

AMENDED IN SENATE APRIL 29, 2014

**SENATE BILL**

**No. 1136**

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**Introduced by Senators Huff and Mitchell**

**(Coauthors: Senators Leno and Wolk)**

*(Coauthors: Assembly Members Chávez, Gorell, Olsen, and Wieckowski)*

February 20, 2014

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An act to amend ~~Sections~~ *Section 1522 and 1522.08* of the Health and Safety Code, to amend ~~Section 1105~~ *Section 11170* of the Penal Code, and to amend Section 16504.5 of, *and to add Section 16504.7 to*, the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1136, as amended, Huff. Foster care providers: criminal records.

Existing law requires the State Department of Social Services to license and regulate community care facilities, including foster family homes, certified family homes of licensed foster family agencies, and group homes. Existing law requires that persons providing care or services at these homes or facilities obtain either a criminal record clearance or an exemption from disqualification from the department, as prescribed.

Existing law authorizes a child welfare agency to secure from an appropriate governmental criminal justice agency the state summary criminal history information for specified purposes, including an assessment of the appropriateness of placing a child subject to the jurisdiction of the juvenile court with a relative or nonrelative extended family member. *Existing law also authorizes the Department of Justice to provide information contained in the Child Abuse Central Index to the State Department of Social Services, or to any county licensing*

*agency that has contracted with the state for the performance of licensing duties.*

~~This bill would authorize~~ *require* the State Department of Social Services to ~~share all information related to a criminal record clearance or exemption granted by the department with a~~ *provide to a county child welfare agency with responsibility to monitor the health and safety of persons receiving care, treatment, or services from state licensed foster homes, certified homes of licensed foster family agencies and employees of those agencies, and licensed group homes a list of each person who has received a criminal records exemption related to a licensed or certified foster home so that the county may assess the appropriateness and safety of placing a child in the foster home with which the individual is associated.* The bill would further authorize a county child welfare agency to ~~receive state summary criminal history information for purposes of assessing the appropriateness and safety of placing a child who has been detained or is a dependent of the court in a licensed foster family home, group home, or state licensed foster home, and monitoring the health and safety of persons in those placements~~ *submit to the Department of Justice fingerprint images and related information of an individual who has received a criminal record exemption, for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and arrests, as specified. The bill would require, if the county uses this information as the basis for determining that a licensed or certified foster care placement is not an appropriate placement for a child, the county to furnish a copy of the information to the person to whom the information relates and to provide the person with an opportunity to contest or appeal the decision within the agency.*

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 1522 of the Health and Safety Code is  
2 amended to read:  
3 1522. The Legislature recognizes the need to generate timely  
4 and accurate positive fingerprint identification of applicants as a  
5 condition of issuing licenses, permits, or certificates of approval  
6 for persons to operate or provide direct care services in a  
7 community care facility, foster family home, or a certified family

1 home of a licensed foster family agency, *and to assess the*  
2 *appropriateness and safety of placing specific children in those*  
3 *homes and facilities.* ~~The Legislature also recognizes the need for~~  
4 ~~sharing of information between the State Department of Social~~  
5 ~~Services and county child welfare agencies in order to protect the~~  
6 ~~health and safety of persons receiving care, treatment, or services~~  
7 ~~from individuals or facilities licensed or certified by the state.~~  
8 Therefore, the Legislature supports the use of the fingerprint  
9 live-scan technology, as identified in the long-range plan of the  
10 Department of Justice for fully automating the processing of  
11 fingerprints and other data by the year 1999, otherwise known as  
12 the California Crime Information Intelligence System (CAL-CII),  
13 to be used for applicant fingerprints. It is the intent of the  
14 Legislature in enacting this section to require the fingerprints of  
15 those individuals whose contact with community care clients may  
16 pose a risk to the clients' health and safety. An individual shall be  
17 required to obtain either a criminal record clearance or a criminal  
18 record exemption from the State Department of Social Services  
19 before his or her initial presence in a community care facility.

20 (a) (1) Before issuing a license or special permit to any person  
21 or persons to operate or manage a community care facility, the  
22 State Department of Social Services shall secure from an  
23 appropriate law enforcement agency a criminal record to determine  
24 whether the applicant or any other person specified in subdivision  
25 (b) has ever been convicted of a crime other than a minor traffic  
26 violation or arrested for any crime specified in Section 290 of the  
27 Penal Code, for violating Section 245 or 273.5, of the Penal Code,  
28 subdivision (b) of Section 273a of the Penal Code, or, prior to  
29 January 1, 1994, paragraph (2) of Section 273a of the Penal Code,  
30 or for any crime for which the department cannot grant an  
31 exemption if the person was convicted and the person has not been  
32 exonerated.

33 (2) The criminal history information shall include the full  
34 criminal record, if any, of those persons, and subsequent arrest  
35 information pursuant to Section 11105.2 of the Penal Code.

36 (3) Except during the 2003–04 to the 2014–15 fiscal years,  
37 inclusive, neither the Department of Justice nor the State  
38 Department of Social Services may charge a fee for the  
39 fingerprinting of an applicant for a license or special permit to  
40 operate a facility providing nonmedical board, room, and care for

1 six or less children or for obtaining a criminal record of the  
2 applicant pursuant to this section.

3 (4) The following shall apply to the criminal record information:

4 (A) If the State Department of Social Services finds that the  
5 applicant, or any other person specified in subdivision (b), has  
6 been convicted of a crime other than a minor traffic violation, the  
7 application shall be denied, unless the director grants an exemption  
8 pursuant to subdivision (g).

9 (B) If the State Department of Social Services finds that the  
10 applicant, or any other person specified in subdivision (b) is  
11 awaiting trial for a crime other than a minor traffic violation, the  
12 State Department of Social Services may cease processing the  
13 application until the conclusion of the trial.

14 (C) If no criminal record information has been recorded, the  
15 Department of Justice shall provide the applicant and the State  
16 Department of Social Services with a statement of that fact.

17 (D) If the State Department of Social Services finds after  
18 licensure that the licensee, or any other person specified in  
19 paragraph (1) of subdivision (b), has been convicted of a crime  
20 other than a minor traffic violation, the license may be revoked,  
21 unless the director grants an exemption pursuant to subdivision  
22 (g).

23 (E) An applicant and any other person specified in subdivision  
24 (b) shall submit fingerprint images and related information to the  
25 Department of Justice for the purpose of searching the criminal  
26 records of the Federal Bureau of Investigation, in addition to the  
27 criminal records search required by this subdivision. If an applicant  
28 and all other persons described in subdivision (b) meet all of the  
29 conditions for licensure, except receipt of the Federal Bureau of  
30 Investigation's criminal offender record information search  
31 response for the applicant or any of the persons described in  
32 subdivision (b), the department may issue a license if the applicant  
33 and each person described in subdivision (b) has signed and  
34 submitted a statement that he or she has never been convicted of  
35 a crime in the United States, other than a traffic infraction, as  
36 prescribed in paragraph (1) of subdivision (a) of Section 42001 of  
37 the Vehicle Code. If, after licensure, the department determines  
38 that the licensee or any other person specified in subdivision (b)  
39 has a criminal record, the license may be revoked pursuant to

1 Section 1550. The department may also suspend the license  
2 pending an administrative hearing pursuant to Section 1550.5.

3 (F) The State Department of Social Services shall develop  
4 procedures to provide the individual's state and federal criminal  
5 history information with the written notification of his or her  
6 exemption denial or revocation based on the criminal record.  
7 Receipt of the criminal history information shall be optional on  
8 the part of the individual, as set forth in the agency's procedures.  
9 The procedure shall protect the confidentiality and privacy of the  
10 individual's record, and the criminal history information shall not  
11 be made available to the employer.

12 (G) Notwithstanding any other law, the department is authorized  
13 to provide an individual with a copy of his or her state or federal  
14 level criminal offender record information search response as  
15 provided to that department by the Department of Justice if the  
16 department has denied a criminal background clearance based on  
17 this information and the individual makes a written request to the  
18 department for a copy specifying an address to which it is to be  
19 sent. The state or federal level criminal offender record information  
20 search response shall not be modified or altered from its form or  
21 content as provided by the Department of Justice and shall be  
22 provided to the address specified by the individual in his or her  
23 written request. The department shall retain a copy of the  
24 individual's written request and the response and date provided.

25 (b) (1) In addition to the applicant, this section shall be  
26 applicable to criminal convictions of the following persons:

27 (A) Adults responsible for administration or direct supervision  
28 of staff.

29 (B) Any person, other than a client, residing in the facility.

30 (C) Any person who provides client assistance in dressing,  
31 grooming, bathing, or personal hygiene. Any nurse assistant or  
32 home health aide meeting the requirements of Section 1338.5 or  
33 1736.6, respectively, who is not employed, retained, or contracted  
34 by the licensee, and who has been certified or recertified on or  
35 after July 1, 1998, shall be deemed to meet the criminal record  
36 clearance requirements of this section. A certified nurse assistant  
37 and certified home health aide who will be providing client  
38 assistance and who falls under this exemption shall provide one  
39 copy of his or her current certification, prior to providing care, to  
40 the community care facility. The facility shall maintain the copy

1 of the certification on file as long as care is being provided by the  
2 certified nurse assistant or certified home health aide at the facility.  
3 Nothing in this paragraph restricts the right of the department to  
4 exclude a certified nurse assistant or certified home health aide  
5 from a licensed community care facility pursuant to Section 1558.

6 (D) Any staff person, volunteer, or employee who has contact  
7 with the clients.

8 (E) If the applicant is a firm, partnership, association, or  
9 corporation, the chief executive officer or other person serving in  
10 like capacity.

11 (F) Additional officers of the governing body of the applicant,  
12 or other persons with a financial interest in the applicant, as  
13 determined necessary by the department by regulation. The criteria  
14 used in the development of these regulations shall be based on the  
15 person's capability to exercise substantial influence over the  
16 operation of the facility.

17 (2) The following persons are exempt from the requirements  
18 applicable under paragraph (1):

19 (A) A medical professional as defined in department regulations  
20 who holds a valid license or certification from the person's  
21 governing California medical care regulatory entity and who is  
22 not employed, retained, or contracted by the licensee if all of the  
23 following apply:

24 (i) The criminal record of the person has been cleared as a  
25 condition of licensure or certification by the person's governing  
26 California medical care regulatory entity.

27 (ii) The person is providing time-limited specialized clinical  
28 care or services.

29 (iii) The person is providing care or services within the person's  
30 scope of practice.

31 (iv) The person is not a community care facility licensee or an  
32 employee of the facility.

33 (B) A third-party repair person or similar retained contractor if  
34 all of the following apply:

35 (i) The person is hired for a defined, time-limited job.

36 (ii) The person is not left alone with clients.

