

AMENDED IN SENATE AUGUST 15, 2016

AMENDED IN ASSEMBLY MAY 31, 2016

AMENDED IN ASSEMBLY APRIL 5, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1762

**Introduced by Assembly Member Campos
(Principal coauthors: Assembly Members Santiago and Weber)**

February 2, 2016

An act to amend Sections 8712, 8811, and 8908 of the Family Code, and to amend Sections 236.1 and 11105 of, to add Sections 236.24 and 236.25 to, and to repeal Section 1203.49 of, the Penal Code, relating to human trafficking.

LEGISLATIVE COUNSEL'S DIGEST

AB 1762, as amended, Campos. Human trafficking: victims: vacating convictions.

(1) Under existing law, as amended by Proposition 35, an initiative measure approved by the voters at the November 6, 2012, statewide general election, a person who deprives or violate another person's personal liberty with the intent to obtain forced labor or services or who deprives or violates another person's personal liberty for the purpose of prostitution or sexual exploitation is guilty of human trafficking, a felony. Proposition 35 provides that it may be amended by a statute in furtherance of its objectives by a majority of the membership of each house of the Legislature concurring.

Existing law allows a court to issue an order to set aside a verdict of guilty and dismiss an accusation or information against a defendant who has been convicted of solicitation or prostitution if the defendant

has completed any term of probation for that conviction and if he or she can establish by clear and convincing evidence that the conviction was a result of his or her status as a victim of human trafficking.

This bill would instead allow an individual convicted of a nonviolent crime ~~while he or she was a~~ *that was a direct result of the individual being a* human trafficking victim to apply to the court to vacate the conviction if the individual ~~has not been convicted of any crime after successfully completing probation, or if probation is not granted, for 2 years after release from custody.~~ *is not then in custody and has either not been convicted of any crime for two years or has successfully completed probation for the crime.* The bill would allow an individual adjudicated a ward of the juvenile court as the result of a nonviolent crime committed while he or she was a human trafficking victim to apply to have the petition dismissed if the individual has not had a sustained petition for any crime or been convicted of any crime for one year prior to the date of application. *The bill would specify various court procedures for adjudication of an application.* If the application is granted, the bill would require the court to have all records in the case sealed and to release the defendant from all penalties and disabilities, as provided. The bill would define “human trafficking victim” and “nonviolent crime” for these purposes.

The bill would ~~allow the defendant~~ *require the individual* applying for vacatur to submit ~~evidence containing personal identifying information under seal along with a statement under penalty of perjury confirming his or her identity.~~ *the application and all evidence in support of the application under penalty of perjury.* By expanding the crime of perjury, this bill would impose a state-mandated local program.

(2) Existing law requires the Attorney General to compile and disseminate state summary criminal history information pertaining to the identification and criminal history of any person.

This bill would require the state summary criminal history information to exclude any charge or conviction for which relief has been granted pursuant to the provisions of this bill.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 8712 of the Family Code is amended to
2 read:

3 8712. (a) The department, county adoption agency, or licensed
4 adoption agency shall require each person who files an application
5 for adoption to be fingerprinted and shall secure from an
6 appropriate law enforcement agency any criminal record of that
7 person to determine whether the person has ever been convicted
8 of a crime other than a minor traffic violation. The department,
9 county adoption agency, or licensed adoption agency may also
10 secure the person's full criminal record, if any. Any federal-level
11 criminal offender record requests to the Department of Justice
12 shall be submitted with fingerprint images and related information
13 required by the Department of Justice for the purposes of obtaining
14 information as to the existence and content of a record of an
15 out-of-state or federal conviction or arrest of a person or
16 information regarding any out-of-state or federal crimes or arrests
17 for which the Department of Justice establishes that the person is
18 free on bail, or on his or her own recognizance pending trial or
19 appeal. The Department of Justice shall forward to the Federal
20 Bureau of Investigation any requests for federal summary criminal
21 history information received pursuant to this section. The
22 Department of Justice shall review the information returned from
23 the Federal Bureau of Investigation and shall compile and
24 disseminate a response to the department, county adoption agency,
25 or licensed adoption agency.

