

AMENDED IN ASSEMBLY MARCH 27, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1960

Introduced by Assembly Member Perea

February 19, 2014

An act to ~~amend Section 11105.1 of the Penal Code~~, *add Section 4142 to the Welfare and Institutions Code*, relating to criminal history information.

LEGISLATIVE COUNSEL'S DIGEST

AB 1960, as amended, Perea. State summary criminal history information: state hospitals.

Existing law requires the Department of Justice to maintain state summary criminal history information, including the identification and criminal history of any person, such as 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 requires the department to furnish this information in response to a request from certain authorized agencies, organizations, or individuals for specified purposes. Existing law authorizes state criminal summary history information to be given to the director of a state hospital or other treatment facility in specified circumstances, including when the person is being committed for being dangerous to others. *Existing law makes it a misdemeanor to knowingly furnish a state summary criminal history record or information obtained from a record to a person who is not authorized by law to receive that record or information.*

This bill would require the ~~Attorney General to provide~~ *director of a state hospital or a clinician, as defined, to obtain the state summary*

criminal history information to the director of a state hospital, or his or her designee, for a patient committed to that facility for treatment *the State Department of State Hospitals*. The bill would require the state hospital to only use the information for the purpose of treatment or the determination of security required for that patient and to remove the information *state the purposes for which the information may be used, including to assess the violence risk and the appropriate placement of the patient, and would require the information to be removed from the patient's file and destroyed within 30 days of the patient being discharged.* This bill would also ~~authorize a~~ require law enforcement officer at a state hospital who has access to personnel to provide the criminal history information to the director or clinician upon request through the California Law Enforcement—Telecommunication Telecommunications System to provide state summary criminal history information to the director of a state hospital, or his or her designee, for this purpose. *Because the furnishing of this information by the director or clinician to an unauthorized person would be a misdemeanor pursuant to the provisions described above, this bill would expand the scope of an existing crime, thereby imposing 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 a specified reason.

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

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

- 1 SECTION 1. Section 4142 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 4142. (a) Notwithstanding any other law, whenever a patient
- 4 is committed to the State Department of State Hospitals, a director
- 5 of a state hospital or a clinician, as defined in subdivision (f), shall
- 6 obtain the state summary criminal history information for the
- 7 patient. The information shall be used to assess the violence risk
- 8 of a patient, to assess the appropriate placement of a patient, for
- 9 treatment purposes of a patient, for use in preparing periodic

1 reports as required by statute, or to determine the patient's
2 progress or fitness for release. The state summary criminal history
3 information shall be placed in the patient's confidential file for
4 the duration of his or her commitment.

5 (b) The information may be obtained through use of the
6 California Law Enforcement Telecommunications System (CLETS).
7 Law enforcement personnel shall cooperate with requests for state
8 summary criminal history information authorized pursuant to this
9 section and shall provide the information to the requesting entity
10 in a timely manner.

11 (c) A law enforcement officer or person authorized by this
12 section to receive the information who obtains the information in
13 the record and knowingly provides the information to a person
14 not authorized by law to receive the information is guilty of a
15 misdemeanor as specified in Section 11142 of the Penal Code.

16 (d) Information obtained pursuant to this section shall not be
17 used for any purposes other than those described in subdivision
18 (a).

19 (e) For purposes of this section, the State Department of State
20 Hospitals law enforcement personnel, pursuant to Section 830.38
21 of the Penal Code, may act as the governmental criminal justice
22 agency described in subdivision (a).

23 (f) For purposes of this section, "clinician" means a state
24 licensed mental health professional working within the State
25 Department of State Hospitals.

26 (g) State summary criminal history information secured pursuant
27 to this section shall remain confidential and access shall be limited
28 to the director of the state hospital or the clinician. Within 30 days
29 of discharge from the state hospital, the state summary criminal
30 history information shall be removed from the patient's file and
31 destroyed.

32 SEC. 2. No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 the only costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section 17556 of
38 the Government Code, or changes the definition of a crime within
39 the meaning of Section 6 of Article XIII B of the California
40 Constitution.