37 (iii) When clients are present in the room in which the repair  
38 person or contractor is working, a staff person who has a criminal  
39 record clearance or exemption is also present.

1 (C) Employees of a licensed home health agency and other  
2 members of licensed hospice interdisciplinary teams who have a  
3 contract with a client or resident of the facility and are in the  
4 facility at the request of that client or resident’s legal  
5 decisionmaker. The exemption does not apply to a person who is  
6 a community care facility licensee or an employee of the facility.

7 (D) Clergy and other spiritual caregivers who are performing  
8 services in common areas of the community care facility or who  
9 are advising an individual client at the request of, or with the  
10 permission of, the client or legal decisionmaker, are exempt from  
11 fingerprint and criminal background check requirements imposed  
12 by community care licensing. This exemption does not apply to a  
13 person who is a community care licensee or employee of the  
14 facility.

15 (E) Members of fraternal, service, or similar organizations who  
16 conduct group activities for clients if all of the following apply:

- 17 (i) Members are not left alone with clients.
- 18 (ii) Members do not transport clients off the facility premises.
- 19 (iii) The same organization does not conduct group activities  
20 for clients more often than defined by the department’s regulations.

21 (3) In addition to the exemptions in paragraph (2), the following  
22 persons in foster family homes, certified family homes, and small  
23 family homes are exempt from the requirements applicable under  
24 paragraph (1):

25 (A) Adult friends and family of the licensed or certified foster  
26 parent, who come into the home to visit for a length of time no  
27 longer than defined by the department in regulations, provided  
28 that the adult friends and family of the licensee are not left alone  
29 with the foster children. However, the licensee, acting as a  
30 reasonable and prudent parent, as defined in paragraph (2) of  
31 subdivision (a) of Section 362.04 of the Welfare and Institutions  
32 Code, may allow his or her adult friends and family to provide  
33 short-term care to the foster child and act as an appropriate  
34 occasional short-term babysitter for the child.

35 (B) Parents of a foster child’s friend when the foster child is  
36 visiting the friend’s home and the friend, licensed or certified foster  
37 parent, or both are also present. However, the licensee, acting as  
38 a reasonable and prudent parent, may allow the parent of the foster  
39 child’s friend to act as an appropriate short-term babysitter for the  
40 child without the friend being present.

1 (C) Individuals who are engaged by any licensed or certified  
2 foster parent to provide short-term care to the child for periods not  
3 to exceed 24 hours. Caregivers shall use a reasonable and prudent  
4 parent standard in selecting appropriate individuals to act as  
5 appropriate occasional short-term babysitters.

6 (4) In addition to the exemptions specified in paragraph (2), the  
7 following persons in adult day care and adult day support centers  
8 are exempt from the requirements applicable under paragraph (1):

9 (A) Unless contraindicated by the client's individualized  
10 program plan (IPP) or needs and service plan, a spouse, significant  
11 other, relative, or close friend of a client, or an attendant or a  
12 facilitator for a client with a developmental disability if the  
13 attendant or facilitator is not employed, retained, or contracted by  
14 the licensee. This exemption applies only if the person is visiting  
15 the client or providing direct care and supervision to the client.

16 (B) A volunteer if all of the following applies:

17 (i) The volunteer is supervised by the licensee or a facility  
18 employee with a criminal record clearance or exemption.

19 (ii) The volunteer is never left alone with clients.

20 (iii) The volunteer does not provide any client assistance with  
21 dressing, grooming, bathing, or personal hygiene other than  
22 washing of hands.

23 (5) (A) In addition to the exemptions specified in paragraph  
24 (2), the following persons in adult residential and social  
25 rehabilitation facilities, unless contraindicated by the client's  
26 individualized program plan (IPP) or needs and services plan, are  
27 exempt from the requirements applicable under paragraph (1): a  
28 spouse, significant other, relative, or close friend of a client, or an  
29 attendant or a facilitator for a client with a developmental disability  
30 if the attendant or facilitator is not employed, retained, or  
31 contracted by the licensee. This exemption applies only if the  
32 person is visiting the client or providing direct care and supervision  
33 to that client.

34 (B) Nothing in this subdivision shall prevent a licensee from  
35 requiring a criminal record clearance of any individual exempt  
36 from the requirements of this section, provided that the individual  
37 has client contact.

38 (6) Any person similar to those described in this subdivision,  
39 as defined by the department in regulations.

1 (c) (1) Subsequent to initial licensure, a person specified in  
2 subdivision (b) who is not exempted from fingerprinting shall  
3 obtain either a criminal record clearance or an exemption from  
4 disqualification pursuant to subdivision (g) from the State  
5 Department of Social Services prior to employment, residence, or  
6 initial presence in the facility. A person specified in subdivision  
7 (b) who is not exempt from fingerprinting shall be fingerprinted  
8 and shall sign a declaration under penalty of perjury regarding any  
9 prior criminal convictions. The licensee shall submit fingerprint  
10 images and related information to the Department of Justice and  
11 the Federal Bureau of Investigation, through the Department of  
12 Justice, for a state and federal level criminal offender record  
13 information search, or comply with paragraph (1) of subdivision  
14 (h). These fingerprint images and related information shall be sent  
15 by electronic transmission in a manner approved by the State  
16 Department of Social Services and the Department of Justice for  
17 the purpose of obtaining a permanent set of fingerprints, and shall  
18 be submitted to the Department of Justice by the licensee. A  
19 licensee's failure to prohibit the employment, residence, or initial  
20 presence of a person specified in subdivision (b) who is not exempt  
21 from fingerprinting and who has not received either a criminal  
22 record clearance or an exemption from disqualification pursuant  
23 to subdivision (g) or to comply with paragraph (1) of subdivision  
24 (h), as required in this section, shall result in the citation of a  
25 deficiency and the immediate assessment of civil penalties in the  
26 amount of one hundred dollars (\$100) per violation per day for a  
27 maximum of five days, unless the violation is a second or  
28 subsequent violation within a 12-month period in which case the  
29 civil penalties shall be in the amount of one hundred dollars (\$100)  
30 per violation for a maximum of 30 days, and shall be grounds for  
31 disciplining the licensee pursuant to Section 1550. The department  
32 may assess civil penalties for continued violations as permitted by  
33 Section 1548. The fingerprint images and related information shall  
34 then be submitted to the Department of Justice for processing.  
35 Upon request of the licensee, who shall enclose a self-addressed  
36 stamped postcard for this purpose, the Department of Justice shall  
37 verify receipt of the fingerprints.

38 (2) Within 14 calendar days of the receipt of the fingerprint  
39 images, the Department of Justice shall notify the State Department  
40 of Social Services of the criminal record information, as provided

1 for in subdivision (a). If no criminal record information has been  
2 recorded, the Department of Justice shall provide the licensee and  
3 the State Department of Social Services with a statement of that  
4 fact within 14 calendar days of receipt of the fingerprint images.  
5 Documentation of the individual's clearance or exemption from  
6 disqualification shall be maintained by the licensee and be available  
7 for inspection. If new fingerprint images are required for  
8 processing, the Department of Justice shall, within 14 calendar  
9 days from the date of receipt of the fingerprints, notify the licensee  
10 that the fingerprints were illegible, the Department of Justice shall  
11 notify the State Department of Social Services, as required by  
12 Section 1522.04, and shall also notify the licensee by mail, within  
13 14 days of electronic transmission of the fingerprints to the  
14 Department of Justice, if the person has no criminal history  
15 recorded. A violation of the regulations adopted pursuant to Section  
16 1522.04 shall result in the citation of a deficiency and an immediate  
17 assessment of civil penalties in the amount of one hundred dollars  
18 (\$100) per violation per day for a maximum of five days, unless  
19 the violation is a second or subsequent violation within a 12-month  
20 period in which case the civil penalties shall be in the amount of  
21 one hundred dollars (\$100) per violation for a maximum of 30  
22 days, and shall be grounds for disciplining the licensee pursuant  
23 to Section 1550. The department may assess civil penalties for  
24 continued violations as permitted by Section 1548.

25 (3) Except for persons specified in subdivision (b) who are  
26 exempt from fingerprinting, the licensee shall endeavor to ascertain  
27 the previous employment history of persons required to be  
28 fingerprinted. If it is determined by the State Department of Social  
29 Services, on the basis of the fingerprint images and related  
30 information submitted to the Department of Justice, that subsequent  
31 to obtaining a criminal record clearance or exemption from  
32 disqualification pursuant to subdivision (g), the person has been  
33 convicted of, or is awaiting trial for, a sex offense against a minor,  
34 or has been convicted for an offense specified in Section 243.4,  
35 273a, 273d, 273g, or 368 of the Penal Code, or a felony, the State  
36 Department of Social Services shall notify the licensee to act  
37 immediately to terminate the person's employment, remove the  
38 person from the community care facility, or bar the person from  
39 entering the community care facility. The State Department of  
40 Social Services may subsequently grant an exemption from

1 disqualification pursuant to subdivision (g). If the conviction or  
2 arrest was for another crime, except a minor traffic violation, the  
3 licensee shall, upon notification by the State Department of Social  
4 Services, act immediately to either (A) terminate the person's  
5 employment, remove the person from the community care facility,  
6 or bar the person from entering the community care facility; or  
7 (B) seek an exemption from disqualification pursuant to subdivision  
8 (g). The State Department of Social Services shall determine if  
9 the person shall be allowed to remain in the facility until a decision  
10 on the exemption from disqualification is rendered. A licensee's  
11 failure to comply with the department's prohibition of employment,  
12 contact with clients, or presence in the facility as required by this  
13 paragraph shall result in a citation of deficiency and an immediate  
14 assessment of civil penalties in the amount of one hundred dollars  
15 (\$100) per violation per day and shall be grounds for disciplining  
16 the licensee pursuant to Section 1550.

17 (4) The department may issue an exemption from  
18 disqualification on its own motion pursuant to subdivision (g) if  
19 the person's criminal history indicates that the person is of good  
20 character based on the age, seriousness, and frequency of the  
21 conviction or convictions. The department, in consultation with  
22 interested parties, shall develop regulations to establish the criteria  
23 to grant an exemption from disqualification pursuant to this  
24 paragraph.

25 (5) Concurrently with notifying the licensee pursuant to  
26 paragraph (3), the department shall notify the affected individual  
27 of his or her right to seek an exemption from disqualification  
28 pursuant to subdivision (g). The individual may seek an exemption  
29 from disqualification only if the licensee terminates the person's  
30 employment or removes the person from the facility after receiving  
31 notice from the department pursuant to paragraph (3).