26 (b) Notwithstanding subdivision (c), the criminal record, if any,
27 shall be taken into consideration when evaluating the prospective
28 adoptive parent, and an assessment of the effects of any criminal
29 history on the ability of the prospective adoptive parent to provide
30 adequate and proper care and guidance to the child shall be
31 included in the report to the court.

32 (c) (1) The department, county adoption agency, or licensed
33 adoption agency shall not give final approval for an adoptive
34 placement in any home in which the prospective adoptive parent
35 or any adult living in the prospective adoptive home has either of
36 the following:

37 (A) A felony conviction for child abuse or neglect, spousal
38 abuse, crimes against a child, including child pornography, or for

1 a crime involving violence, including rape, sexual assault, or
 2 homicide, but not including other physical assault and battery. For
 3 purposes of this subdivision, crimes involving violence means
 4 those violent crimes contained in clause (i) of subparagraph (A),
 5 and subparagraph (B), of paragraph (1) of subdivision (g) of
 6 Section 1522 of the Health and Safety Code.

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

9 (2) This subdivision shall become operative on October 1, 2008,
 10 and shall remain operative only to the extent that compliance with
 11 its provisions is required by federal law as a condition of receiving
 12 funding under Title IV-E of the federal Social Security Act (42
 13 U.S.C. Sec. 670 et seq.).

14 (d) Any fee charged by a law enforcement agency for
 15 fingerprinting or for checking or obtaining the criminal record of
 16 the applicant shall be paid by the applicant. The department, county
 17 adoption agency, or licensed adoption agency may defer, waive,
 18 or reduce the fee when its payment would cause economic hardship
 19 to prospective adoptive parents detrimental to the welfare of the
 20 adopted child, when the child has been in the foster care of the
 21 prospective adoptive parents for at least one year, or if necessary
 22 for the placement of a special-needs child.

23 SEC. 2. Section 8811 of the Family Code is amended to read:

24 8811. (a) The department or delegated county adoption agency
 25 shall require each person who files an adoption petition to be
 26 fingerprinted and shall secure from an appropriate law enforcement
 27 agency any criminal record of that person to determine whether
 28 the person has ever been convicted of a crime other than a minor
 29 traffic violation. The department or delegated county adoption
 30 agency may also secure the person’s full criminal record, if any.
 31 Any federal-level criminal offender record requests to the
 32 Department of Justice shall be submitted with fingerprint images
 33 and related information required by the Department of Justice for
 34 the purposes of obtaining information as to the existence and
 35 content of a record of an out-of-state or federal conviction or arrest
 36 of a person or information regarding any out-of-state or federal
 37 crimes or arrests for which the Department of Justice establishes
 38 that the person is free on bail, or on his or her own recognizance
 39 pending trial or appeal. The Department of Justice shall forward
 40 to the Federal Bureau of Investigation any requests for federal

1 summary criminal history information received pursuant to this
2 section. The Department of Justice shall review the information
3 returned from the Federal Bureau of Investigation and shall compile
4 and disseminate a response to the department or delegated county
5 adoption agency.

6 (b) Notwithstanding subdivision (c), the criminal record, if any,
7 shall be taken into consideration when evaluating the prospective
8 adoptive parent, and an assessment of the effects of any criminal
9 history on the ability of the prospective adoptive parent to provide
10 adequate and proper care and guidance to the child shall be
11 included in the report to the court.

12 (c) (1) The department or a delegated county adoption agency
13 shall not give final approval for an adoptive placement in any home
14 in which the prospective adoptive parent or any adult living in the
15 prospective adoptive home has either of the following:

16 (A) A felony conviction for child abuse or neglect, spousal
17 abuse, crimes against a child, including child pornography, or for
18 a crime involving violence, including rape, sexual assault, or
19 homicide, but not including other physical assault and battery. For
20 purposes of this subdivision, crimes involving violence means
21 those violent crimes contained in clause (i) of subparagraph (A),
22 and subparagraph (B), of paragraph (1) of subdivision (g) of
23 Section 1522 of the Health and Safety Code.

