

AMENDED IN ASSEMBLY JUNE 25, 2014

AMENDED IN ASSEMBLY JUNE 11, 2014

AMENDED IN SENATE MAY 27, 2014

AMENDED IN SENATE APRIL 29, 2014

SENATE BILL

No. 1136

Introduced by Senators Huff and Mitchell

(Coauthors: Senators Leno and Wolk)

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

February 20, 2014

An act to amend ~~Sections 1522 and~~ *Section* 1522.08 of the Health and Safety Code, to amend ~~Sections 11105.2 and 11170 of the Penal Code, and to amend Section 16504.5 of,~~ and to add Section 16504.7 ~~to,~~ 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 requires 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 the State Department of Social Services to share summary information related to a criminal record clearance or exemption granted by the department with 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. The bill would allow the State Department of Social Services and county child welfare agencies to share information with respect to applicants, licensees, certificates, or individuals who have been the subject of any administrative action resulting in the denial, suspension, probation, or revocation of a license, permit, or certificate, or in the exclusion of a person from a facility who is subject to a background check.~~

~~The bill would require the State Department of Social Services to provide to provide, upon the request of a county child welfare agency, 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 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 of placing a child who has been detained or is a dependent of the court in a state-licensed foster home, a certified home of a licensed foster family agency, or a licensed group home. The bill would authorize a county child welfare agency to 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 authorize the Department of Justice to provide subsequent state or federal arrest or disposition notification to any entity authorized by state or federal law to receive state or federal summary criminal history information to assist in fulfilling duties of placing a child in a state-licensed foster home, a certified home of a licensed~~

foster family agency, or a licensed group home. The bill would also authorize the department to share with the county child welfare agency summary information, as defined, related to a criminal record clearance or exemption granted by the department, except as otherwise limited by state or federal law. The bill would prohibit the department from disclosing the names of individuals who are not the subject of the exemption request or disclosing more information than is necessary, as determined by the department and in accordance with state and federal law, to assess the appropriateness of placing a child in a licensed or certified foster home. The bill would require the department to issue an all-county letter on or before March 1, 2015, that specifies the process by which a county may request summary information, how the information will be issued by the department, and how the information may be used by a county.

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~~
 8 ~~home of a licensed foster family agency, and to assess the~~
 9 ~~appropriateness of placing specific children in those homes and~~
 10 ~~facilities. Therefore, the Legislature supports the use of the~~
 11 ~~fingerprint live-scan technology, as identified in the long-range~~
 12 ~~plan of the Department of Justice for fully automating the~~
 13 ~~processing of fingerprints and other data by the year 1999;~~
 14 ~~otherwise known as the California Crime Information Intelligence~~
 15 ~~System (CAL-CII), to be used for applicant fingerprints. It is the~~
 16 ~~intent of the Legislature in enacting this section to require the~~
 17 ~~fingerprints of those individuals whose contact with community~~
 18 ~~care clients may pose a risk to the clients' health and safety. An~~
 19 ~~individual shall be required to obtain either a criminal record~~
 20 ~~clearance or a criminal record exemption from the State Department~~

1 of Social Services before his or her initial presence in a community
2 care facility.

3 ~~(a) (1) Before issuing a license or special permit to any person~~
4 ~~or persons to operate or manage a community care facility, the~~
5 ~~State Department of Social Services shall secure from an~~
6 ~~appropriate law enforcement agency a criminal record to determine~~
7 ~~whether the applicant or any other person specified in subdivision~~
8 ~~(b) has ever been convicted of a crime other than a minor traffic~~
9 ~~violation or arrested for any crime specified in Section 290 of the~~
10 ~~Penal Code, for violating Section 245 or 273.5, of the Penal Code,~~
11 ~~subdivision (b) of Section 273a of the Penal Code, or, prior to~~
12 ~~January 1, 1994, paragraph (2) of Section 273a of the Penal Code,~~
13 ~~or for any crime for which the department cannot grant an~~
14 ~~exemption if the person was convicted and the person has not been~~
15 ~~exonerated.~~

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

19 ~~(3) Except during the 2003-04 to the 2014-15 fiscal years,~~
20 ~~inclusive, neither the Department of Justice nor the State~~
21 ~~Department of Social Services may charge a fee for the~~
22 ~~fingerprinting of an applicant for a license or special permit to~~
23 ~~operate a facility providing nonmedical board, room, and care for~~
24 ~~six or less children or for obtaining a criminal record of the~~
25 ~~applicant pursuant to this section.~~

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

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

32 ~~(B) If the State Department of Social Services finds that the~~
33 ~~applicant, or any other person specified in subdivision (b) is~~
34 ~~awaiting trial for a crime other than a minor traffic violation, the~~
35 ~~State Department of Social Services may cease processing the~~
36 ~~application until the conclusion of the trial.~~

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

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

7 ~~(E) An applicant and any other person specified in subdivision~~
8 ~~(b) shall submit fingerprint images and related information to the~~
9 ~~Department of Justice for the purpose of searching the criminal~~
10 ~~records of the Federal Bureau of Investigation, in addition to the~~
11 ~~criminal records search required by this subdivision. If an applicant~~
12 ~~and all other persons described in subdivision (b) meet all of the~~
13 ~~conditions for licensure, except receipt of the Federal Bureau of~~
14 ~~Investigation's criminal offender record information search~~
15 ~~response for the applicant or any of the persons described in~~
16 ~~subdivision (b), the department may issue a license if the applicant~~
17 ~~and each person described in subdivision (b) has signed and~~
18 ~~submitted a statement that he or she has never been convicted of~~
19 ~~a crime in the United States, other than a traffic infraction, as~~
20 ~~prescribed in paragraph (1) of subdivision (a) of Section 42001 of~~
21 ~~the Vehicle Code. If, after licensure, the department determines~~
22 ~~that the licensee or any other person specified in subdivision (b)~~
23 ~~has a criminal record, the license may be revoked pursuant to~~
24 ~~Section 1550. The department may also suspend the license~~
25 ~~pending an administrative hearing pursuant to Section 1550.5.~~

26 ~~(F) The State Department of Social Services shall develop~~
27 ~~procedures to provide the individual's state and federal criminal~~
28 ~~history information with the written notification of his or her~~
29 ~~exemption denial or revocation based on the criminal record.~~
30 ~~Receipt of the criminal history information shall be optional on~~
31 ~~the part of the individual, as set forth in the agency's procedures.~~
32 ~~The procedure shall protect the confidentiality and privacy of the~~
33 ~~individual's record, and the criminal history information shall not~~
34 ~~be made available to the employer.~~

35 ~~(G) Notwithstanding any other law, the department is authorized~~
36 ~~to provide an individual with a copy of his or her state or federal~~
37 ~~level criminal offender record information search response as~~
38 ~~provided to that department by the Department of Justice if the~~
39 ~~department has denied a criminal background clearance based on~~
40 ~~this information and the individual makes a written request to the~~

1 department for a copy specifying an address to which it is to be
2 sent. The state or federal level criminal offender record information
3 search response shall not be modified or altered from its form or
4 content as provided by the Department of Justice and shall be
5 provided to the address specified by the individual in his or her
6 written request. The department shall retain a copy of the
7 individual's written request and the response and date provided.

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

10 (A) Adults responsible for administration or direct supervision
11 of staff.

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

13 (C) Any person who provides client assistance in dressing,
14 grooming, bathing, or personal hygiene. Any nurse assistant or
15 home health aide meeting the requirements of Section 1338.5 or
16 1736.6, respectively, who is not employed, retained, or contracted
17 by the licensee, and who has been certified or recertified on or
18 after July 1, 1998, shall be deemed to meet the criminal record
19 clearance requirements of this section. A certified nurse assistant
20 and certified home health aide who will be providing client
21 assistance and who falls under this exemption shall provide one
22 copy of his or her current certification, prior to providing care, to
23 the community care facility. The facility shall maintain the copy
24 of the certification on file as long as care is being provided by the
25 certified nurse assistant or certified home health aide at the facility.
26 Nothing in this paragraph restricts the right of the department to
27 exclude a certified nurse assistant or certified home health aide
28 from a licensed community care facility pursuant to Section 1558.