32 (d) (1) Before issuing a license or certificate of approval to any  
33 person or persons to operate a foster family home or certified  
34 family home as described in Section 1506, the State Department  
35 of Social Services or other approving authority shall secure  
36 California and Federal Bureau of Investigation criminal history  
37 information to determine whether the applicant or any person  
38 specified in subdivision (b) who is not exempt from fingerprinting  
39 has ever been convicted of a crime other than a minor traffic  
40 violation or arrested for any crime specified in subdivision (c) of

1 Section 290 of the Penal Code, for violating Section 245 or 273.5,  
2 subdivision (b) of Section 273a or, prior to January 1, 1994,  
3 paragraph (2) of Section 273a of the Penal Code, or for any crime  
4 for which the department cannot grant an exemption if the person  
5 was convicted and the person has not been exonerated. The State  
6 Department of Social Services or other approving authority shall  
7 not issue a license or certificate of approval to any foster family  
8 home or certified family home applicant who has not obtained  
9 both a California and Federal Bureau of Investigation criminal  
10 record clearance or exemption from disqualification pursuant to  
11 subdivision (g).

12 (2) The criminal history information shall include the full  
13 criminal record, if any, of those persons.

14 (3) Neither the Department of Justice nor the State Department  
15 of Social Services may charge a fee for the fingerprinting of an  
16 applicant for a license, special permit, or certificate of approval  
17 described in this subdivision. The record, if any, shall be taken  
18 into consideration when evaluating a prospective applicant.

19 (4) The following shall apply to the criminal record information:

20 (A) If the applicant or other persons specified in subdivision  
21 (b) who are not exempt from fingerprinting have convictions that  
22 would make the applicant's home unfit as a foster family home or  
23 a certified family home, the license, special permit, or certificate  
24 of approval shall be denied.

25 (B) If the State Department of Social Services finds that the  
26 applicant, or any person specified in subdivision (b) who is not  
27 exempt from fingerprinting is awaiting trial for a crime other than  
28 a minor traffic violation, the State Department of Social Services  
29 or other approving authority may cease processing the application  
30 until the conclusion of the trial.

31 (C) For purposes of this subdivision, a criminal record clearance  
32 provided under Section 8712 of the Family Code may be used by  
33 the department or other approving agency.

34 (D) To the same extent required for federal funding, an applicant  
35 for a foster family home license or for certification as a family  
36 home, and any other person specified in subdivision (b) who is  
37 not exempt from fingerprinting, shall submit a set of fingerprint  
38 images and related information to the Department of Justice and  
39 the Federal Bureau of Investigation, through the Department of  
40 Justice, for a state and federal level criminal offender record

1 information search, in addition to the criminal records search  
2 required by subdivision (a).

3 (5) Any person specified in this subdivision shall, as a part of  
4 the application, be fingerprinted and sign a declaration under  
5 penalty of perjury regarding any prior criminal convictions or  
6 arrests for any crime against a child, spousal or cohabitant abuse  
7 or, any crime for which the department cannot grant an exemption  
8 if the person was convicted and shall submit these fingerprints to  
9 the licensing agency or other approving authority.

10 (6) (A) Subsequent to initial licensure or certification, a person  
11 specified in subdivision (b) who is not exempt from fingerprinting  
12 shall obtain both a California and Federal Bureau of Investigation  
13 criminal record clearance, or an exemption from disqualification  
14 pursuant to subdivision (g), prior to employment, residence, or  
15 initial presence in the foster family or certified family home. A  
16 foster family home licensee or foster family agency shall submit  
17 fingerprint images and related information of persons specified in  
18 subdivision (b) who are not exempt from fingerprinting to the  
19 Department of Justice and the Federal Bureau of Investigation,  
20 through the Department of Justice, for a state and federal level  
21 criminal offender record information search, or to comply with  
22 paragraph (1) of subdivision (h). A foster family home licensee's  
23 or a foster family agency's failure to either prohibit the  
24 employment, residence, or initial presence of a person specified  
25 in subdivision (b) who is not exempt from fingerprinting and who  
26 has not received either a criminal record clearance or an exemption  
27 from disqualification pursuant to subdivision (g), or comply with  
28 paragraph (1) of subdivision (h), as required in this section, shall  
29 result in a citation of a deficiency, and the immediate civil penalties  
30 of one hundred dollars (\$100) per violation per day for a maximum  
31 of five days, unless the violation is a second or subsequent violation  
32 within a 12-month period in which case the civil penalties shall  
33 be in the amount of one hundred dollars (\$100) per violation for  
34 a maximum of 30 days, and shall be grounds for disciplining the  
35 licensee pursuant to Section 1550. A violation of the regulation  
36 adopted pursuant to Section 1522.04 shall result in the citation of  
37 a deficiency and an immediate assessment of civil penalties in the  
38 amount of one hundred dollars (\$100) per violation per day for a  
39 maximum of five days, unless the violation is a second or  
40 subsequent violation within a 12-month period in which case the

1 civil penalties shall be in the amount of one hundred dollars (\$100)  
2 per violation for a maximum of 30 days, and shall be grounds for  
3 disciplining the foster family home licensee or the foster family  
4 agency pursuant to Section 1550. The State Department of Social  
5 Services may assess penalties for continued violations, as permitted  
6 by Section 1548. The fingerprint images shall then be submitted  
7 to the Department of Justice for processing.

8 (B) Upon request of the licensee, who shall enclose a  
9 self-addressed envelope for this purpose, the Department of Justice  
10 shall verify receipt of the fingerprints. Within five working days  
11 of the receipt of the criminal record or information regarding  
12 criminal convictions from the Department of Justice, the  
13 department shall notify the applicant of any criminal arrests or  
14 convictions. If no arrests or convictions are recorded, the  
15 Department of Justice shall provide the foster family home licensee  
16 or the foster family agency with a statement of that fact concurrent  
17 with providing the information to the State Department of Social  
18 Services.

19 (7) If the State Department of Social Services finds that the  
20 applicant, or any other person specified in subdivision (b) who is  
21 not exempt from fingerprinting, has been convicted of a crime  
22 other than a minor traffic violation, the application shall be denied,  
23 unless the director grants an exemption from disqualification  
24 pursuant to subdivision (g).

25 (8) If the State Department of Social Services finds after  
26 licensure or the granting of the certificate of approval that the  
27 licensee, certified foster parent, or any other person specified in  
28 subdivision (b) who is not exempt from fingerprinting, has been  
29 convicted of a crime other than a minor traffic violation, the license  
30 or certificate of approval may be revoked by the department or the  
31 foster family agency, whichever is applicable, unless the director  
32 grants an exemption from disqualification pursuant to subdivision  
33 (g). A licensee's failure to comply with the department's  
34 prohibition of employment, contact with clients, or presence in  
35 the facility as required by paragraph (3) of subdivision (c) shall  
36 be grounds for disciplining the licensee pursuant to Section 1550.

37 (e) The State Department of Social Services shall not use a  
38 record of arrest to deny, revoke, or terminate any application,  
39 license, employment, or residence unless the department  
40 investigates the incident and secures evidence, whether or not

1 related to the incident of arrest, that is admissible in an  
2 administrative hearing to establish conduct by the person that may  
3 pose a risk to the health and safety of any person who is or may  
4 become a client. The State Department of Social Services is  
5 authorized to obtain any arrest or conviction records or reports  
6 from any law enforcement agency as necessary to the performance  
7 of its duties to inspect, license, and investigate community care  
8 facilities and individuals associated with a community care facility.

9 (f) (1) For purposes of this section or any other provision of  
10 this chapter, a conviction means a plea or verdict of guilty or a  
11 conviction following a plea of nolo contendere. Any action that  
12 the State Department of Social Services is permitted to take  
13 following the establishment of a conviction may be taken when  
14 the time for appeal has elapsed, when the judgment of conviction  
15 has been affirmed on appeal, or when an order granting probation  
16 is made suspending the imposition of sentence, notwithstanding  
17 a subsequent order pursuant to Sections 1203.4 and 1203.4a of the  
18 Penal Code permitting the person to withdraw his or her plea of  
19 guilty and to enter a plea of not guilty, or setting aside the verdict  
20 of guilty, or dismissing the accusation, information, or indictment.  
21 For purposes of this section or any other provision of this chapter,  
22 the record of a conviction, or a copy thereof certified by the clerk  
23 of the court or by a judge of the court in which the conviction  
24 occurred, shall be conclusive evidence of the conviction. For  
25 purposes of this section or any other provision of this chapter, the  
26 arrest disposition report certified by the Department of Justice, or  
27 documents admissible in a criminal action pursuant to Section  
28 969b of the Penal Code, shall be prima facie evidence of the  
29 conviction, notwithstanding any other law prohibiting the  
30 admission of these documents in a civil or administrative action.

31 (2) For purposes of this section or any other provision of this  
32 chapter, the department shall consider criminal convictions from  
33 another state or federal court as if the criminal offense was  
34 committed in this state.

35 (g) (1) After review of the record, the director may grant an  
36 exemption from disqualification for a license or special permit as  
37 specified in paragraph (4) of subdivision (a), or for a license,  
38 special permit, or certificate of approval as specified in paragraphs  
39 (4), (7), and (8) of subdivision (d), or for employment, residence,  
40 or presence in a community care facility as specified in paragraphs

1 (3), (4), and (5) of subdivision (c), if the director has substantial  
2 and convincing evidence to support a reasonable belief that the  
3 applicant and the person convicted of the crime, if other than the  
4 applicant, are of good character as to justify issuance of the license  
5 or special permit or granting an exemption for purposes of  
6 subdivision (c). Except as otherwise provided in this subdivision,  
7 an exemption shall not be granted pursuant to this subdivision if  
8 the conviction was for any of the following offenses:

9 (A) (i) An offense specified in Section 220, 243.4, or 264.1,  
10 subdivision (a) of Section 273a or, prior to January 1, 1994,  
11 paragraph (1) of Section 273a, Section 273d, 288, or 289,  
12 subdivision (c) of Section 290, or Section 368 of the Penal Code,  
13 or was a conviction of another crime against an individual specified  
14 in subdivision (c) of Section 667.5 of the Penal Code.

15 (ii) Notwithstanding clause (i), the director may grant an  
16 exemption regarding the conviction for an offense described in  
17 paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5  
18 of the Penal Code, if the employee or prospective employee has  
19 been rehabilitated as provided in Section 4852.03 of the Penal  
20 Code, has maintained the conduct required in Section 4852.05 of  
21 the Penal Code for at least 10 years, and has the recommendation  
22 of the district attorney representing the employee's county of  
23 residence, or if the employee or prospective employee has received  
24 a certificate of rehabilitation pursuant to Chapter 3.5 (commencing  
25 with Section 4852.01) of Title 6 of Part 3 of the Penal Code. This  
26 clause shall not apply to foster care providers, including relative  
27 caregivers, nonrelated extended family members, or any other  
28 person specified in subdivision (b), in those homes where the  
29 individual has been convicted of an offense described in paragraph  
30 (1) of subdivision (c) of Section 667.5 of the Penal Code.

