

AMENDED IN SENATE MAY 24, 2013  
AMENDED IN SENATE APRIL 22, 2013  
AMENDED IN SENATE APRIL 16, 2013

**SENATE BILL**

**No. 509**

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**Introduced by Senators DeSaulnier and Emmerson**

February 21, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

SB 509, as amended, DeSaulnier. California Health Benefit Exchange: background checks.

Under the federal Patient Protection and Affordable Care Act (PPACA), each state is required, by January 1, 2014, to establish an American Health Benefit Exchange that makes available qualified health plans to qualified individuals and small employers. Existing state law establishes the California Health Benefit Exchange (Exchange) within state government, specifies the powers and duties of the executive board governing the Exchange, and requires the board to facilitate the purchase of qualified health plans through the Exchange by qualified individuals and small employers by January 1, 2014. Existing law creates the California Health Trust Fund as a continuously appropriated fund for the administrative and operational expenses of the Exchange.

This bill would ~~authorize~~ *require* the board ~~to require, and~~ to submit to the Department of Justice, fingerprint images and related information of employees, prospective employees, contractors, subcontractors, volunteers, or vendors *whose duties include or would include access*

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

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

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

1 SECTION 1. Section 1043 is added to the Government Code,  
2 to read:  
3 1043. (a) (1) The executive board of the California Health  
4 Benefit Exchange, as established by Section 100500, ~~may require,~~  
5 ~~and may shall,~~ *consistent with federal guidance applicable to*  
6 *state-based exchanges*, submit to the Department of Justice,  
7 fingerprint images and related information required by the  
8 Department of Justice of all employees, prospective employees,  
9 contractors, subcontractors, volunteers, or vendors *whose duties*  
10 *include or would include access to confidential information,*  
11 *personal identifying information, personal health information,*  
12 *federal tax information, financial information, or any other*  
13 *information as required by federal law or guidance applicable to*  
14 *state-based exchanges* for the purposes of obtaining information  
15 as to the existence and content of a record of state or federal  
16 convictions and also information as to the existence and content  
17 of a record of state or federal arrests for which the Department of  
18 Justice establishes that the person is free on bail or on his or her  
19 recognizance pending trial or appeal.

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

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

16 (c) The Department of Justice shall provide a state or federal  
17 level response to the board pursuant to ~~paragraph (1) of~~ subdivision  
18 (p) of Section 11105 of the Penal Code.

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

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

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

29 In order to be operational to begin preenrollment in the fall of  
30 2013, the California Health Benefit Exchange has already begun  
31 the process of recruiting staff for its service center. The California  
32 Health Benefit Exchange will also be contracting with  
33 community-based organizations that will employ in-person  
34 assisters. Fingerprinting and background checks will be needed as  
35 a condition of employment and certification. For these reasons, it  
36 is necessary for this act to take effect immediately.