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

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

34 (F) Additional officers of the governing body of the applicant,
35 or other persons with a financial interest in the applicant, as
36 determined necessary by the department by regulation. The criteria
37 used in the development of these regulations shall be based on the
38 person's capability to exercise substantial influence over the
39 operation of the facility.

- 1 ~~(2) The following persons are exempt from the requirements~~
2 ~~applicable under paragraph (1):~~
- 3 ~~(A) A medical professional as defined in department regulations~~
4 ~~who holds a valid license or certification from the person's~~
5 ~~governing California medical care regulatory entity and who is~~
6 ~~not employed, retained, or contracted by the licensee if all of the~~
7 ~~following apply:~~
- 8 ~~(i) The criminal record of the person has been cleared as a~~
9 ~~condition of licensure or certification by the person's governing~~
10 ~~California medical care regulatory entity.~~
- 11 ~~(ii) The person is providing time-limited specialized clinical~~
12 ~~care or services.~~
- 13 ~~(iii) The person is providing care or services within the person's~~
14 ~~scope of practice.~~
- 15 ~~(iv) The person is not a community care facility licensee or an~~
16 ~~employee of the facility.~~
- 17 ~~(B) A third-party repair person or similar retained contractor if~~
18 ~~all of the following apply:~~
- 19 ~~(i) The person is hired for a defined, time-limited job.~~
- 20 ~~(ii) The person is not left alone with clients.~~
- 21 ~~(iii) When clients are present in the room in which the repair~~
22 ~~person or contractor is working, a staff person who has a criminal~~
23 ~~record clearance or exemption is also present.~~
- 24 ~~(C) Employees of a licensed home health agency and other~~
25 ~~members of licensed hospice interdisciplinary teams who have a~~
26 ~~contract with a client or resident of the facility and are in the~~
27 ~~facility at the request of that client or resident's legal~~
28 ~~decisionmaker. The exemption does not apply to a person who is~~
29 ~~a community care facility licensee or an employee of the facility.~~
- 30 ~~(D) Clergy and other spiritual caregivers who are performing~~
31 ~~services in common areas of the community care facility or who~~
32 ~~are advising an individual client at the request of, or with the~~
33 ~~permission of, the client or legal decisionmaker, are exempt from~~
34 ~~fingerprint and criminal background check requirements imposed~~
35 ~~by community care licensing. This exemption does not apply to a~~
36 ~~person who is a community care licensee or employee of the~~
37 ~~facility.~~
- 38 ~~(E) Members of fraternal, service, or similar organizations who~~
39 ~~conduct group activities for clients if all of the following apply:~~
- 40 ~~(i) Members are not left alone with clients.~~

1 ~~(ii) Members do not transport clients off the facility premises.~~

2 ~~(iii) The same organization does not conduct group activities~~
3 ~~for clients more often than defined by the department's regulations.~~

4 ~~(3) In addition to the exemptions in paragraph (2), the following~~
5 ~~persons in foster family homes, certified family homes, and small~~
6 ~~family homes are exempt from the requirements applicable under~~
7 ~~paragraph (1):~~

8 ~~(A) Adult friends and family of the licensed or certified foster~~
9 ~~parent, who come into the home to visit for a length of time no~~
10 ~~longer than defined by the department in regulations, provided~~
11 ~~that the adult friends and family of the licensee are not left alone~~
12 ~~with the foster children. However, the licensee, acting as a~~
13 ~~reasonable and prudent parent, as defined in paragraph (2) of~~
14 ~~subdivision (a) of Section 362.04 of the Welfare and Institutions~~
15 ~~Code, may allow his or her adult friends and family to provide~~
16 ~~short-term care to the foster child and act as an appropriate~~
17 ~~occasional short-term babysitter for the child.~~

18 ~~(B) Parents of a foster child's friend when the foster child is~~
19 ~~visiting the friend's home and the friend, licensed or certified foster~~
20 ~~parent, or both are also present. However, the licensee, acting as~~
21 ~~a reasonable and prudent parent, may allow the parent of the foster~~
22 ~~child's friend to act as an appropriate short-term babysitter for the~~
23 ~~child without the friend being present.~~

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

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

32 ~~(A) Unless contraindicated by the client's individualized~~
33 ~~program plan (IPP) or needs and service plan, a spouse, significant~~
34 ~~other, relative, or close friend of a client, or an attendant or a~~
35 ~~facilitator for a client with a developmental disability if the~~
36 ~~attendant or facilitator is not employed, retained, or contracted by~~
37 ~~the licensee. This exemption applies only if the person is visiting~~
38 ~~the client or providing direct care and supervision to the client.~~

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

1 (i) ~~The volunteer is supervised by the licensee or a facility~~
2 ~~employee with a criminal record clearance or exemption.~~
3 (ii) ~~The volunteer is never left alone with clients.~~
4 (iii) ~~The volunteer does not provide any client assistance with~~
5 ~~dressing, grooming, bathing, or personal hygiene other than~~
6 ~~washing of hands.~~
7 (5) (A) ~~In addition to the exemptions specified in paragraph~~
8 ~~(2), the following persons in adult residential and social~~
9 ~~rehabilitation facilities, unless contraindicated by the client's~~
10 ~~individualized program plan (IPP) or needs and services plan, are~~
11 ~~exempt from the requirements applicable under paragraph (1): a~~
12 ~~spouse, significant other, relative, or close friend of a client, or an~~
13 ~~attendant or a facilitator for a client with a developmental disability~~
14 ~~if the attendant or facilitator is not employed, retained, or~~
15 ~~contracted by the licensee. This exemption applies only if the~~
16 ~~person is visiting the client or providing direct care and supervision~~
17 ~~to that client.~~
18 (B) ~~Nothing in this subdivision shall prevent a licensee from~~
19 ~~requiring a criminal record clearance of any individual exempt~~
20 ~~from the requirements of this section, provided that the individual~~
21 ~~has client contact.~~
22 (6) ~~Any person similar to those described in this subdivision,~~
23 ~~as defined by the department in regulations.~~
24 (e) (1) ~~Subsequent to initial licensure, a person specified in~~
25 ~~subdivision (b) who is not exempted from fingerprinting shall~~
26 ~~obtain either a criminal record clearance or an exemption from~~
27 ~~disqualification pursuant to subdivision (g) from the State~~
28 ~~Department of Social Services prior to employment, residence, or~~
29 ~~initial presence in the facility. A person specified in subdivision~~
30 ~~(b) who is not exempt from fingerprinting shall be fingerprinted~~
31 ~~and shall sign a declaration under penalty of perjury regarding any~~
32 ~~prior criminal convictions. The licensee shall submit fingerprint~~
33 ~~images and related information to the Department of Justice and~~
34 ~~the Federal Bureau of Investigation, through the Department of~~
35 ~~Justice, for a state and federal level criminal offender record~~
36 ~~information search, or comply with paragraph (1) of subdivision~~
37 ~~(h). These fingerprint images and related information shall be sent~~
38 ~~by electronic transmission in a manner approved by the State~~
39 ~~Department of Social Services and the Department of Justice for~~
40 ~~the purpose of obtaining a permanent set of fingerprints, and shall~~

1 be submitted to the Department of Justice by the licensee. A
2 licensee's failure to prohibit the employment, residence, or initial
3 presence of a person specified in subdivision (b) who is not exempt
4 from fingerprinting and who has not received either a criminal
5 record clearance or an exemption from disqualification pursuant
6 to subdivision (g) or to comply with paragraph (1) of subdivision
7 (h), as required in this section, shall result in the citation of a
8 deficiency and the immediate assessment of civil penalties in the
9 amount of one hundred dollars (\$100) per violation per day for a
10 maximum of five days, unless the violation is a second or
11 subsequent violation within a 12-month period in which case the
12 civil penalties shall be in the amount of one hundred dollars (\$100)
13 per violation for a maximum of 30 days, and shall be grounds for
14 disciplining the licensee pursuant to Section 1550. The department
15 may assess civil penalties for continued violations as permitted by
16 Section 1548. The fingerprint images and related information shall
17 then be submitted to the Department of Justice for processing.
18 Upon request of the licensee, who shall enclose a self-addressed
19 stamped postcard for this purpose, the Department of Justice shall
20 verify receipt of the fingerprints.