31 (B) A felony offense specified in Section 729 of the Business  
32 and Professions Code or Section 206 or 215, subdivision (a) of  
33 Section 347, subdivision (b) of Section 417, or subdivision (a) of  
34 Section 451 of the Penal Code.

35 (C) Under no circumstances shall an exemption be granted  
36 pursuant to this subdivision to any foster care provider applicant  
37 if that applicant, or any other person specified in subdivision (b)  
38 in those homes, has a felony conviction for either of the following  
39 offenses:

1 (i) A felony conviction for child abuse or neglect, spousal abuse,  
2 crimes against a child, including child pornography, or for a crime  
3 involving violence, including rape, sexual assault, or homicide,  
4 but not including other physical assault and battery. For purposes  
5 of this subparagraph, a crime involving violence means a violent  
6 crime specified in clause (i) of subparagraph (A), or subparagraph  
7 (B).

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

10 (iii) This subparagraph shall not apply to licenses or approvals  
11 wherein a caregiver was granted an exemption to a criminal  
12 conviction described in clause (i) or (ii) prior to the enactment of  
13 this subparagraph.

14 (iv) This subparagraph shall remain operative only to the extent  
15 that compliance with its provisions is required by federal law as  
16 a condition for receiving funding under Title IV-E of the federal  
17 Social Security Act (42 U.S.C. Sec. 670 et seq.).

18 (2) The department shall not prohibit a person from being  
19 employed or having contact with clients in a facility on the basis  
20 of a denied criminal record exemption request or arrest information  
21 unless the department complies with the requirements of Section  
22 1558.

23 (h) (1) For purposes of compliance with this section, the  
24 department may permit an individual to transfer a current criminal  
25 record clearance, as defined in subdivision (a), from one facility  
26 to another, as long as the criminal record clearance has been  
27 processed through a state licensing district office, and is being  
28 transferred to another facility licensed by a state licensing district  
29 office. The request shall be in writing to the State Department of  
30 Social Services, and shall include a copy of the person's driver's  
31 license or valid identification card issued by the Department of  
32 Motor Vehicles, or a valid photo identification issued by another  
33 state or the United States government if the person is not a  
34 California resident. Upon request of the licensee, who shall enclose  
35 a self-addressed envelope for this purpose, the State Department  
36 of Social Services shall verify whether the individual has a  
37 clearance that can be transferred.

38 (2) The State Department of Social Services shall hold criminal  
39 record clearances in its active files for a minimum of three years

1 after an employee is no longer employed at a licensed facility in  
2 order for the criminal record clearance to be transferred.

3 (3) The following shall apply to a criminal record clearance or  
4 exemption from the department or a county office with  
5 department-delegated licensing authority:

6 (A) A county office with department-delegated licensing  
7 authority may accept a clearance or exemption from the  
8 department.

9 (B) The department may accept a clearance or exemption from  
10 any county office with department-delegated licensing authority.

11 (C) A county office with department-delegated licensing  
12 authority may accept a clearance or exemption from any other  
13 county office with department-delegated licensing authority.

14 (4) With respect to notifications issued by the Department of  
15 Justice pursuant to Section 11105.2 of the Penal Code concerning  
16 an individual whose criminal record clearance was originally  
17 processed by the department or a county office with  
18 department-delegated licensing authority, all of the following shall  
19 apply:

20 (A) The Department of Justice shall process a request from the  
21 department or a county office with department-delegated licensing  
22 authority to receive the notice only if all of the following conditions  
23 are met:

24 (i) The request shall be submitted to the Department of Justice  
25 by the agency to be substituted to receive the notification.

26 (ii) The request shall be for the same applicant type as the type  
27 for which the original clearance was obtained.

28 (iii) The request shall contain all prescribed data elements and  
29 format protocols pursuant to a written agreement between the  
30 department and the Department of Justice.

31 (B) (i) On or before January 7, 2005, the department shall notify  
32 the Department of Justice of all county offices that have  
33 department-delegated licensing authority.

34 (ii) The department shall notify the Department of Justice within  
35 15 calendar days of the date on which a new county office receives  
36 department-delegated licensing authority or a county's delegated  
37 licensing authority is rescinded.

38 (C) The Department of Justice shall charge the department, a  
39 county office with department-delegated licensing authority, or a  
40 county child welfare agency with criminal record clearance and

1 exemption authority, a fee for each time a request to substitute the  
2 recipient agency is received for purposes of this paragraph. This  
3 fee shall not exceed the cost of providing the service.

4 (5) (A) A county child welfare agency with authority to secure  
5 clearances pursuant to Section 16504.5 of the Welfare and  
6 Institutions Code and to grant exemptions pursuant to Section  
7 361.4 of the Welfare and Institutions Code may accept a clearance  
8 or exemption from another county with criminal record and  
9 exemption authority pursuant to these sections.

10 (B) With respect to notifications issued by the Department of  
11 Justice pursuant to Section 11105.2 of the Penal Code concerning  
12 an individual whose criminal record clearance was originally  
13 processed by a county child welfare agency with criminal record  
14 clearance and exemption authority, the Department of Justice shall  
15 process a request from a county child welfare agency with criminal  
16 record and exemption authority to receive the notice only if all of  
17 the following conditions are met:

18 (i) The request shall be submitted to the Department of Justice  
19 by the agency to be substituted to receive the notification.

20 (ii) The request shall be for the same applicant type as the type  
21 for which the original clearance was obtained.

22 (iii) The request shall contain all prescribed data elements and  
23 format protocols pursuant to a written agreement between the State  
24 Department of Social Services and the Department of Justice.

25 (i) The full criminal record obtained for purposes of this section  
26 may be used by the department or by a licensed adoption agency  
27 as a clearance required for adoption purposes.

28 ~~(j) The State Department of Social Services may share all~~  
29 ~~information related to a criminal record clearance or exemption~~  
30 ~~from the department with a county child welfare agency with~~  
31 ~~responsibility to monitor the health and safety of persons receiving~~  
32 ~~care, treatment, or services from state licensed foster homes,~~  
33 ~~certified homes of licensed foster family agencies, licensed group~~  
34 ~~homes, and foster family agencies and their employees.~~

35 ~~(k)~~

36 (j) If a licensee or facility is required by law to deny employment  
37 or to terminate employment of any employee based on written  
38 notification from the state department that the employee has a prior  
39 criminal conviction or is determined unsuitable for employment  
40 under Section 1558, the licensee or facility shall not incur civil

1 liability or unemployment insurance liability as a result of that  
2 denial or termination.

3 ~~(j)~~

4 (k) The State Department of Social Services may charge a fee  
5 for the costs of processing electronic fingerprint images and related  
6 information.

7 ~~(m)~~

8 (l) Amendments to this section made in the 1999 portion of the  
9 1999–2000 Regular Session shall be implemented commencing  
10 60 days after the effective date of the act amending this section in  
11 the 1999 portion of the 1999–2000 Regular Session, except that  
12 those provisions for the submission of fingerprints for searching  
13 the records of the Federal Bureau of Investigation shall be  
14 implemented 90 days after the effective date of that act.

15 ~~SEC. 2. Section 1522.08 of the Health and Safety Code, as~~  
16 ~~amended by Section 15 of Chapter 22 of the Statutes of 2013, is~~  
17 ~~amended to read:~~

18 ~~1522.08. (a) In order to protect the health and safety of persons~~  
19 ~~receiving care or services from individuals or facilities licensed~~  
20 ~~or certified by the state, the following information may be shared:~~

21 ~~(1) The California Department of Aging, State Department of~~  
22 ~~Public Health, State Department of Health Care Services, State~~  
23 ~~Department of Social Services, and the Emergency Medical~~  
24 ~~Services Authority may share information with respect to~~  
25 ~~applicants, licensees, certificates, or individuals who have been~~  
26 ~~the subject of any administrative action resulting in the denial,~~  
27 ~~suspension, probation, or revocation of a license, permit, or~~  
28 ~~certificate, or in the exclusion of any person from a facility who~~  
29 ~~is subject to a background check, as otherwise provided by law.~~

30 ~~(2) The State Department of Social Services and county child~~  
31 ~~welfare agencies may share information, including state summary~~  
32 ~~criminal history information, with respect to applicants, licensees,~~  
33 ~~certificates, or individuals who have been the subject of any~~  
34 ~~administrative action resulting in the denial, suspension, probation,~~  
35 ~~or revocation of a license, permit, or certificate, or in the exclusion~~  
36 ~~of any person from a facility who is subject to a background check,~~  
37 ~~as otherwise provided by law.~~

38 ~~(b) The State Department of Social Services shall maintain a~~  
39 ~~centralized system for the monitoring and tracking of final~~  
40 ~~administrative actions, to be used by the California Department~~

1 of Aging, State Department of Public Health, State Department of  
2 Health Care Services, State Department of Social Services, the  
3 Emergency Medical Services Authority, and county child welfare  
4 agencies as a part of the background check process. The State  
5 Department of Social Services may charge a fee to departments  
6 under the jurisdiction of the California Health and Human Services  
7 Agency and to county child welfare agencies sufficient to cover  
8 the cost of providing those departments with the final  
9 administrative action specified in subdivision (a). To the extent  
10 that additional funds are needed for this purpose, implementation  
11 of this subdivision shall be contingent upon a specific appropriation  
12 provided for this purpose in the annual Budget Act.

13 (e) The State Department of Social Services, in consultation  
14 with the other departments under the jurisdiction of the California  
15 Health and Human Services Agency, may adopt regulations to  
16 implement this section.

17 (d) For the purposes of this section and Section 1499,  
18 “administrative action” means any proceeding initiated by the  
19 California Department of Aging, State Department of Public  
20 Health, State Department of Health Care Services, State  
21 Department of Social Services, and the Emergency Medical  
22 Services Authority to determine the rights and duties of an  
23 applicant, licensee, or other individual or entity over which the  
24 department has jurisdiction. “Administrative action” may include,  
25 but is not limited to, action involving the denial of an application  
26 for, or the suspension or revocation of, any license, special permit,  
27 administrator certificate, criminal record clearance, or exemption.

28 SEC. 3. Section 11105 of the Penal Code is amended to read:

29 11105. (a) (1) The Department of Justice shall maintain state  
30 summary criminal history information.

31 (2) As used in this section:

32 (A) “State summary criminal history information” means the  
33 master record of information compiled by the Attorney General  
34 pertaining to the identification and criminal history of any person,  
35 such as name, date of birth, physical description, fingerprints,  
36 photographs, dates of arrests, arresting agencies and booking  
37 numbers, charges, dispositions, and similar data about the person.