24 (B) A felony conviction that occurred within the last five years
25 for physical assault, battery, or a drug- or alcohol-related offense.

26 (2) This subdivision shall become operative on October 1, 2008,
27 and shall remain operative only to the extent that compliance with
28 its provisions is required by federal law as a condition of receiving
29 funding under Title IV-E of the federal Social Security Act (42
30 U.S.C. 670 et seq.).

31 (d) Any fee charged by a law enforcement agency for
32 fingerprinting or for checking or obtaining the criminal record of
33 the petitioner shall be paid by the petitioner. The department or
34 delegated county adoption agency may defer, waive, or reduce the
35 fee when its payment would cause economic hardship to the
36 prospective adoptive parents detrimental to the welfare of the
37 adopted child, when the child has been in the foster care of the
38 prospective adoptive parents for at least one year, or if necessary
39 for the placement of a special-needs child.

40 SEC. 3. Section 8908 of the Family Code is amended to read:

1 8908. (a) A licensed adoption agency shall require each person
2 filing an application for adoption to be fingerprinted and shall
3 secure from an appropriate law enforcement agency any criminal
4 record of that person to determine whether the person has ever
5 been convicted of a crime other than a minor traffic violation. The
6 licensed adoption agency may also secure the person's full criminal
7 record, if any. Any federal-level criminal offender record requests
8 to the Department of Justice shall be submitted with fingerprint
9 images and related information required by the Department of
10 Justice for the purposes of obtaining information as to the existence
11 and content of a record of an out-of-state or federal conviction or
12 arrest of a person or information regarding any out-of-state or
13 federal crimes or arrests for which the Department of Justice
14 establishes that the person is free on bail, or on his or her own
15 recognizance pending trial or appeal. The Department of Justice
16 shall forward to the Federal Bureau of Investigation any requests
17 for federal summary criminal history information received pursuant
18 to this section. The Department of Justice shall review the
19 information returned from the Federal Bureau of Investigation and
20 shall compile and disseminate a fitness determination to the
21 licensed adoption agency.

22 (b) Notwithstanding subdivision (c), the criminal record, if any,
23 shall be taken into consideration when evaluating the prospective
24 adoptive parent, and an assessment of the effects of any criminal
25 history on the ability of the prospective adoptive parent to provide
26 adequate and proper care and guidance to the child shall be
27 included in the report to the court.

28 (c) (1) A licensed adoption agency shall not give final approval
29 for an adoptive placement in any home in which the prospective
30 adoptive parent, or any adult living in the prospective adoptive
31 home, has a felony conviction for either of the following:

32 (A) Any felony conviction for child abuse or neglect, spousal
33 abuse, crimes against a child, including child pornography, or for
34 a crime involving violence, including rape, sexual assault, or
35 homicide, but not including other physical assault and battery. For
36 purposes of this subdivision, crimes involving violence means
37 those violent crimes contained in clause (i) of subparagraph (A),
38 and subparagraph (B), of paragraph (1) of subdivision (g) of
39 Section 1522 of the Health and Safety Code.

1 (B) A felony conviction that occurred within the last five years
2 for physical assault, battery, or a drug- or alcohol-related offense.

3 (2) This subdivision shall become operative on October 1, 2008,
4 and shall remain operative only to the extent that compliance with
5 its provisions is required by federal law as a condition of receiving
6 funding under Title IV-E of the federal Social Security Act (42
7 U.S.C. 670 et seq.).

8 (d) Any fee charged by a law enforcement agency for
9 fingerprinting or for checking or obtaining the criminal record of
10 the applicant shall be paid by the applicant. The licensed adoption
11 agency may defer, waive, or reduce the fee when its payment would
12 cause economic hardship to the prospective adoptive parents
13 detrimental to the welfare of the adopted child.

14 SEC. 4. Section 236.1 of the Penal Code is amended to read:

15 236.1. (a) A person who deprives or violates the personal
16 liberty of another with the intent to obtain forced labor or services,
17 is guilty of human trafficking and shall be punished by
18 imprisonment in the state prison for 5, 8, or 12 years and a fine of
19 not more than five hundred thousand dollars (\$500,000).