21 (2) Within 14 calendar days of the receipt of the fingerprint
22 images, the Department of Justice shall notify the State Department
23 of Social Services of the criminal record information, as provided
24 for in subdivision (a). If no criminal record information has been
25 recorded, the Department of Justice shall provide the licensee and
26 the State Department of Social Services with a statement of that
27 fact within 14 calendar days of receipt of the fingerprint images.
28 Documentation of the individual's clearance or exemption from
29 disqualification shall be maintained by the licensee and be available
30 for inspection. If new fingerprint images are required for
31 processing, the Department of Justice shall, within 14 calendar
32 days from the date of receipt of the fingerprints, notify the licensee
33 that the fingerprints were illegible, the Department of Justice shall
34 notify the State Department of Social Services, as required by
35 Section 1522.04, and shall also notify the licensee by mail, within
36 14 days of electronic transmission of the fingerprints to the
37 Department of Justice, if the person has no criminal history
38 recorded. A violation of the regulations adopted pursuant to Section
39 1522.04 shall result in the citation of a deficiency and an immediate
40 assessment of civil penalties in the amount of one hundred dollars

1 (~~\$100~~) per violation per day for a maximum of five days, unless
2 the violation is a second or subsequent violation within a 12-month
3 period in which case the civil penalties shall be in the amount of
4 one hundred dollars (~~\$100~~) per violation for a maximum of 30
5 days, and shall be grounds for disciplining the licensee pursuant
6 to Section 1550. The department may assess civil penalties for
7 continued violations as permitted by Section 1548.

8 ~~(3) Except for persons specified in subdivision (b) who are~~
9 ~~exempt from fingerprinting, the licensee shall endeavor to ascertain~~
10 ~~the previous employment history of persons required to be~~
11 ~~fingerprinted. If it is determined by the State Department of Social~~
12 ~~Services, on the basis of the fingerprint images and related~~
13 ~~information submitted to the Department of Justice, that subsequent~~
14 ~~to obtaining a criminal record clearance or exemption from~~
15 ~~disqualification pursuant to subdivision (g), the person has been~~
16 ~~convicted of, or is awaiting trial for, a sex offense against a minor,~~
17 ~~or has been convicted for an offense specified in Section 243.4,~~
18 ~~273a, 273d, 273g, or 368 of the Penal Code, or a felony, the State~~
19 ~~Department of Social Services shall notify the licensee to act~~
20 ~~immediately to terminate the person's employment, remove the~~
21 ~~person from the community care facility, or bar the person from~~
22 ~~entering the community care facility. The State Department of~~
23 ~~Social Services may subsequently grant an exemption from~~
24 ~~disqualification pursuant to subdivision (g). If the conviction or~~
25 ~~arrest was for another crime, except a minor traffic violation, the~~
26 ~~licensee shall, upon notification by the State Department of Social~~
27 ~~Services, act immediately to either (A) terminate the person's~~
28 ~~employment, remove the person from the community care facility,~~
29 ~~or bar the person from entering the community care facility; or~~
30 ~~(B) seek an exemption from disqualification pursuant to subdivision~~
31 ~~(g). The State Department of Social Services shall determine if~~
32 ~~the person shall be allowed to remain in the facility until a decision~~
33 ~~on the exemption from disqualification is rendered. A licensee's~~
34 ~~failure to comply with the department's prohibition of employment,~~
35 ~~contact with clients, or presence in the facility as required by this~~
36 ~~paragraph shall result in a citation of deficiency and an immediate~~
37 ~~assessment of civil penalties in the amount of one hundred dollars~~
38 ~~(\$100) per violation per day and shall be grounds for disciplining~~
39 ~~the licensee pursuant to Section 1550.~~

1 ~~(4) The department may issue an exemption from~~
2 ~~disqualification on its own motion pursuant to subdivision (g) if~~
3 ~~the person's criminal history indicates that the person is of good~~
4 ~~character based on the age, seriousness, and frequency of the~~
5 ~~conviction or convictions. The department, in consultation with~~
6 ~~interested parties, shall develop regulations to establish the criteria~~
7 ~~to grant an exemption from disqualification pursuant to this~~
8 ~~paragraph.~~

9 ~~(5) Concurrently with notifying the licensee pursuant to~~
10 ~~paragraph (3), the department shall notify the affected individual~~
11 ~~of his or her right to seek an exemption from disqualification~~
12 ~~pursuant to subdivision (g). The individual may seek an exemption~~
13 ~~from disqualification only if the licensee terminates the person's~~
14 ~~employment or removes the person from the facility after receiving~~
15 ~~notice from the department pursuant to paragraph (3).~~

16 ~~(d) (1) Before issuing a license or certificate of approval to any~~
17 ~~person or persons to operate a foster family home or certified~~
18 ~~family home as described in Section 1506, the State Department~~
19 ~~of Social Services or other approving authority shall secure~~
20 ~~California and Federal Bureau of Investigation criminal history~~
21 ~~information to determine whether the applicant or any person~~
22 ~~specified in subdivision (b) who is not exempt from fingerprinting~~
23 ~~has ever been convicted of a crime other than a minor traffic~~
24 ~~violation or arrested for any crime specified in subdivision (c) of~~
25 ~~Section 290 of the Penal Code, for violating Section 245 or 273.5,~~
26 ~~subdivision (b) of Section 273a or, prior to January 1, 1994,~~
27 ~~paragraph (2) of Section 273a of the Penal Code, or for any crime~~
28 ~~for which the department cannot grant an exemption if the person~~
29 ~~was convicted and the person has not been exonerated. The State~~
30 ~~Department of Social Services or other approving authority shall~~
31 ~~not issue a license or certificate of approval to any foster family~~
32 ~~home or certified family home applicant who has not obtained~~
33 ~~both a California and Federal Bureau of Investigation criminal~~
34 ~~record clearance or exemption from disqualification pursuant to~~
35 ~~subdivision (g).~~

36 ~~(2) The criminal history information shall include the full~~
37 ~~criminal record, if any, of those persons.~~

38 ~~(3) Neither the Department of Justice nor the State Department~~
39 ~~of Social Services may charge a fee for the fingerprinting of an~~
40 ~~applicant for a license, special permit, or certificate of approval~~

1 ~~described in this subdivision. The record, if any, shall be taken~~
2 ~~into consideration when evaluating a prospective applicant.~~

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

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

9 ~~(B) If the State Department of Social Services finds that the~~
10 ~~applicant, or any person specified in subdivision (b) who is not~~
11 ~~exempt from fingerprinting is awaiting trial for a crime other than~~
12 ~~a minor traffic violation, the State Department of Social Services~~
13 ~~or other approving authority may cease processing the application~~
14 ~~until the conclusion of the trial.~~

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

18 ~~(D) To the same extent required for federal funding, an applicant~~
19 ~~for a foster family home license or for certification as a family~~
20 ~~home, and any other person specified in subdivision (b) who is~~
21 ~~not exempt from fingerprinting, shall submit a set of fingerprint~~
22 ~~images and related information to the Department of Justice and~~
23 ~~the Federal Bureau of Investigation, through the Department of~~
24 ~~Justice, for a state and federal level criminal offender record~~
25 ~~information search, in addition to the criminal records search~~
26 ~~required by subdivision (a).~~

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

34 ~~(6) (A) Subsequent to initial licensure or certification, a person~~
35 ~~specified in subdivision (b) who is not exempt from fingerprinting~~
36 ~~shall obtain both a California and Federal Bureau of Investigation~~
37 ~~criminal record clearance, or an exemption from disqualification~~
38 ~~pursuant to subdivision (g), prior to employment, residence, or~~
39 ~~initial presence in the foster family or certified family home. A~~
40 ~~foster family home licensee or foster family agency shall submit~~