38 (B) “State summary criminal history information” does not refer  
39 to records and data compiled by criminal justice agencies other  
40 than the Attorney General, nor does it refer to records of complaints

1 to or investigations conducted by, or records of intelligence  
2 information or security procedures of, the office of the Attorney  
3 General and the Department of Justice.

4 (b) The Attorney General shall furnish state summary criminal  
5 history information to any of the following, if needed in the course  
6 of their duties, provided that when information is furnished to  
7 assist an agency, officer, or official of state or local government,  
8 a public utility, or any other entity, in fulfilling employment,  
9 certification, or licensing duties, Chapter 1321 of the Statutes of  
10 1974 and Section 432.7 of the Labor Code shall apply:

11 (1) The courts of the state.

12 (2) Peace officers of the state, as defined in Section 830.1,  
13 subdivisions (a) and (c) of Section 830.2, subdivision (a) of Section  
14 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision  
15 (a) of Section 830.31.

16 (3) District attorneys of the state.

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

18 (5) City attorneys pursuing civil gang injunctions pursuant to  
19 Section 186.22a, or drug abatement actions pursuant to Section  
20 3479 or 3480 of the Civil Code, or Section 11571 of the Health  
21 and Safety Code.

22 (6) Probation officers of the state.

23 (7) Parole officers of the state.

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

27 (9) A public defender or attorney of record when representing  
28 a person in a criminal case, or a parole, mandatory supervision  
29 pursuant to paragraph (5) of subdivision (h) of Section 1170, or  
30 postrelease community supervision revocation or revocation  
31 extension proceeding, and if authorized access by statutory or  
32 decisional law.

33 (10) Any agency, officer, or official of the state if the criminal  
34 history information is required to implement a statute or regulation  
35 that expressly refers to specific criminal conduct applicable to the  
36 subject person of the state summary criminal history information,  
37 and contains requirements or exclusions, or both, expressly based  
38 upon that specified criminal conduct. The agency, officer, or  
39 official of the state authorized by this paragraph to receive state  
40 summary criminal history information may also transmit fingerprint

1 images and related information to the Department of Justice to be  
2 transmitted to the Federal Bureau of Investigation.

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

18 ~~(12) The subject of the state summary criminal history~~  
19 ~~information under procedures established under Article 5~~  
20 ~~(commencing with Section 11120).~~

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

28 ~~(14) Health officers of a city, county, city and county, or district~~  
29 ~~when in the performance of their official duties enforcing Section~~  
30 ~~120175 of the Health and Safety Code.~~

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

33 ~~(16) Any humane society, or society for the prevention of cruelty~~  
34 ~~to animals, for the specific purpose of complying with Section~~  
35 ~~14502 of the Corporations Code for the appointment of humane~~  
36 ~~officers.~~

37 ~~(17) Local child support agencies established by Section 17304~~  
38 ~~of the Family Code. When a local child support agency closes a~~  
39 ~~support enforcement case containing summary criminal history~~  
40 ~~information, the agency shall delete or purge from the file and~~

1 destroy any documents or information concerning or arising from  
2 offenses for or of which the parent has been arrested, charged, or  
3 convicted, other than for offenses related to the parent's having  
4 failed to provide support for minor children, consistent with the  
5 requirements of Section 17531 of the Family Code.

6 ~~(18) County child welfare agency personnel who have been~~  
7 ~~delegated the authority of county probation officers to access state~~  
8 ~~summary criminal history information pursuant to Section 272 of~~  
9 ~~the Welfare and Institutions Code for the purposes specified in~~  
10 ~~Section 16504.5 of the Welfare and Institutions Code or Section~~  
11 ~~1522 of the Health and Safety Code. Information from criminal~~  
12 ~~history records provided pursuant to this subdivision shall not be~~  
13 ~~used for any purposes other than those specified in this section,~~  
14 ~~Section 16504.5 of the Welfare and Institutions Code, and Section~~  
15 ~~1522 of the Health and Safety Code. When an agency obtains~~  
16 ~~records obtained both on the basis of name checks and fingerprint~~  
17 ~~checks, final placement decisions shall be based only on the records~~  
18 ~~obtained pursuant to the fingerprint check.~~

19 ~~(19) The court of a tribe, or court of a consortium of tribes, that~~  
20 ~~has entered into an agreement with the state pursuant to Section~~  
21 ~~10553.1 of the Welfare and Institutions Code. This information~~  
22 ~~may be used only for the purposes specified in Section 16504.5~~  
23 ~~of the Welfare and Institutions Code and for tribal approval or~~  
24 ~~tribal licensing of foster care or adoptive homes. Article 6~~  
25 ~~(commencing with Section 11140) shall apply to officers, members,~~  
26 ~~and employees of a tribal court receiving criminal record offender~~  
27 ~~information pursuant to this section.~~

28 ~~(20) Child welfare agency personnel of a tribe or consortium~~  
29 ~~of tribes that has entered into an agreement with the state pursuant~~  
30 ~~to Section 10553.1 of the Welfare and Institutions Code and to~~  
31 ~~whom the state has delegated duties under paragraph (2) of~~  
32 ~~subdivision (a) of Section 272 of the Welfare and Institutions Code.~~  
33 ~~The purposes for use of the information shall be for the purposes~~  
34 ~~specified in Section 16504.5 of the Welfare and Institutions Code~~  
35 ~~and for tribal approval or tribal licensing of foster care or adoptive~~  
36 ~~homes. When an agency obtains records on the basis of name~~  
37 ~~checks and fingerprint checks, final placement decisions shall be~~  
38 ~~based only on the records obtained pursuant to the fingerprint~~  
39 ~~check. Article 6 (commencing with Section 11140) shall apply to~~

1 child welfare agency personnel receiving criminal record offender  
2 information pursuant to this section.

3 ~~(21) An officer providing conservatorship investigations~~  
4 ~~pursuant to Sections 5351, 5354, and 5356 of the Welfare and~~  
5 ~~Institutions Code.~~

6 ~~(22) A court investigator providing investigations or reviews~~  
7 ~~in conservatorships pursuant to Section 1826, 1850, 1851, or~~  
8 ~~2250.6 of the Probate Code.~~

9 ~~(23) A person authorized to conduct a guardianship investigation~~  
10 ~~pursuant to Section 1513 of the Probate Code.~~

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

13 ~~(25) A public agency described in subdivision (b) of Section~~  
14 ~~15975 of the Government Code, for the purpose of oversight and~~  
15 ~~enforcement policies with respect to its contracted providers.~~

16 ~~(e) The Attorney General may furnish state summary criminal~~  
17 ~~history information and, when specifically authorized by this~~  
18 ~~subdivision, federal level criminal history information upon a~~  
19 ~~showing of a compelling need to any of the following, provided~~  
20 ~~that when information is furnished to assist an agency, officer, or~~  
21 ~~official of state or local government, a public utility, or any other~~  
22 ~~entity in fulfilling employment, certification, or licensing duties,~~  
23 ~~Chapter 1321 of the Statutes of 1974 and Section 432.7 of the~~  
24 ~~Labor Code shall apply:~~

25 ~~(1) Any public utility, as defined in Section 216 of the Public~~  
26 ~~Utilities Code, that operates a nuclear energy facility when access~~  
27 ~~is needed in order to assist in employing persons to work at the~~  
28 ~~facility, provided that, if the Attorney General supplies the data,~~  
29 ~~he or she shall furnish a copy of the data to the person to whom~~  
30 ~~the data relates.~~

31 ~~(2) To a peace officer of the state other than those included in~~  
32 ~~subdivision (b).~~

33 ~~(3) To an illegal dumping enforcement officer as defined in~~  
34 ~~subdivision (j) of Section 830.7.~~

35 ~~(4) To a peace officer of another country.~~

36 ~~(5) To public officers, other than peace officers, of the United~~  
37 ~~States, other states, or possessions or territories of the United~~  
38 ~~States, provided that access to records similar to state summary~~  
39 ~~criminal history information is expressly authorized by a statute~~  
40 ~~of the United States, other states, or possessions or territories of~~

1 the United States if the information is needed for the performance  
2 of their official duties.

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

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

9 ~~(8) Peace officers of the United States, other states, or territories  
10 or possessions of the United States.~~

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

14 ~~(10) (A) (i) Any public utility, as defined in Section 216 of the  
15 Public Utilities Code, or any cable corporation as defined in  
16 subparagraph (B), if receipt of criminal history information is  
17 needed in order to assist in employing current or prospective  
18 employees, contract employees, or subcontract employees who,  
19 in the course of their employment may be seeking entrance to  
20 private residences or adjacent grounds. The information provided  
21 shall be limited to the record of convictions and any arrest for  
22 which the person is released on bail or on his or her own  
23 recognizance pending trial.~~

24 ~~(ii) If the Attorney General supplies the data pursuant to this  
25 paragraph, the Attorney General shall furnish a copy of the data  
26 to the current or prospective employee to whom the data relates.~~

27 ~~(iii) Any information obtained from the state summary criminal  
28 history is confidential and the receiving public utility or cable  
29 corporation shall not disclose its contents, other than for the  
30 purpose for which it was acquired. The state summary criminal  
31 history information in the possession of the public utility or cable  
32 corporation and all copies made from it shall be destroyed not  
33 more than 30 days after employment or promotion or transfer is  
34 denied or granted, except for those cases where a current or  
35 prospective employee is out on bail or on his or her own  
36 recognizance pending trial, in which case the state summary  
37 criminal history information and all copies shall be destroyed not  
38 more than 30 days after the case is resolved.~~

39 ~~(iv) A violation of this paragraph is a misdemeanor, and shall  
40 give the current or prospective employee who is injured by the~~

1 ~~violation a cause of action against the public utility or cable~~  
2 ~~corporation to recover damages proximately caused by the~~  
3 ~~violations. Any public utility's or cable corporation's request for~~  
4 ~~state summary criminal history information for purposes of~~  
5 ~~employing current or prospective employees who may be seeking~~  
6 ~~entrance to private residences or adjacent grounds in the course~~  
7 ~~of their employment shall be deemed a "compelling need" as~~  
8 ~~required to be shown in this subdivision.~~

9 ~~(v) Nothing in this section shall be construed as imposing any~~  
10 ~~duty upon public utilities or cable corporations to request state~~  
11 ~~summary criminal history information on any current or prospective~~  
12 ~~employees.~~

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

17 ~~(C) Requests for federal level criminal history information~~  
18 ~~received by the Department of Justice from entities authorized~~  
19 ~~pursuant to subparagraph (A) shall be forwarded to the Federal~~  
20 ~~Bureau of Investigation by the Department of Justice. Federal level~~  
21 ~~criminal history information received or compiled by the~~  
22 ~~Department of Justice may then be disseminated to the entities~~  
23 ~~referenced in subparagraph (A), as authorized by law.~~

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

27 ~~(ii) Authority for a public utility to request federal level criminal~~  
28 ~~history information under this paragraph shall commence July 1,~~  
29 ~~2005.~~

30 ~~(11) To any campus of the California State University or the~~  
31 ~~University of California, or any four year college or university~~  
32 ~~accredited by a regional accreditation organization approved by~~  
33 ~~the United States Department of Education, if needed in~~  
34 ~~conjunction with an application for admission by a convicted felon~~  
35 ~~to any special education program for convicted felons, including,~~  
36 ~~but not limited to, university alternatives and halfway houses. Only~~  
37 ~~conviction information shall be furnished. The college or university~~  
38 ~~may require the convicted felon to be fingerprinted, and any inquiry~~  
39 ~~to the department under this section shall include the convicted~~

1 felon's fingerprints and any other information specified by the  
2 department.