1 SECTION 1. ~~Section 11105.1 of the Penal Code is amended to~~
2 ~~read:~~

3 ~~11105.1. (a) The following persons shall be furnished with~~
4 ~~state summary criminal history information when needed in the~~
5 ~~course of their duties:~~

6 ~~(1) The director of a treatment facility other than a state hospital~~
7 ~~to which a person is committed for treatment under Sections 1026~~
8 ~~and 1370 of the Penal Code, or Section 5250, if committed for~~
9 ~~being dangerous to others, or Section 5300, or former Section 6316~~
10 ~~or 6321, of the Welfare and Institutions Code.~~

11 ~~(2) The community program director or the director's designee~~
12 ~~under any of the following conditions:~~

13 ~~(A) When ordered to evaluate a defendant for the court under~~
14 ~~paragraph (2) of subdivision (a) of Section 1370 and subdivision~~
15 ~~(b) of Section 1026 of the Penal Code, or paragraph (2) of~~
16 ~~subdivision (a) of former Section 6316 of the Welfare and~~
17 ~~Institutions Code.~~

18 ~~(B) When ordered to provide outpatient treatment and~~
19 ~~supervision services under Title 15 (commencing with Section~~
20 ~~1600) of Part 2 of the Penal Code.~~

21 ~~(C) When a patient is committed for being dangerous to others~~
22 ~~under Section 5250 of the Welfare and Institutions Code.~~

23 ~~(D) When the director or the director's designee provides~~
24 ~~evaluation, supervision, or treatment for a person under Section~~
25 ~~2964 or 2972.~~

26 ~~(3) The officer providing conservatorship investigation under~~
27 ~~Section 5354 of the Welfare and Institutions Code in cases where~~
28 ~~referral for conservatorship is made while the proposed conservatee~~
29 ~~is being treated under Section 1026 or 1370 of the Penal Code or~~
30 ~~Section 5250, if committed for being dangerous to others, or~~
31 ~~Section 5300, or former Section 6316 or 6321, of the Welfare and~~
32 ~~Institutions Code.~~

33 ~~(b) In all instances pursuant to subdivision (a), the criminal~~
34 ~~history record shall be transmitted by the court with the request~~
35 ~~for evaluation or during the conservatorship investigation or with~~
36 ~~the order committing the person to a treatment facility or approving~~
37 ~~outpatient status, except that the county mental health director and~~
38 ~~the officer providing conservatorship investigation may receive~~
39 ~~the state summary criminal history information from the law~~
40 ~~enforcement agency that referred the person for evaluation and~~

1 treatment under Section 5150 of the Welfare and Institutions Code
2 if the person has been subsequently committed for being dangerous
3 to others under Section 5250 of the Welfare and Institutions Code.
4 Information obtained under this subdivision shall not be included
5 in any document that will become part of a public record.

6 ~~(e) (1) Subject to the requirements of Section 11105, the~~
7 ~~Attorney General shall furnish state summary criminal history~~
8 ~~information to the director of a state hospital, or his or her designee,~~
9 ~~for a patient committed to that facility for treatment. The~~
10 ~~information shall only be used for the purpose of treatment or the~~
11 ~~determination of security required for that patient. State summary~~
12 ~~criminal history information shall be included in the patient's~~
13 ~~confidential file for the duration of the patient's treatment at the~~
14 ~~state hospital. The state summary criminal history information~~
15 ~~shall be removed from the patient's file and destroyed within 30~~
16 ~~days of the patient being discharged.~~

17 ~~(2) Subject to the requirements and conditions in Section~~
18 ~~11105.03, a law enforcement officer at a state hospital who has~~
19 ~~access to the California Law Enforcement Telecommunication~~
20 ~~System (CLETS) is hereby authorized to provide state summary~~
21 ~~criminal history information to the director of a state hospital, or~~
22 ~~his or her designee, for use as provided in paragraph (1).~~