1 fingerprint images and related information of persons specified in
2 subdivision (b) who are not exempt from fingerprinting to the
3 Department of Justice and the Federal Bureau of Investigation,
4 through the Department of Justice, for a state and federal level
5 criminal offender record information search, or to comply with
6 paragraph (1) of subdivision (h). A foster family home licensee's
7 or a foster family agency's failure to either prohibit the
8 employment, residence, or initial presence of a person specified
9 in subdivision (b) who is not exempt from fingerprinting and who
10 has not received either a criminal record clearance or an exemption
11 from disqualification pursuant to subdivision (g), or comply with
12 paragraph (1) of subdivision (h), as required in this section, shall
13 result in a citation of a deficiency, and the immediate civil penalties
14 of one hundred dollars (\$100) per violation per day for a maximum
15 of five days, unless the violation is a second or subsequent violation
16 within a 12-month period in which case the civil penalties shall
17 be in the amount of one hundred dollars (\$100) per violation for
18 a maximum of 30 days, and shall be grounds for disciplining the
19 licensee pursuant to Section 1550. A violation of the regulation
20 adopted pursuant to Section 1522.04 shall result in the citation of
21 a deficiency and an immediate assessment of civil penalties in the
22 amount of one hundred dollars (\$100) per violation per day for a
23 maximum of five days, unless the violation is a second or
24 subsequent violation within a 12-month period in which case the
25 civil penalties shall be in the amount of one hundred dollars (\$100)
26 per violation for a maximum of 30 days, and shall be grounds for
27 disciplining the foster family home licensee or the foster family
28 agency pursuant to Section 1550. The State Department of Social
29 Services may assess penalties for continued violations, as permitted
30 by Section 1548. The fingerprint images shall then be submitted
31 to the Department of Justice for processing.

32 (B) Upon request of the licensee, who shall enclose a
33 self-addressed envelope for this purpose, the Department of Justice
34 shall verify receipt of the fingerprints. Within five working days
35 of the receipt of the criminal record or information regarding
36 criminal convictions from the Department of Justice, the
37 department shall notify the applicant of any criminal arrests or
38 convictions. If no arrests or convictions are recorded, the
39 Department of Justice shall provide the foster family home licensee
40 or the foster family agency with a statement of that fact concurrent

1 with providing the information to the State Department of Social
2 Services:

3 ~~(7) If the State Department of Social Services finds that the~~
4 ~~applicant, or any other person specified in subdivision (b) who is~~
5 ~~not exempt from fingerprinting, has been convicted of a crime~~
6 ~~other than a minor traffic violation, the application shall be denied,~~
7 ~~unless the director grants an exemption from disqualification~~
8 ~~pursuant to subdivision (g):~~

9 ~~(8) If the State Department of Social Services finds after~~
10 ~~licensure or the granting of the certificate of approval that the~~
11 ~~licensee, certified foster parent, or any other person specified in~~
12 ~~subdivision (b) who is not exempt from fingerprinting, has been~~
13 ~~convicted of a crime other than a minor traffic violation, the license~~
14 ~~or certificate of approval may be revoked by the department or the~~
15 ~~foster family agency, whichever is applicable, unless the director~~
16 ~~grants an exemption from disqualification pursuant to subdivision~~
17 ~~(g). A licensee's failure to comply with the department's~~
18 ~~prohibition of employment, contact with clients, or presence in~~
19 ~~the facility as required by paragraph (3) of subdivision (c) shall~~
20 ~~be grounds for disciplining the licensee pursuant to Section 1550.~~

21 ~~(e) The State Department of Social Services shall not use a~~
22 ~~record of arrest to deny, revoke, or terminate any application,~~
23 ~~license, employment, or residence unless the department~~
24 ~~investigates the incident and secures evidence, whether or not~~
25 ~~related to the incident of arrest, that is admissible in an~~
26 ~~administrative hearing to establish conduct by the person that may~~
27 ~~pose a risk to the health and safety of any person who is or may~~
28 ~~become a client. The State Department of Social Services is~~
29 ~~authorized to obtain any arrest or conviction records or reports~~
30 ~~from any law enforcement agency as necessary to the performance~~
31 ~~of its duties to inspect, license, and investigate community care~~
32 ~~facilities and individuals associated with a community care facility.~~

33 ~~(f) (1) For purposes of this section or any other provision of~~
34 ~~this chapter, a conviction means a plea or verdict of guilty or a~~
35 ~~conviction following a plea of nolo contendere. Any action that~~
36 ~~the State Department of Social Services is permitted to take~~
37 ~~following the establishment of a conviction may be taken when~~
38 ~~the time for appeal has elapsed, when the judgment of conviction~~
39 ~~has been affirmed on appeal, or when an order granting probation~~
40 ~~is made suspending the imposition of sentence, notwithstanding~~

1 a subsequent order pursuant to Sections 1203.4 and 1203.4a of the
2 Penal Code permitting the person to withdraw his or her plea of
3 guilty and to enter a plea of not guilty, or setting aside the verdict
4 of guilty, or dismissing the accusation, information, or indictment.
5 For purposes of this section or any other provision of this chapter,
6 the record of a conviction, or a copy thereof certified by the clerk
7 of the court or by a judge of the court in which the conviction
8 occurred, shall be conclusive evidence of the conviction. For
9 purposes of this section or any other provision of this chapter, the
10 arrest disposition report certified by the Department of Justice, or
11 documents admissible in a criminal action pursuant to Section
12 969b of the Penal Code, shall be prima facie evidence of the
13 conviction, notwithstanding any other law prohibiting the
14 admission of these documents in a civil or administrative action.

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

19 (g) (1) After review of the record, the director may grant an
20 exemption from disqualification for a license or special permit as
21 specified in paragraph (4) of subdivision (a), or for a license,
22 special permit, or certificate of approval as specified in paragraphs
23 (4), (7), and (8) of subdivision (d), or for employment, residence,
24 or presence in a community care facility as specified in paragraphs
25 (3), (4), and (5) of subdivision (e), if the director has substantial
26 and convincing evidence to support a reasonable belief that the
27 applicant and the person convicted of the crime, if other than the
28 applicant, are of good character as to justify issuance of the license
29 or special permit or granting an exemption for purposes of
30 subdivision (e). Except as otherwise provided in this subdivision,
31 an exemption shall not be granted pursuant to this subdivision if
32 the conviction was for any of the following offenses:

33 (A) (i) An offense specified in Section 220, 243.4, or 264.1,
34 subdivision (a) of Section 273a or, prior to January 1, 1994,
35 paragraph (1) of Section 273a, Section 273d, 288, or 289,
36 subdivision (e) of Section 290, or Section 368 of the Penal Code,
37 or was a conviction of another crime against an individual specified
38 in subdivision (e) of Section 667.5 of the Penal Code.

39 (ii) Notwithstanding clause (i), the director may grant an
40 exemption regarding the conviction for an offense described in

1 paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5
2 of the Penal Code, if the employee or prospective employee has
3 been rehabilitated as provided in Section 4852.03 of the Penal
4 Code, has maintained the conduct required in Section 4852.05 of
5 the Penal Code for at least 10 years, and has the recommendation
6 of the district attorney representing the employee's county of
7 residence, or if the employee or prospective employee has received
8 a certificate of rehabilitation pursuant to Chapter 3.5 (commencing
9 with Section 4852.01) of Title 6 of Part 3 of the Penal Code. This
10 clause shall not apply to foster care providers, including relative
11 caregivers, nonrelated extended family members, or any other
12 person specified in subdivision (b), in those homes where the
13 individual has been convicted of an offense described in paragraph
14 (1) of subdivision (c) of Section 667.5 of the Penal Code.

15 (B) A felony offense specified in Section 729 of the Business
16 and Professions Code or Section 206 or 215, subdivision (a) of
17 Section 347, subdivision (b) of Section 417, or subdivision (a) of
18 Section 451 of the Penal Code.

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

24 (i) A felony conviction for child abuse or neglect, spousal abuse,
25 crimes against a child, including child pornography, or for a crime
26 involving violence, including rape, sexual assault, or homicide,
27 but not including other physical assault and battery. For purposes
28 of this subparagraph, a crime involving violence means a violent
29 crime specified in clause (i) of subparagraph (A), or subparagraph
30 (B).