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

11 (d) Whenever an authorized request for state summary criminal  
12 history information pertains to a person whose fingerprints are on  
13 file with the Department of Justice and the department has no  
14 criminal history of that person, and the information is to be used  
15 for employment, licensing, or certification purposes, the fingerprint  
16 card accompanying the request for information, if any, may be  
17 stamped "no criminal record" and returned to the person or entity  
18 making the request.

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

38 (f) Whenever there is a conflict, the processing of criminal  
39 fingerprints and fingerprints of applicants for security guard or  
40 alarm agent registrations or firearms qualification permits

1 submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4  
2 of the Business and Professions Code shall take priority over the  
3 processing of other applicant fingerprints.

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

7 (h) It is not a violation of this section to include information  
8 obtained from a record in (1) a transcript or record of a judicial or  
9 administrative proceeding or (2) any other public record if the  
10 inclusion of the information in the public record is authorized by  
11 a court, statute, or decisional law.

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

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

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

27 (2) Notwithstanding any other provision of law, whenever state  
28 summary criminal history information is initially furnished  
29 pursuant to paragraph (1), the Department of Justice shall  
30 disseminate the following information:

31 (A) Every conviction rendered against the applicant.

32 (B) Every arrest for an offense for which the applicant is  
33 presently awaiting trial, whether the applicant is incarcerated or  
34 has been released on bail or on his or her own recognizance  
35 pending trial.

36 (C) Every arrest or detention, except for an arrest or detention  
37 resulting in an exoneration, provided, however, that where the  
38 records of the Department of Justice do not contain a disposition  
39 for the arrest, the Department of Justice first makes a genuine effort  
40 to determine the disposition of the arrest.

1 ~~(D) Every successful diversion.~~

2 ~~(E) Every date and agency name associated with all retained~~  
3 ~~peace officer or nonsworn law enforcement agency employee~~  
4 ~~preemployment criminal offender record information search~~  
5 ~~requests.~~

6 ~~(l) (1) This subdivision shall apply whenever state or federal~~  
7 ~~summary criminal history information is furnished by the~~  
8 ~~Department of Justice as the result of an application by a criminal~~  
9 ~~justice agency or organization as defined in Section 13101, and~~  
10 ~~the information is to be used for criminal justice employment,~~  
11 ~~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 rendered against the applicant.~~

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

21 ~~(C) Every arrest for an offense for which the records of the~~  
22 ~~Department of Justice do not contain a disposition or did not result~~  
23 ~~in a conviction, provided that the Department of Justice first makes~~  
24 ~~a genuine effort to determine the disposition of the arrest. However,~~  
25 ~~information concerning an arrest shall not be disclosed if the~~  
26 ~~records of the Department of Justice indicate or if the genuine~~  
27 ~~effort reveals that the subject was exonerated, successfully~~  
28 ~~completed a diversion or deferred entry of judgment program, or~~  
29 ~~the arrest was deemed a detention.~~

30 ~~(D) Every date and agency name associated with all retained~~  
31 ~~peace officer or nonsworn law enforcement agency employee~~  
32 ~~preemployment criminal offender record information search~~  
33 ~~requests.~~

34 ~~(m) (1) This subdivision shall apply whenever state or federal~~  
35 ~~summary criminal history information is furnished by the~~  
36 ~~Department of Justice as the result of an application by an~~  
37 ~~authorized agency or organization pursuant to Section 1522,~~  
38 ~~1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or~~  
39 ~~any statute that incorporates the criteria of any of those sections~~

1 or this subdivision by reference, and the information is to be used  
2 for employment, 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 of an offense rendered against the  
8 applicant.

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

13 (C) Every arrest for an offense for which the Department of  
14 Social Services is required by paragraph (1) of subdivision (a) of  
15 Section 1522 of the Health and Safety Code to determine if an  
16 applicant has been arrested. However, if the records of the  
17 Department of Justice do not contain a disposition for an arrest,  
18 the Department of Justice shall first make a genuine effort to  
19 determine the disposition of the arrest.

20 (3) Notwithstanding the requirements of the sections referenced  
21 in paragraph (1) of this subdivision, the Department of Justice  
22 shall not disseminate information about an arrest subsequently  
23 deemed a detention or an arrest that resulted in either the successful  
24 completion of a diversion program or exoneration.

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

30 (A) Paragraph (9) of subdivision (e), when the information is  
31 to be used by a cable corporation.

32 (B) Section 11105.3 or 11105.4.

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

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

37 (2) With the exception of applications submitted by  
38 transportation companies authorized pursuant to Section 11105.3,  
39 and 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  
5 subdivision (a) of Section 15660 of the Welfare and Institutions  
6 Code. However, with the exception of those offenses for which  
7 registration is required pursuant to Section 290, the Department  
8 of Justice shall not disseminate information pursuant to this  
9 subdivision unless the conviction occurred within 10 years of the  
10 date of the agency's request for information or the conviction is  
11 over 10 years old but the subject of the request was incarcerated  
12 within 10 years of the agency's request for information.

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

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

26 (2) Notwithstanding any other provision of law, whenever state  
27 summary criminal history information is initially furnished  
28 pursuant to paragraph (1), the Department of Justice shall  
29 disseminate the following information:

30 (A) Every conviction rendered against the applicant for a  
31 violation or attempted violation of any offense specified in Section  
32 550 of the Financial Code.

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

38 (p) (1) This subdivision shall apply whenever state or federal  
39 criminal history information is furnished by the Department of  
40 Justice as the result of an application by an agency, organization,

1 or individual not defined in subdivision (k), (l), (m), (n), or (o), or  
2 by a transportation company authorized pursuant to Section  
3 11105.3, or any statute that incorporates the criteria of that section  
4 or this subdivision by reference, and the information is to be used  
5 for employment, licensing, or certification purposes.

6 (2) ~~Notwithstanding any other provisions of law, whenever state  
7 summary criminal history information is initially furnished  
8 pursuant to paragraph (1), the Department of Justice shall  
9 disseminate the following information:~~

10 (A) ~~Every conviction rendered against the applicant.~~

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

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

22 (r) ~~Nothing in this section shall be construed to mean that the  
23 Department of Justice shall cease compliance with any other  
24 statutory notification requirements.~~

25 (s) ~~The provisions of Section 50.12 of Title 28 of the Code of  
26 Federal Regulations are to be followed in processing federal  
27 criminal history information.~~

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

39 *SEC. 2. Section 11170 of the Penal Code is amended to read:*

1 11170. (a) (1) The Department of Justice shall maintain an  
2 index of all reports of child abuse and severe neglect submitted  
3 pursuant to Section 11169. The index shall be continually updated  
4 by the department and shall not contain any reports that are  
5 determined to be not substantiated. The department may adopt  
6 rules governing recordkeeping and reporting pursuant to this article.

7 (2) The department shall act only as a repository of reports of  
8 suspected child abuse and severe neglect to be maintained in the  
9 Child Abuse Central Index (CACI) pursuant to paragraph (1). The  
10 submitting agencies are responsible for the accuracy, completeness,  
11 and retention of the reports described in this section. The  
12 department shall be responsible for ensuring that the CACI  
13 accurately reflects the report it receives from the submitting agency.

14 (3) Only information from reports that are reported as  
15 substantiated shall be filed pursuant to paragraph (1), and all other  
16 determinations shall be removed from the central list. If a person  
17 listed in the CACI was under 18 years of age at the time of the  
18 report, the information shall be deleted from the CACI 10 years  
19 from the date of the incident resulting in the CACI listing, if no  
20 subsequent report concerning the same person is received during  
21 that time period.

22 (b) The provisions of subdivision (c) of Section 11169 apply to  
23 any information provided pursuant to this subdivision.

24 (1) The Department of Justice shall immediately notify an  
25 agency that submits a report pursuant to Section 11169, or a  
26 prosecutor who requests notification, of any information maintained  
27 pursuant to subdivision (a) that is relevant to the known or  
28 suspected instance of child abuse or severe neglect reported by the  
29 agency. The agency shall make that information available to the  
30 reporting health care practitioner who is treating a person reported  
31 as a possible victim of known or suspected child abuse. The agency  
32 shall make that information available to the reporting child  
33 custodian, Child Abuse Prevention and Treatment Act guardian  
34 ad litem appointed under Rule 5.662 of the California Rules of  
35 Court, or counsel appointed under Section 317 or 318 of the  
36 Welfare and Institutions Code, or the appropriate licensing agency,  
37 if he or she or the licensing agency is handling or investigating a  
38 case of known or suspected child abuse or severe neglect.

39 (2) When a report is made pursuant to subdivision (a) of Section  
40 11166, or Section 11166.05, the investigating agency, upon

1 completion of the investigation or after there has been a final  
2 disposition in the matter, shall inform the person required or  
3 authorized to report of the results of the investigation and of any  
4 action the agency is taking with regard to the child or family.

5 (3) The Department of Justice shall make relevant information  
6 from the CACI available to a law enforcement agency, county  
7 welfare department, or county probation department that is  
8 conducting a child abuse investigation.

9 (4) The department shall make available to the State Department  
10 of Social Services, or to any county licensing agency that has  
11 contracted with the state for the performance of licensing duties,  
12 *or to any county child welfare agency under the conditions*  
13 *described by Section 16504.5 of the Welfare and Institutions Code,*  
14 or to a tribal court or tribal child welfare agency of a tribe,  
15 consortium of tribes, or tribal organization that has entered into  
16 an agreement with the state pursuant to Section 10553.1 of the  
17 Welfare and Institutions Code, information regarding a known or  
18 suspected child abuser maintained pursuant to this section and  
19 subdivision (a) of Section 11169 concerning any person who is an  
20 applicant for licensure or approval, or any adult who resides or is  
21 employed in the home of an applicant for licensure or approval,  
22 or who is an applicant for employment in a position having  
23 supervisory or disciplinary power over a child or children, or who  
24 will provide 24-hour care for a child or children in a residential  
25 home or facility, pursuant to Section 1522.1 or 1596.877 of the  
26 Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of  
27 the Family Code, or Section 11403.2 of the Welfare and Institutions  
28 Code.

