AMENDED IN ASSEMBLY APRIL 21, 2014

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 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 director of a state hospital or a clinician, as defined, to obtain the state summary criminal history information for a patient committed to the State Department of State Hospitals. The bill would 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 require law enforcement personnel to provide the criminal history information to the director or clinician upon request through the California Law Enforcement Telecommunications System 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: 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 reports
10   as required by statute, or to determine the patient's progress or
11   fitness for release. The state summary criminal history information
12   shall be placed in the patient's confidential file for the duration of
13   his or her commitment.
14   (b) The information may be obtained through use of the
15   California Law Enforcement Telecommunications System

1 (CLETS). Law enforcement personnel shall cooperate with requests
2 for state summary criminal history information authorized pursuant
3 to this section and shall provide the information to the requesting
4 entity in a timely manner.
5 (c) A law enforcement officer or person authorized by this
6 section to receive the information who obtains the information in
7 the record and knowingly provides the information to a person not
8 authorized by law to receive the information is guilty of a
9 misdemeanor as specified in Section 11142 of the Penal Code.
10 (d) Information obtained pursuant to this section shall not be
11 used for any purposes other than those described in subdivision
12 (a).
13 (e) For purposes of this section, the State Department of State
14 Hospitals law enforcement personnel, pursuant to Section 830.38
15 of the Penal Code, may act as the ~~governmental criminal justice~~
16 ~~agency described in subdivision (a).~~ *law enforcement personnel*
17 *described in subdivision (b).*
18 (f) For purposes of this section, "clinician" means a state
19 licensed mental health professional working within the State
20 Department of State Hospitals *who has received, and is current*
21 *in, CLETS training that is appropriate for a person who has*
22 *ongoing access to information from the CLETS and is not a CLETS*
23 *operator, following the policies on training, compliance, and*
24 *inspection required by the Department of Justice.*
25 (g) State summary criminal history information secured pursuant
26 to this section shall remain confidential and access shall be limited
27 to the director of the state hospital or the clinician. Within 30 days
28 of discharge from the state hospital, the state summary criminal
29 history information shall be removed from the patient's file and
30 destroyed.
31 SEC. 2. No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 the only costs that may be incurred by a local agency or school
34 district will be incurred because this act creates a new crime or
35 infraction, eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section 17556 of
37 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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