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

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

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

1 ~~(2) The department shall not prohibit a person from being~~
2 ~~employed or having contact with clients in a facility on the basis~~
3 ~~of a denied criminal record exemption request or arrest information~~
4 ~~unless the department complies with the requirements of Section~~
5 ~~1558.~~

6 ~~(h) (1) For purposes of compliance with this section, the~~
7 ~~department may permit an individual to transfer a current criminal~~
8 ~~record clearance, as defined in subdivision (a), from one facility~~
9 ~~to another, as long as the criminal record clearance has been~~
10 ~~processed through a state licensing district office, and is being~~
11 ~~transferred to another facility licensed by a state licensing district~~
12 ~~office. The request shall be in writing to the State Department of~~
13 ~~Social Services, and shall include a copy of the person's driver's~~
14 ~~license or valid identification card issued by the Department of~~
15 ~~Motor Vehicles, or a valid photo identification issued by another~~
16 ~~state or the United States government if the person is not a~~
17 ~~California resident. Upon request of the licensee, who shall enclose~~
18 ~~a self-addressed envelope for this purpose, the State Department~~
19 ~~of Social Services shall verify whether the individual has a~~
20 ~~clearance that can be transferred.~~

21 ~~(2) The State Department of Social Services shall hold criminal~~
22 ~~record clearances in its active files for a minimum of three years~~
23 ~~after an employee is no longer employed at a licensed facility in~~
24 ~~order for the criminal record clearance to be transferred.~~

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

28 ~~(A) A county office with department-delegated licensing~~
29 ~~authority may accept a clearance or exemption from the~~
30 ~~department.~~

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

33 ~~(C) A county office with department-delegated licensing~~
34 ~~authority may accept a clearance or exemption from any other~~
35 ~~county office with department-delegated licensing authority.~~

36 ~~(4) With respect to notifications issued by the Department of~~
37 ~~Justice pursuant to Section 11105.2 of the Penal Code concerning~~
38 ~~an individual whose criminal record clearance was originally~~
39 ~~processed by the department or a county office with~~

1 department-delegated licensing authority, all of the following shall
2 apply:

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

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

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

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

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

17 (ii) The department shall notify the Department of Justice within
18 15 calendar days of the date on which a new county office receives
19 department-delegated licensing authority or a county's delegated
20 licensing authority is rescinded.

21 (C) The Department of Justice shall charge the department, a
22 county office with department-delegated licensing authority, or a
23 county child welfare agency with criminal record clearance and
24 exemption authority, a fee for each time a request to substitute the
25 recipient agency is received for purposes of this paragraph. This
26 fee shall not exceed the cost of providing the service.

27 (5) (A) A county child welfare agency with authority to secure
28 clearances pursuant to Section 16504.5 of the Welfare and
29 Institutions Code and to grant exemptions pursuant to Section
30 361.4 of the Welfare and Institutions Code may accept a clearance
31 or exemption from another county with criminal record and
32 exemption authority pursuant to these sections.

33 (B) With respect to notifications issued by the Department of
34 Justice pursuant to Section 11105.2 of the Penal Code concerning
35 an individual whose criminal record clearance was originally
36 processed by a county child welfare agency with criminal record
37 clearance and exemption authority, the Department of Justice shall
38 process a request from a county child welfare agency with criminal
39 record and exemption authority to receive the notice only if all of
40 the following conditions are met:

- 1 ~~(i) The request shall be submitted to the Department of Justice~~
2 ~~by the agency to be substituted to receive the notification.~~
- 3 ~~(ii) The request shall be for the same applicant type as the type~~
4 ~~for which the original clearance was obtained.~~
- 5 ~~(iii) The request shall contain all prescribed data elements and~~
6 ~~format protocols pursuant to a written agreement between the State~~
7 ~~Department of Social Services and the Department of Justice.~~
- 8 ~~(i) The full criminal record obtained for purposes of this section~~
9 ~~may be used by the department or by a licensed adoption agency~~
10 ~~as a clearance required for adoption purposes.~~
- 11 ~~(j) The State Department of Social Services may share summary~~
12 ~~information related to a criminal record clearance or exemption~~
13 ~~from the department with a county child welfare agency with the~~
14 ~~responsibility to monitor the health and safety of persons receiving~~
15 ~~care, treatment, or services from state-licensed foster homes,~~
16 ~~certified homes of licensed foster family agencies, licensed group~~
17 ~~homes, and foster family agencies and their employees. A county~~
18 ~~welfare agency may review the summary information related to a~~
19 ~~criminal record clearance or exemption granted by the State~~
20 ~~Department of Social Services as one factor in addition to all other~~
21 ~~factors, considered by a county welfare agency to determine the~~
22 ~~appropriate placement for a child in a licensed or certified foster~~
23 ~~home.~~
- 24 ~~(k) If a licensee or facility is required by law to deny~~
25 ~~employment or to terminate employment of any employee based~~
26 ~~on written notification from the state department that the employee~~
27 ~~has a prior criminal conviction or is determined unsuitable for~~
28 ~~employment under Section 1558, the licensee or facility shall not~~
29 ~~incur civil liability or unemployment insurance liability as a result~~
30 ~~of that denial or termination.~~
- 31 ~~(l) The State Department of Social Services may charge a fee~~
32 ~~for the costs of processing electronic fingerprint images and related~~
33 ~~information.~~
- 34 ~~(m) Amendments to this section made in the 1999 portion of~~
35 ~~the 1999–2000 Regular Session shall be implemented commencing~~
36 ~~60 days after the effective date of the act amending this section in~~
37 ~~the 1999 portion of the 1999–2000 Regular Session, except that~~
38 ~~those provisions for the submission of fingerprints for searching~~
39 ~~the records of the Federal Bureau of Investigation shall be~~
40 ~~implemented 90 days after the effective date of that act.~~

1 ~~SEC. 2.~~

2 ~~SECTION 1.~~ Section 1522.08 of the Health and Safety Code,
3 as amended by Section 15 of Chapter 22 of the Statutes of 2013,
4 is amended to read:

5 1522.08. (a) In order to protect the health and safety of persons
6 receiving care or services from individuals or facilities licensed
7 or certified by the state, the following information may be shared:

8 (1) The California Department of Aging, State Department of
9 Public Health, State Department of Health Care Services, State
10 Department of Social Services, and the Emergency Medical
11 Services Authority may share information with respect to
12 applicants, licensees, certificates, or individuals who have been
13 the subject of any administrative action resulting in the denial,
14 suspension, probation, or revocation of a license, permit, or
15 certificate, or in the exclusion of any person from a facility who
16 is subject to a background check, as otherwise provided by law.

17 (2) The State Department of Social Services and county child
18 welfare agencies may share information with respect to applicants,
19 licensees, certificates, or individuals who have been the subject of
20 any administrative action resulting in the denial, suspension,
21 probation, or revocation of a license, permit, or certificate, or in
22 the exclusion of any person from a facility who is subject to a
23 background check, as otherwise provided by law.

24 (b) The State Department of Social Services shall maintain a
25 centralized system for the monitoring and tracking of final
26 administrative actions, to be used by the California Department
27 of Aging, State Department of Public Health, State Department of
28 Health Care Services, State Department of Social Services, the
29 Emergency Medical Services Authority, and county child welfare
30 agencies as a part of the background check process. The State
31 Department of Social Services may charge a fee to departments
32 under the jurisdiction of the California Health and Human Services
33 Agency and to county child welfare agencies sufficient to cover
34 the cost of providing those departments with the final
35 administrative action specified in subdivision (a). To the extent
36 that additional funds are needed for this purpose, implementation
37 of this subdivision shall be contingent upon a specific appropriation
38 provided for this purpose in the annual Budget Act.

39 (c) The State Department of Social Services, in consultation
40 with the other departments under the jurisdiction of the California

1 Health and Human Services Agency, may adopt regulations to
2 implement this section.

3 (d) For the purposes of this section and Section 1499,
4 “administrative action” means any proceeding initiated by the
5 California Department of Aging, State Department of Public
6 Health, State Department of Health Care Services, State
7 Department of Social Services, and the Emergency Medical
8 Services Authority to determine the rights and duties of an
9 applicant, licensee, or other individual or entity over which the
10 department has jurisdiction. “Administrative action” may include,
11 but is not limited to, action involving the denial of an application
12 for, or the suspension or revocation of, any license, special permit,
13 administrator certificate, criminal record clearance, or exemption.