29 (5) The Department of Justice shall make available to a Court  
30 Appointed Special Advocate program that is conducting a  
31 background investigation of an applicant seeking employment  
32 with the program or a volunteer position as a Court Appointed  
33 Special Advocate, as defined in Section 101 of the Welfare and  
34 Institutions Code, information contained in the index regarding  
35 known or suspected child abuse by the applicant.

36 (6) For purposes of child death review, the Department of Justice  
37 shall make available to the chairperson, or the chairperson's  
38 designee, for each county child death review team, or the State  
39 Child Death Review Council, information for investigative  
40 purposes only that is maintained in the CACI pursuant to

1 subdivision (a) relating to the death of one or more children and  
2 any prior child abuse or neglect investigation reports maintained  
3 involving the same victims, siblings, or suspects. Local child death  
4 review teams may share any relevant information regarding case  
5 reviews involving child death with other child death review teams.

6 (7) The department shall make available to investigative  
7 agencies or probation officers, or court investigators acting  
8 pursuant to Section 1513 of the Probate Code, responsible for  
9 placing children or assessing the possible placement of children  
10 pursuant to Article 6 (commencing with Section 300), Article 7  
11 (commencing with Section 305), Article 10 (commencing with  
12 Section 360), or Article 14 (commencing with Section 601) of  
13 Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions  
14 Code, or Article 2 (commencing with Section 1510) or Article 3  
15 (commencing with Section 1540) of Chapter 1 of Part 2 of Division  
16 4 of the Probate Code, information regarding a known or suspected  
17 child abuser contained in the index concerning any adult residing  
18 in the home where the child may be placed, when this information  
19 is requested for purposes of ensuring that the placement is in the  
20 best interest of the child. Upon receipt of relevant information  
21 concerning child abuse or neglect investigation reports contained  
22 in the CACI from the Department of Justice pursuant to this  
23 subdivision, the agency or court investigator shall notify, in writing,  
24 the person listed in the CACI that he or she is in the index. The  
25 notification shall include the name of the reporting agency and the  
26 date of the report.

27 (8) The Department of Justice shall make available to a  
28 government agency conducting a background investigation  
29 pursuant to Section 1031 of the Government Code of an applicant  
30 seeking employment as a peace officer, as defined in Section 830,  
31 information regarding a known or suspected child abuser  
32 maintained pursuant to this section concerning the applicant.

33 (9) The Department of Justice shall make available to a county  
34 child welfare agency or delegated county adoption agency, as  
35 defined in Section 8515 of the Family Code, conducting a  
36 background investigation, or a government agency conducting a  
37 background investigation on behalf of one of those agencies,  
38 information regarding a known or suspected child abuser  
39 maintained pursuant to this section and subdivision (a) of Section  
40 11169 concerning any applicant seeking employment or volunteer

1 status with the agency who, in the course of his or her employment  
2 or volunteer work, will have direct contact with children who are  
3 alleged to have been, are at risk of, or have suffered, abuse or  
4 neglect.

5 (10) (A) Persons or agencies, as specified in subdivision (b),  
6 if investigating a case of known or suspected child abuse or neglect,  
7 or the State Department of Social Services or any county licensing  
8 agency pursuant to paragraph (4), or a Court Appointed Special  
9 Advocate (CASA) program conducting a background investigation  
10 for employment or volunteer candidates pursuant to paragraph (5),  
11 or an investigative agency, probation officer, or court investigator  
12 responsible for placing children or assessing the possible placement  
13 of children pursuant to paragraph (7), or a government agency  
14 conducting a background investigation of an applicant seeking  
15 employment as a peace officer pursuant to paragraph (8), or a  
16 county child welfare agency or delegated county adoption agency  
17 conducting a background investigation of an applicant seeking  
18 employment or volunteer status who, in the course of his or her  
19 employment or volunteer work, will have direct contact with  
20 children who are alleged to have been, are at risk of, or have  
21 suffered, abuse or neglect, pursuant to paragraph (9), to whom  
22 disclosure of any information maintained pursuant to subdivision  
23 (a) is authorized, are responsible for obtaining the original  
24 investigative report from the reporting agency, and for drawing  
25 independent conclusions regarding the quality of the evidence  
26 disclosed, and its sufficiency for making decisions regarding  
27 investigation, prosecution, licensing, placement of a child,  
28 employment or volunteer positions with a CASA program, or  
29 employment as a peace officer.

30 (B) If CACI information is requested by an agency for the  
31 temporary placement of a child in an emergency situation pursuant  
32 to Article 7 (commencing with Section 305) of Chapter 2 of Part  
33 1 of Division 2 of the Welfare and Institutions Code, the  
34 department is exempt from the requirements of Section 1798.18  
35 of the Civil Code if compliance would cause a delay in providing  
36 an expedited response to the agency's inquiry and if further delay  
37 in placement may be detrimental to the child.

38 (11) (A) Whenever information contained in the Department  
39 of Justice files is furnished as the result of an application for  
40 employment or licensing or volunteer status pursuant to paragraph

1 (4), (5), (8), or (9), the Department of Justice may charge the person  
2 or entity making the request a fee. The fee shall not exceed the  
3 reasonable costs to the department of providing the information.  
4 The only increase shall be at a rate not to exceed the legislatively  
5 approved cost-of-living adjustment for the department. In no case  
6 shall the fee exceed fifteen dollars (\$15).

7 (B) All moneys received by the department pursuant to this  
8 section to process trustline applications for purposes of Chapter  
9 3.35 (commencing with Section 1596.60) of Division 2 of the  
10 Health and Safety Code shall be deposited in a special account in  
11 the General Fund that is hereby established and named the  
12 Department of Justice Child Abuse Fund. Moneys in the fund shall  
13 be available, upon appropriation by the Legislature, for expenditure  
14 by the department to offset the costs incurred to process trustline  
15 automated child abuse or neglect system checks pursuant to this  
16 section.

17 (C) All moneys, other than those described in subparagraph (B),  
18 received by the department pursuant to this paragraph shall be  
19 deposited in a special account in the General Fund which is hereby  
20 created and named the Department of Justice Sexual Habitual  
21 Offender Fund. The funds shall be available, upon appropriation  
22 by the Legislature, for expenditure by the department to offset the  
23 costs incurred pursuant to Chapter 9.5 (commencing with Section  
24 13885) and Chapter 10 (commencing with Section 13890) of Title  
25 6 of Part 4, and the DNA and Forensic Identification Data Base  
26 and Data Bank Act of 1998 (Chapter 6 (commencing with Section  
27 295) of Title 9 of Part 1), and for maintenance and improvements  
28 to the statewide Sexual Habitual Offender Program and the  
29 California DNA offender identification file (CAL-DNA) authorized  
30 by Chapter 9.5 (commencing with Section 13885) of Title 6 of  
31 Part 4 and the DNA and Forensic Identification Data Base and  
32 Data Bank Act of 1998 (Chapter 6 (commencing with Section 295)  
33 of Title 9 of Part 1).

34 (c) (1) The Department of Justice shall make available to any  
35 agency responsible for placing children pursuant to Article 7  
36 (commencing with Section 305) of Chapter 2 of Part 1 of Division  
37 2 of the Welfare and Institutions Code, upon request, relevant  
38 information concerning child abuse or neglect reports contained  
39 in the index, when making a placement with a responsible relative  
40 pursuant to Sections 281.5, 305, and 361.3 of the Welfare and

1 Institutions Code. Upon receipt of relevant information concerning  
2 child abuse or neglect reports contained in the index from the  
3 Department of Justice pursuant to this subdivision, the agency  
4 shall also notify in writing the person listed in the CACI that he  
5 or she is in the index. The notification shall include the location  
6 of the original investigative report and the submitting agency. The  
7 notification shall be submitted to the person listed at the same time  
8 that all other parties are notified of the information, and no later  
9 than the actual judicial proceeding that determines placement.

10 (2) If information is requested by an agency for the placement  
11 of a child with a responsible relative in an emergency situation  
12 pursuant to Article 7 (commencing with Section 305) of Chapter  
13 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the  
14 department is exempt from the requirements of Section 1798.18  
15 of the Civil Code if compliance would cause a delay in providing  
16 an expedited response to the child protective agency's inquiry and  
17 if further delay in placement may be detrimental to the child.

18 (d) The department shall make available any information  
19 maintained pursuant to subdivision (a) to out-of-state law  
20 enforcement agencies conducting investigations of known or  
21 suspected child abuse or neglect only when an agency makes the  
22 request for information in writing and on official letterhead, or as  
23 designated by the department, identifying the suspected abuser or  
24 victim by name and date of birth or approximate age. The request  
25 shall be signed by the department supervisor of the requesting law  
26 enforcement agency. The written requests shall cite the out-of-state  
27 statute or interstate compact provision that requires that the  
28 information contained within these reports shall be disclosed only  
29 to law enforcement, prosecutorial entities, or multidisciplinary  
30 investigative teams, and shall cite the safeguards in place to prevent  
31 unlawful disclosure of any confidential information provided by  
32 the requesting state or the applicable interstate compact provision.

33 (e) (1) The department shall make available to an out-of-state  
34 agency, for purposes of approving a prospective foster or adoptive  
35 parent in compliance with the Adam Walsh Child Protection and  
36 Safety Act of 2006 (Public Law 109-248), information regarding  
37 a known or suspected child abuser maintained pursuant to  
38 subdivision (a) concerning the prospective foster or adoptive  
39 parent, and any other adult living in the home of the prospective  
40 foster or adoptive parent. The department shall make that

1 information available only when the out-of-state agency makes  
2 the request indicating that continual compliance will be maintained  
3 with the requirement in paragraph (20) of subsection (a) of Section  
4 671 of Title 42 of the United States Code that requires the state to  
5 have in place safeguards to prevent the unauthorized disclosure of  
6 information in any child abuse and neglect registry maintained by  
7 the state and prevent the information from being used for a purpose  
8 other than the conducting of background checks in foster or  
9 adoption placement cases.

10 (2) With respect to any information provided by the department  
11 in response to the out-of-state agency's request, the out-of-state  
12 agency is responsible for obtaining the original investigative report  
13 from the reporting agency, and for drawing independent  
14 conclusions regarding the quality of the evidence disclosed and  
15 its sufficiency for making decisions regarding the approval of  
16 prospective foster or adoptive parents.

