *been granted pursuant to Section 1203.49.*

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

12 (p) (1) This subdivision shall apply whenever state or federal  
13 criminal history information is furnished by the Department of  
14 Justice as the result of an application by an agency, organization,  
15 or individual not defined in subdivision (k), (l), (m), (n), or (o), or  
16 by a transportation company authorized pursuant to Section  
17 11105.3, or any statute that incorporates the criteria of that section  
18 or this subdivision by reference, and the information is to be used  
19 for employment, licensing, or certification purposes.

20 (2) Notwithstanding any other ~~provisions~~ of law, whenever state  
21 summary criminal history information is initially furnished  
22 pursuant to paragraph (1), the Department of Justice shall  
23 disseminate the following information:

24 (A) Every conviction rendered against the applicant, *except a*  
25 *conviction for which relief has been granted pursuant to Section*  
26 *1203.49.*

27 (B) Every arrest for an offense for which the applicant is  
28 presently awaiting trial, whether the applicant is incarcerated or  
29 has been released on bail or on his or her own recognizance  
30 pending trial.

31 (C) *Sex offender registration status of the applicant.*

32 (q) All agencies, organizations, or individuals defined in  
33 subdivisions (k), (l), (m), (n), (o), and (p) may contract with the  
34 Department of Justice for subsequent notification pursuant to  
35 Section 11105.2. This subdivision shall not supersede sections that  
36 mandate an agency, organization, or individual to contract with  
37 the Department of Justice for subsequent notification pursuant to  
38 Section 11105.2.

1 (r) ~~Nothing in this~~ *This section shall be construed to mean that*  
2 *does not require* the Department of Justice ~~shall~~ to cease  
3 compliance with any other statutory notification requirements.

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

7 (t) Whenever state or federal summary criminal history  
8 information is furnished by the Department of Justice as the result  
9 of an application by an authorized agency, organization, or  
10 individual defined in subdivisions (k) to (p), inclusive, and the  
11 information is to be used for employment, licensing, or certification  
12 purposes, the authorized agency, organization, or individual shall  
13 expeditiously furnish a copy of the information to the person to  
14 whom the information relates if the information is a basis for an  
15 adverse employment, licensing, or certification decision. When  
16 furnished other than in person, the copy shall be delivered to the  
17 last contact information provided by the applicant.

18 *SEC. 6. Section 5.5 of this bill incorporates amendments to*  
19 *Section 11105 of the Penal Code proposed by both this bill and*  
20 *Assembly Bill 2404. It shall only become operative if (1) both bills*  
21 *are enacted and become effective on or before January 1, 2015,*  
22 *(2) each bill amends Section 11105 of the Penal Code, and (3) this*  
23 *bill is enacted after Assembly Bill 2404, in which case Section 5*  
24 *of this bill shall not become operative.*