14 ~~SEC. 3. Section 11105.2 of the Penal Code is amended to read:~~
15 ~~11105.2. (a) The Department of Justice may provide~~
16 ~~subsequent state or federal arrest or disposition notification to any~~
17 ~~entity authorized by state or federal law to receive state or federal~~
18 ~~summary criminal history information to assist in fulfilling~~
19 ~~employment, licensing, certification duties, duties of placing a~~
20 ~~child in a state-licensed foster home, a certified home of a licensed~~
21 ~~foster family agency, or a licensed group home, or the duties of~~
22 ~~approving relative caregivers and nonrelative extended family~~
23 ~~members, upon the arrest or disposition of any person whose~~
24 ~~fingerprints are maintained on file at the Department of Justice or~~
25 ~~the Federal Bureau of Investigation as the result of an application~~
26 ~~for licensing, employment, certification, or approval. Nothing in~~
27 ~~this section shall authorize the notification of a subsequent~~
28 ~~disposition pertaining to a disposition that does not result in a~~
29 ~~conviction, unless the department has previously received~~
30 ~~notification of the arrest and has previously lawfully notified a~~
31 ~~receiving entity of the pending status of that arrest. When the~~
32 ~~department supplies subsequent arrest or disposition notification~~
33 ~~to a receiving entity, the entity shall, at the same time, expeditiously~~
34 ~~furnish a copy of the information to the person to whom it relates~~
35 ~~if the information is a basis for an adverse employment, licensing,~~
36 ~~or certification decision. When furnished other than in person, the~~
37 ~~copy shall be delivered to the last contact information provided~~
38 ~~by the applicant.~~

39 (b) For purposes of this section, “approval” means those duties
40 described in subdivision (d) of Section 309 of the Welfare and

1 ~~Institutions Code for approving the home of a relative caregiver~~
2 ~~or of a nonrelative extended family member for placement of a~~
3 ~~child supervised by the juvenile court.~~

4 ~~(e) Any entity, other than a law enforcement agency employing~~
5 ~~peace officers as defined in Section 830.1, subdivisions (a) and~~
6 ~~(e) of Section 830.2, subdivision (a) of Section 830.3, subdivisions~~
7 ~~(a) and (b) of Section 830.5, and subdivision (a) of Section 830.31,~~
8 ~~shall enter into a contract with the Department of Justice in order~~
9 ~~to receive notification of subsequent state or federal arrests or~~
10 ~~dispositions for licensing, employment, or certification purposes.~~

11 ~~(d) Any entity which submits the fingerprints of applicants for~~
12 ~~licensing, employment, certification, placement, or approval to~~
13 ~~the Department of Justice for the purpose of establishing a record~~
14 ~~of the applicant to receive notification of subsequent state or federal~~
15 ~~arrests or dispositions shall immediately notify the department~~
16 ~~when the employment of the applicant is terminated, when the~~
17 ~~applicant's license or certificate is revoked, when the applicant~~
18 ~~may no longer renew or reinstate the license or certificate, when~~
19 ~~a placement in a state-licensed foster home, a certified home of a~~
20 ~~licensed foster family agency, or a licensed group home associated~~
21 ~~with the applicant is terminated, or when a relative caregiver's or~~
22 ~~nonrelative extended family member's approval is terminated. The~~
23 ~~Department of Justice shall terminate state or federal subsequent~~
24 ~~notification on any applicant upon the request of the licensing,~~
25 ~~employment, certifying, or approving authority.~~

26 ~~(e) Any entity receiving a notification of a state or federal~~
27 ~~subsequent arrest or disposition for a person unknown to the entity,~~
28 ~~or for a person no longer employed by the entity, or no longer~~
29 ~~eligible to renew the certificate or license for which subsequent~~
30 ~~notification service was established shall immediately return the~~
31 ~~subsequent notification to the Department of Justice, informing~~
32 ~~the department that the entity is no longer interested in the~~
33 ~~applicant. The entity shall not record or otherwise retain any~~
34 ~~information received as a result of the subsequent notice.~~

35 ~~(f) Any entity that submits the fingerprints of an applicant for~~
36 ~~employment, licensing, certification, or approval to the Department~~
37 ~~of Justice for the purpose of establishing a record at the department~~
38 ~~or the Federal Bureau of Investigation to receive notification of~~
39 ~~subsequent arrest or disposition shall immediately notify the~~

1 department if the applicant is not subsequently employed, or if the
2 applicant is denied licensing, certification, or approval.

3 ~~(g) An entity that fails to provide the Department of Justice with~~
4 ~~notification as set forth in subdivisions (c), (d), and (e) may be~~
5 ~~denied further subsequent notification service.~~

6 ~~(h) Notwithstanding subdivisions (c), (d), and (f), subsequent~~
7 ~~notification by the Department of Justice and retention by the~~
8 ~~employing agency shall continue as to retired peace officers listed~~
9 ~~in subdivision (e) of Section 830.5.~~

10 SEC. 4. Section 11170 of the Penal Code is amended to read:

11 11170. ~~(a) (1) The Department of Justice shall maintain an~~
12 ~~index of all reports of child abuse and severe neglect submitted~~
13 ~~pursuant to Section 11169. The index shall be continually updated~~
14 ~~by the department and shall not contain any reports that are~~
15 ~~determined to be not substantiated. The department may adopt~~
16 ~~rules governing recordkeeping and reporting pursuant to this article.~~

17 ~~(2) The department shall act only as a repository of reports of~~
18 ~~suspected child abuse and severe neglect to be maintained in the~~
19 ~~Child Abuse Central Index (CACI) pursuant to paragraph (1). The~~
20 ~~submitting agencies are responsible for the accuracy, completeness,~~
21 ~~and retention of the reports described in this section. The~~
22 ~~department shall be responsible for ensuring that the CACI~~
23 ~~accurately reflects the report it receives from the submitting agency.~~

24 ~~(3) Only information from reports that are reported as~~
25 ~~substantiated shall be filed pursuant to paragraph (1), and all other~~
26 ~~determinations shall be removed from the central list. If a person~~
27 ~~listed in the CACI was under 18 years of age at the time of the~~
28 ~~report, the information shall be deleted from the CACI 10 years~~
29 ~~from the date of the incident resulting in the CACI listing, if no~~
30 ~~subsequent report concerning the same person is received during~~
31 ~~that time period.~~

32 ~~(b) The provisions of subdivision (c) of Section 11169 apply to~~
33 ~~any information provided pursuant to this subdivision.~~

34 ~~(1) The Department of Justice shall immediately notify an~~
35 ~~agency that submits a report pursuant to Section 11169, or a~~
36 ~~prosecutor who requests notification, of any information maintained~~
37 ~~pursuant to subdivision (a) that is relevant to the known or~~
38 ~~suspected instance of child abuse or severe neglect reported by the~~
39 ~~agency. The agency shall make that information available to the~~
40 ~~reporting health care practitioner who is treating a person reported~~

1 as a possible victim of known or suspected child abuse. The agency
2 shall make that information available to the reporting child
3 custodian, Child Abuse Prevention and Treatment Act guardian
4 ad litem appointed under Rule 5.662 of the California Rules of
5 Court, or counsel appointed under Section 317 or 318 of the
6 Welfare and Institutions Code, or the appropriate licensing agency,
7 if he or she or the licensing agency is handling or investigating a
8 case of known or suspected child abuse or severe neglect.