17 (3) (A) Whenever information contained in the index is  
18 furnished pursuant to this subdivision, the department shall charge  
19 the out-of-state agency making the request a fee. The fee shall not  
20 exceed the reasonable costs to the department of providing the  
21 information. The only increase shall be at a rate not to exceed the  
22 legislatively approved cost-of-living adjustment for the department.  
23 In no case shall the fee exceed fifteen dollars (\$15).

24 (B) All moneys received by the department pursuant to this  
25 subdivision shall be deposited in the Department of Justice Child  
26 Abuse Fund, established under subparagraph (B) of paragraph (11)  
27 of subdivision (b). Moneys in the fund shall be available, upon  
28 appropriation by the Legislature, for expenditure by the department  
29 to offset the costs incurred to process requests for information  
30 pursuant to this subdivision.

31 (f) (1) Any person may determine if he or she is listed in the  
32 CACI by making a request in writing to the Department of Justice.  
33 The request shall be notarized and include the person's name,  
34 address, date of birth, and either a social security number or a  
35 California identification number. Upon receipt of a notarized  
36 request, the Department of Justice shall make available to the  
37 requesting person information identifying the date of the report  
38 and the submitting agency. The requesting person is responsible  
39 for obtaining the investigative report from the submitting agency  
40 pursuant to paragraph (11) of subdivision (b) of Section 11167.5.

1 (2) No person or agency shall require or request another person  
2 to furnish a copy of a record concerning himself or herself, or  
3 notification that a record concerning himself or herself exists or  
4 does not exist, pursuant to paragraph (1).

5 (g) If a person is listed in the CACI only as a victim of child  
6 abuse or neglect, and that person is 18 years of age or older, that  
7 person may have his or her name removed from the index by  
8 making a written request to the Department of Justice. The request  
9 shall be notarized and include the person's name, address, social  
10 security number, and date of birth.

11 ~~SEC. 4.~~

12 *SEC. 3.* Section 16504.5 of the Welfare and Institutions Code  
13 is amended to read:

14 16504.5. (a) (1) Notwithstanding any other ~~provision of law,~~  
15 pursuant to subdivision (b) of Section 11105 of the Penal Code, a  
16 child welfare agency may secure from an appropriate governmental  
17 criminal justice agency the state summary criminal history  
18 information, as defined in subdivision (a) of Section 11105 of the  
19 Penal Code, through the California Law Enforcement  
20 Telecommunications System pursuant to subdivision (d) of Section  
21 309 *of this code*, and subdivision (a) of Section 1522 of the Health  
22 and Safety Code, ~~and may secure state summary criminal history~~  
23 ~~information from the State Department of Social Services pursuant~~  
24 ~~to Section 1522.08 of the Health and Safety Code,~~ for the following  
25 purposes:

26 (A) To conduct an investigation pursuant to Section 11166.3 of  
27 the Penal Code or an investigation involving a child in which the  
28 child is alleged to come within the jurisdiction of the juvenile court  
29 under Section 300 *of this code*.

30 (B) (i) To assess the appropriateness and safety of placing a  
31 child who has been detained or is a dependent of the court, in the  
32 home of a relative assessed pursuant to Section 309 or 361.4, or  
33 in the home of a nonrelative extended family member assessed as  
34 described in Section 362.7 during an emergency situation.

35 (ii) When a relative or nonrelative family member who has been  
36 assessed pursuant to clause (i) and approved as a caregiver moves  
37 to a different county and continued placement of the child with  
38 that person is intended, the move shall be considered an emergency  
39 situation for purposes of this subparagraph.

1 (C) To attempt to locate a parent or guardian pursuant to Section  
2 311 of a child who is the subject of dependency court proceedings.

3 (D) To obtain information about the background of a nonminor  
4 who has petitioned to reenter foster care under subdivision (e) of  
5 Section 388, in order to assess the appropriateness and safety of  
6 placing the nonminor in a foster care or other placement setting  
7 with minor dependent children.

8 ~~(E) To assess the appropriateness and safety of placing a child  
9 who has been detained or is a dependent of the court in a licensed  
10 foster family home, group home, or state licensed foster home.~~

11 ~~(F) To monitor the health and safety of persons under the  
12 supervision of the county child welfare agency who are residing  
13 in a licensed foster family home, group home, or state licensed  
14 foster home.~~

15 (2) Any time that a child welfare agency initiates a criminal  
16 background check through the California Law Enforcement  
17 Telecommunications System for the purpose described in  
18 subparagraph (B) of paragraph (1), the agency shall ensure that a  
19 state-level fingerprint check is initiated within 10 calendar days  
20 of the check, unless the whereabouts of the subject of the check  
21 are unknown or the subject of the check refuses to submit to the  
22 fingerprint check. The Department of Justice shall provide the  
23 requesting agency a copy of all criminal history information  
24 regarding an individual that it maintains pursuant to subdivision  
25 (b) of Section 11105 of the Penal Code.

26 (b) Criminal justice personnel shall cooperate with requests for  
27 criminal history information authorized pursuant to this section  
28 and shall provide the information to the requesting entity in a  
29 timely manner.

30 (c) Any law enforcement officer or person authorized by this  
31 section to receive the information who obtains the information in  
32 the record and knowingly provides the information to a person not  
33 authorized by law to receive the information is guilty of a  
34 misdemeanor as specified in Section 11142 of the Penal Code.

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

38 (e) Nothing in this section shall preclude a nonminor petitioning  
39 to reenter foster care or a relative or other person living in a  
40 relative's home from refuting any of the information obtained by

1 law enforcement if the individual believes the state- or federal-level  
2 criminal records check revealed erroneous information.

3 (f) (1) A state or county welfare agency may submit to the  
4 Department of Justice fingerprint images and related information  
5 required by the Department of Justice of parents or legal guardians  
6 when determining their suitability for reunification with a  
7 dependent child subject to the jurisdiction of the juvenile court,  
8 for the purposes of obtaining information as to the existence and  
9 content of a record of state or federal convictions and state or  
10 federal arrests, as well as information as to the existence and  
11 content of a record of state or federal arrests for which the  
12 Department of Justice establishes that the person is free on bail or  
13 on his or her own recognizance pending trial or appeal. Of the  
14 information received by the Department of Justice pursuant to this  
15 subdivision, only the parent's or legal guardian's criminal history  
16 for the time period following the removal of the child from the  
17 parent or legal guardian shall be considered.

18 (2) A county welfare agency or county probation office may  
19 submit to the Department of Justice fingerprint images and related  
20 information required by the Department of Justice of nonminors  
21 petitioning to reenter foster care under Section 388, in order to  
22 assess the appropriateness and safety of placing the nonminor in  
23 a foster care or other placement setting with minor dependent  
24 children.

25 (3) When received, the Department of Justice shall forward to  
26 the Federal Bureau of Investigation requests for federal summary  
27 criminal history information received pursuant to this subdivision.  
28 The Department of Justice shall review the information returned  
29 from the Federal Bureau of Investigation and respond to the state  
30 or county welfare agency.

31 (4) The Department of Justice shall provide a response to the  
32 state or county welfare agency pursuant to subdivision (p) of  
33 Section 11105 of the Penal Code.

34 (5) The state or county welfare agency shall not request from  
35 the Department of Justice subsequent arrest notification service,  
36 as provided pursuant to Section 11105.2 of the Penal Code, for  
37 individuals described in this subdivision.

38 (6) The Department of Justice shall charge a fee sufficient to  
39 cover the costs of processing the request described in this  
40 subdivision.

1 (7) This subdivision shall become operative on July 1, 2007.

2 (g) A fee, determined by the Federal Bureau of Investigation  
3 and collected by the Department of Justice, shall be charged for  
4 each federal-level criminal offender record information request  
5 submitted pursuant to this section and Section 361.4.

6 (h) (1) *A county child welfare agency may submit to the*  
7 *Department of Justice fingerprint images and related information*  
8 *required by the Department of Justice of an individual who has*  
9 *received a criminal record exemption from the California*  
10 *Department of Social Services pertaining to a licensed or certified*  
11 *foster home for the purposes of obtaining information as to the*  
12 *existence and content of a record of state or federal convictions*  
13 *and state or federal arrests and also information as to the existence*  
14 *and content of a record of state or federal arrests for which the*  
15 *Department of Justice establishes that the person is free on bail*  
16 *or on his or her own recognizance pending trial or appeal.*

17 (A) *Except as otherwise limited by state or federal law, a county*  
18 *child welfare agency that requests criminal record information*  
19 *pursuant to this section shall request from the California*  
20 *Department of Social Services any additional information the*  
21 *department used in making the determination to grant the*  
22 *exemption.*

23 (B) *Whenever state or federal summary information is provided*  
24 *by the Department of Justice pursuant to this section and is used*  
25 *by a county child welfare agency as the basis for determining that*  
26 *a licensed or certified foster care placement is not an appropriate*  
27 *placement for a child, the county shall expeditiously furnish a copy*  
28 *of the information to the person to whom the information relates*  
29 *and shall provide the person with an opportunity to contest or*  
30 *appeal the decision within the agency.*

31 (2) *When received, the Department of Justice shall forward to*  
32 *the Federal Bureau of Investigation each request for federal*  
33 *summary criminal history information received pursuant to this*  
34 *section. The Department of Justice shall review the information*  
35 *returned from the Federal Bureau of Investigation and compile*  
36 *and disseminate a response to the county child welfare agency.*

37 (3) *The Department of Justice shall provide a state or federal*  
38 *level response to the county child welfare agency pursuant to*  
39 *paragraph (1) of subdivision (m) of Section 11105 of the Penal*  
40 *Code.*

1 (4) The county child welfare agency shall request from the  
2 Department of Justice subsequent notification service, as provided  
3 pursuant to Section 11105.2 of the Penal Code, for persons  
4 described in paragraph (1) for whom the county has requested  
5 criminal record information.

6 (5) The Department of Justice shall charge a fee sufficient to  
7 cover the reasonable cost of processing the request described in  
8 this subdivision.

9 SEC. 4. Section 16504.7 is added to the Welfare and Institutions  
10 Code, to read:

11 16504.7. (a) The department shall provide to a county child  
12 welfare agency a list of each person who has received a criminal  
13 records exemption pursuant to subdivision (g) of Section 1522 of  
14 the Health and Safety Code related to a licensed or certified foster  
15 home so that the county may assess the appropriateness and safety  
16 of placing a child who has been detained or is a dependent of the  
17 court in the licensed or certified foster home with which the  
18 individual is associated.

19 (b) Except as otherwise limited by state or federal law, the  
20 department shall make available to the county child welfare  
21 agency, any investigative information used in making the  
22 determination to grant the exemption. The department shall consult  
23 with the Department of Justice, counties, and other interested  
24 stakeholders to ensure that information is shared expeditiously  
25 and in accordance with state and federal law.