9 (2) ~~When a report is made pursuant to subdivision (a) of Section
10 11166, or Section 11166.05, the investigating agency, upon
11 completion of the investigation or after there has been a final
12 disposition in the matter, shall inform the person required or
13 authorized to report of the results of the investigation and of any
14 action the agency is taking with regard to the child or family.~~

15 (3) ~~The Department of Justice shall make relevant information
16 from the CACI available to a law enforcement agency, county
17 welfare department, or county probation department that is
18 conducting a child abuse investigation.~~

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

39 (5) ~~The Department of Justice shall make available to a Court
40 Appointed Special Advocate program that is conducting a~~

1 background investigation of an applicant seeking employment
2 with the program or a volunteer position as a Court Appointed
3 Special Advocate, as defined in Section 101 of the Welfare and
4 Institutions Code, information contained in the index regarding
5 known or suspected child abuse by the applicant.

6 (6) For purposes of child death review, the Department of Justice
7 shall make available to the chairperson, or the chairperson's
8 designee, for each county child death review team, or the State
9 Child Death Review Council, information for investigative
10 purposes only that is maintained in the CACI pursuant to
11 subdivision (a) relating to the death of one or more children and
12 any prior child abuse or neglect investigation reports maintained
13 involving the same victims, siblings, or suspects. Local child death
14 review teams may share any relevant information regarding case
15 reviews involving child death with other child death review teams.

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

37 (8) The Department of Justice shall make available to a
38 government agency conducting a background investigation
39 pursuant to Section 1031 of the Government Code of an applicant
40 seeking employment as a peace officer, as defined in Section 830;

1 information regarding a known or suspected child abuser
2 maintained pursuant to this section concerning the applicant.

3 (9) ~~The Department of Justice shall make available to a county
4 child welfare agency or delegated county adoption agency, as
5 defined in Section 8515 of the Family Code, conducting a
6 background investigation, or a government agency conducting a
7 background investigation on behalf of one of those agencies,
8 information regarding a known or suspected child abuser
9 maintained pursuant to this section and subdivision (a) of Section
10 11169 concerning any applicant seeking employment or volunteer
11 status with the agency who, in the course of his or her employment
12 or volunteer work, will have direct contact with children who are
13 alleged to have been, are at risk of, or have suffered, abuse or
14 neglect.~~

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

1 ~~(B) If CACI information is requested by an agency for the~~
2 ~~temporary placement of a child in an emergency situation pursuant~~
3 ~~to Article 7 (commencing with Section 305) of Chapter 2 of Part~~
4 ~~1 of Division 2 of the Welfare and Institutions Code, the~~
5 ~~department is exempt from the requirements of Section 1798.18~~
6 ~~of the Civil Code if compliance would cause a delay in providing~~
7 ~~an expedited response to the agency's inquiry and if further delay~~
8 ~~in placement may be detrimental to the child.~~

9 ~~(11) (A) Whenever information contained in the Department~~
10 ~~of Justice files is furnished as the result of an application for~~
11 ~~employment or licensing or volunteer status pursuant to paragraph~~
12 ~~(4), (5), (8), or (9), the Department of Justice may charge the person~~
13 ~~or entity making the request a fee. The fee shall not exceed the~~
14 ~~reasonable costs to the department of providing the information.~~
15 ~~The only increase shall be at a rate not to exceed the legislatively~~
16 ~~approved cost-of-living adjustment for the department. In no case~~
17 ~~shall the fee exceed fifteen dollars (\$15).~~

18 ~~(B) All moneys received by the department pursuant to this~~
19 ~~section to process trustline applications for purposes of Chapter~~
20 ~~3.35 (commencing with Section 1596.60) of Division 2 of the~~
21 ~~Health and Safety Code shall be deposited in a special account in~~
22 ~~the General Fund that is hereby established and named the~~
23 ~~Department of Justice Child Abuse Fund. Moneys in the fund shall~~
24 ~~be available, upon appropriation by the Legislature, for expenditure~~
25 ~~by the department to offset the costs incurred to process trustline~~
26 ~~automated child abuse or neglect system checks pursuant to this~~
27 ~~section.~~

28 ~~(C) All moneys, other than those described in subparagraph (B),~~
29 ~~received by the department pursuant to this paragraph shall be~~
30 ~~deposited in a special account in the General Fund which is hereby~~
31 ~~created and named the Department of Justice Sexual Habitual~~
32 ~~Offender Fund. The funds shall be available, upon appropriation~~
33 ~~by the Legislature, for expenditure by the department to offset the~~
34 ~~costs incurred pursuant to Chapter 9.5 (commencing with Section~~
35 ~~13885) and Chapter 10 (commencing with Section 13890) of Title~~
36 ~~6 of Part 4, and the DNA and Forensic Identification Data Base~~
37 ~~and Data Bank Act of 1998 (Chapter 6 (commencing with Section~~
38 ~~295) of Title 9 of Part 1), and for maintenance and improvements~~
39 ~~to the statewide Sexual Habitual Offender Program and the~~
40 ~~California DNA offender identification file (CAL-DNA) authorized~~

1 by Chapter 9.5 (commencing with Section 13885) of Title 6 of
2 Part 4 and the DNA and Forensic Identification Data Base and
3 Data Bank Act of 1998 (Chapter 6 (commencing with Section 295)
4 of Title 9 of Part 1):

5 (e) (1) The Department of Justice shall make available to any
6 agency responsible for placing children pursuant to Article 7
7 (commencing with Section 305) of Chapter 2 of Part 1 of Division
8 2 of the Welfare and Institutions Code, upon request, relevant
9 information concerning child abuse or neglect reports contained
10 in the index, when making a placement with a responsible relative
11 pursuant to Sections 281.5, 305, and 361.3 of the Welfare and
12 Institutions Code. Upon receipt of relevant information concerning
13 child abuse or neglect reports contained in the index from the
14 Department of Justice pursuant to this subdivision, the agency
15 shall also notify in writing the person listed in the CACI that he
16 or she is in the index. The notification shall include the location
17 of the original investigative report and the submitting agency. The
18 notification shall be submitted to the person listed at the same time
19 that all other parties are notified of the information, and no later
20 than the actual judicial proceeding that determines placement.

21 (2) If information is requested by an agency for the placement
22 of a child with a responsible relative in an emergency situation
23 pursuant to Article 7 (commencing with Section 305) of Chapter
24 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the
25 department is exempt from the requirements of Section 1798.18
26 of the Civil Code if compliance would cause a delay in providing
27 an expedited response to the child protective agency's inquiry and
28 if further delay in placement may be detrimental to the child.

29 (d) The department shall make available any information
30 maintained pursuant to subdivision (a) to out-of-state law
31 enforcement agencies conducting investigations of known or
32 suspected child abuse or neglect only when an agency makes the
33 request for information in writing and on official letterhead, or as
34 designated by the department, identifying the suspected abuser or
35 victim by name and date of birth or approximate age. The request
36 shall be signed by the department supervisor of the requesting law
37 enforcement agency. The written requests shall cite the out-of-state
38 statute or interstate compact provision that requires that the
39 information contained within these reports shall be disclosed only
40 to law enforcement, prosecutorial entities, or multidisciplinary

1 investigative teams, and shall cite the safeguards in place to prevent
2 unlawful disclosure of any confidential information provided by
3 the requesting state or the applicable interstate compact provision.

4 ~~(e) (1) The department shall make available to an out-of-state
5 agency, for purposes of approving a prospective foster or adoptive
6 parent in compliance with the Adam Walsh Child Protection and
7 Safety Act of 2006 (Public Law 109-248), information regarding
8 a known or suspected child abuser maintained pursuant to
9 subdivision (a) concerning the prospective foster or adoptive
10 parent, and any other adult living in the home of the prospective
11 foster or adoptive parent. The department shall make that
12 information available only when the out-of-state agency makes
13 the request indicating that continual compliance will be maintained
14 with the requirement in paragraph (20) of subsection (a) of Section
15 671 of Title 42 of the United States Code that requires the state to
16 have in place safeguards to prevent the unauthorized disclosure of
17 information in any child abuse and neglect registry maintained by
18 the state and prevent the information from being used for a purpose
19 other than the conducting of background checks in foster or
20 adoption placement cases.~~

21 ~~(2) With respect to any information provided by the department
22 in response to the out-of-state agency's request, the out-of-state
23 agency is responsible for obtaining the original investigative report
24 from the reporting agency, and for drawing independent
25 conclusions regarding the quality of the evidence disclosed and
26 its sufficiency for making decisions regarding the approval of
27 prospective foster or adoptive parents.~~

28 ~~(3) (A) Whenever information contained in the index is
29 furnished pursuant to this subdivision, the department shall charge
30 the out-of-state agency making the request a fee. The fee shall not
31 exceed the reasonable costs to the department of providing the
32 information. The only increase shall be at a rate not to exceed the
33 legislatively approved cost-of-living adjustment for the department.
34 In no case shall the fee exceed fifteen dollars (\$15).~~

35 ~~(B) All moneys received by the department pursuant to this
36 subdivision shall be deposited in the Department of Justice Child
37 Abuse Fund, established under subparagraph (B) of paragraph (11)
38 of subdivision (b). Moneys in the fund shall be available, upon
39 appropriation by the Legislature, for expenditure by the department~~

1 to offset the costs incurred to process requests for information
2 pursuant to this subdivision.

3 (f) (1) Any person may determine if he or she is listed in the
4 CACI by making a request in writing to the Department of Justice.
5 The request shall be notarized and include the person's name,
6 address, date of birth, and either a social security number or a
7 California identification number. Upon receipt of a notarized
8 request, the Department of Justice shall make available to the
9 requesting person information identifying the date of the report
10 and the submitting agency. The requesting person is responsible
11 for obtaining the investigative report from the submitting agency
12 pursuant to paragraph (1) of subdivision (b) of Section 11167.5.

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

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

23 SEC. 5. Section 16504.5 of the Welfare and Institutions Code
24 is amended to read:

25 16504.5. (a) (1) Notwithstanding any other law, pursuant to
26 subdivision (b) of Section 11105 of the Penal Code, a child welfare
27 agency may secure from an appropriate governmental criminal
28 justice agency the state summary criminal history information, as
29 defined in subdivision (a) of Section 11105 of the Penal Code,
30 through the California Law Enforcement Telecommunications
31 System pursuant to subdivision (d) of Section 309 of this code,
32 and subdivision (a) of Section 1522 of the Health and Safety Code,
33 for the following purposes:

34 (A) To conduct an investigation pursuant to Section 11166.3 of
35 the Penal Code or an investigation involving a child in which the
36 child is alleged to come within the jurisdiction of the juvenile court
37 under Section 300 of this code.

38 (B) (i) To assess the appropriateness and safety of placing a
39 child who has been detained or is a dependent of the court, in the
40 home of a relative assessed pursuant to Section 309 or 361.4, or

1 in the home of a nonrelative extended family member assessed as
2 described in Section 362.7 during an emergency situation.

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

8 (C) ~~To attempt to locate a parent or guardian of a child who is~~
9 ~~the subject of dependency court proceedings.~~

10 (D) ~~To obtain information about the background of a nonminor~~
11 ~~who has petitioned to reenter foster care under subdivision (e) of~~
12 ~~Section 388, in order to assess the appropriateness and safety of~~
13 ~~placing the nonminor in a foster care or other placement setting~~
14 ~~with minor dependent children.~~

15 (E) ~~To assess the appropriateness of placing a child who has~~
16 ~~been detained or is a dependent of the court in a state-licensed~~
17 ~~foster home, a certified home of a licensed foster family agency,~~
18 ~~or a licensed group home.~~

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

30 (b) ~~Criminal justice personnel shall cooperate with requests for~~
31 ~~criminal history information authorized pursuant to this section~~
32 ~~and shall provide the information to the requesting entity in a~~
33 ~~timely manner.~~

34 (e) ~~Any law enforcement officer or person authorized by this~~
35 ~~section to receive the information who obtains the information in~~
36 ~~the record and knowingly provides the information to a person not~~
37 ~~authorized by law to receive the information is guilty of a~~
38 ~~misdemeanor as specified in Section 11142 of the Penal Code.~~

1 ~~(d) Information obtained pursuant to this section shall not be~~
2 ~~used for any purposes other than those described in subdivision~~
3 ~~(a):~~

4 ~~(e) Nothing in this section shall preclude a nonminor petitioning~~
5 ~~to reenter foster care or a relative or other person living in a~~
6 ~~relative's home from refuting any of the information obtained by~~
7 ~~law enforcement if the individual believes the state- or federal-level~~
8 ~~criminal records check revealed erroneous information.~~

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

24 ~~(2) A county welfare agency or county probation office may~~
25 ~~submit to the Department of Justice fingerprint images and related~~
26 ~~information required by the Department of Justice of nonminors~~
27 ~~petitioning to reenter foster care under Section 388, in order to~~
28 ~~assess the appropriateness and safety of placing the nonminor in~~
29 ~~a foster care or other placement setting with minor dependent~~
30 ~~children.~~

31 ~~(3) When received, the Department of Justice shall forward to~~
32 ~~the Federal Bureau of Investigation requests for federal summary~~
33 ~~criminal history information received pursuant to this subdivision.~~
34 ~~The Department of Justice shall review the information returned~~
35 ~~from the Federal Bureau of Investigation and respond to the state~~
36 ~~or county welfare agency.~~

37 ~~(4) The Department of Justice shall provide a response to the~~
38 ~~state or county welfare agency pursuant to subdivision (p) of~~
39 ~~Section 11105 of the Penal Code.~~

1 ~~(5) The state or county welfare agency shall not request from~~
2 ~~the Department of Justice subsequent arrest notification service;~~
3 ~~as provided pursuant to Section 11105.2 of the Penal Code, for~~
4 ~~individuals described in this subdivision.~~

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

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

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

13 ~~(h) (1) A county child welfare agency may submit to the~~
14 ~~Department of Justice fingerprint images and related information~~
15 ~~required by the Department of Justice of an individual who has~~
16 ~~received a criminal record exemption from the State Department~~
17 ~~of Social Services pertaining to a licensed or certified foster home~~
18 ~~for the purposes of obtaining information as to the existence and~~
19 ~~content of a record of state or federal convictions and state or~~
20 ~~federal arrests and also information as to the existence and content~~
21 ~~of a record of state or federal arrests for which the Department of~~
22 ~~Justice establishes that the person is free on bail or on his or her~~
23 ~~own recognizance pending trial or appeal. Except as otherwise~~
24 ~~limited by state or federal law, a county child welfare agency that~~
25 ~~requests criminal record information pursuant to this section shall~~
26 ~~request from the State Department of Social Services any additional~~
27 ~~information the department used in making the determination to~~
28 ~~grant the exemption.~~

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

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

39 ~~(4) The county child welfare agency may request from the~~
40 ~~Department of Justice subsequent notification service, as provided~~

1 pursuant to Section 11105.2 of the Penal Code, for persons
2 described in paragraph (1) for whom the county has requested
3 criminal record information.

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

7 SEC. 6.

8 SEC. 2. Section 16504.7 is added to the Welfare and Institutions
9 Code, to read:

10 16504.7. (a) ~~The~~ Upon request by a county child welfare
11 agency, the department shall provide to a county child welfare
12 agency a list of identifying 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 of placing
16 a child who has been detained or is a dependent of the court in the
17 licensed or certified foster home with which the individual is
18 associated.

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

26 (c) For purposes of this section, “summary information” means
27 information pertaining to the specific crimes for which the
28 exemption was requested and a summary of the evidence the
29 department used in making its determination to grant the
30 exemption. The information shall be limited to one page for each
31 crime exempted.

32 (d) In providing summary information pursuant to this section,
33 the department shall not disclose the names of individuals who
34 are not the subject of the exemption request. County child welfare
35 agencies shall not disclose information related to the exemption
36 beyond what is necessary, as determined by the department and
37 in accordance with state and federal law, to assess the
38 appropriateness of placing a child in a licensed or certified foster
39 home.

1 *(e) Notwithstanding the rulemaking provisions of the*
2 *Administrative Procedure Act (Chapter 3.5 (commencing with*
3 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
4 *Code), the department shall implement this section by means of*
5 *an all-county letter issued on or before March 1, 2015. The*
6 *all-county letter shall specify the process by which a county may*
7 *request summary information, how the information will be issued*
8 *by the department, and how the information may be used by a*
9 *county.*

O