20 (b) A person who deprives or violates the personal liberty of
21 another with the intent to effect or maintain a violation of Section
22 266, 266h, 266i, 266j, 267, 311.1, 311.2, 311.3, 311.4, 311.5,
23 311.6, or 518 is guilty of human trafficking and shall be punished
24 by imprisonment in the state prison for 8, 14, or 20 years and a
25 fine of not more than five hundred thousand dollars (\$500,000).

26 (c) A person who causes, induces, or persuades, or attempts to
27 cause, induce, or persuade, a person who is a minor at the time of
28 commission of the offense to engage in a commercial sex act, with
29 the intent to effect or maintain a violation of Section 266, 266h,
30 266i, 266j, 267, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, or 518
31 is guilty of human trafficking. A violation of this subdivision is
32 punishable by imprisonment in the state prison as follows:

33 (1) Five, 8, or 12 years and a fine of not more than five hundred
34 thousand dollars (\$500,000).

35 (2) Fifteen years to life and a fine of not more than five hundred
36 thousand dollars (\$500,000) when the offense involves force, fear,
37 fraud, deceit, coercion, violence, duress, menace, or threat of
38 unlawful injury to the victim or to another person.

39 (d) In determining whether a minor was caused, induced, or
40 persuaded to engage in a commercial sex act, the totality of the

1 circumstances, including the age of the victim, his or her
2 relationship to the trafficker or agents of the trafficker, and any
3 handicap or disability of the victim, shall be considered.

4 (e) Consent by a victim of human trafficking who is a minor at
5 the time of the commission of the offense is not a defense to a
6 criminal prosecution under this section.

7 (f) Mistake of fact as to the age of a victim of human trafficking
8 who is a minor at the time of the commission of the offense is not
9 a defense to a criminal prosecution under this section.

10 (g) The Legislature finds that the definition of human trafficking
11 in this section is equivalent to the federal definition of a severe
12 form of trafficking found in Section 7102(9) of Title 22 of the
13 United States Code.

14 (h) For purposes of this chapter, the following definitions apply:

15 (1) “Coercion” includes a scheme, plan, or pattern intended to
16 cause a person to believe that failure to perform an act would result
17 in serious harm to or physical restraint against any person; the
18 abuse or threatened abuse of the legal process; debt bondage; or
19 providing and facilitating the possession of a controlled substance
20 to a person with the intent to impair the person’s judgment.

21 (2) “Commercial sex act” means sexual conduct on account of
22 which anything of value is given or received by a person.

23 (3) “Deprivation or violation of the personal liberty of another”
24 includes substantial and sustained restriction of another’s liberty
25 accomplished through force, fear, fraud, deceit, coercion, violence,
26 duress, menace, or threat of unlawful injury to the victim or to
27 another person, under circumstances where the person receiving
28 or apprehending the threat reasonably believes that it is likely that
29 the person making the threat would carry it out.

30 (4) “Duress” includes a direct or implied threat of force,
31 violence, danger, hardship, or retribution sufficient to cause a
32 reasonable person to acquiesce in or perform an act which he or
33 she would otherwise not have submitted to or performed; a direct
34 or implied threat to destroy, conceal, remove, confiscate, or possess
35 an actual or purported passport or immigration document of the
36 victim; or knowingly destroying, concealing, removing,
37 confiscating, or possessing an actual or purported passport or
38 immigration document of the victim.

39 (5) “Forced labor or services” means labor or services that are
40 performed or provided by a person and are obtained or maintained

1 through force, fraud, duress, or coercion, or equivalent conduct
2 that would reasonably overbear the will of the person.

3 (6) “Great bodily injury” means a significant or substantial
4 physical injury.

5 (7) “Human trafficking victim” means a person who is a victim
6 of any of the acts described in subdivision (a), (b), or (c).

7 (8) “Minor” means a person less than 18 years of age.

8 (9) “Serious harm” includes any harm, whether physical or
9 nonphysical, including psychological, financial, or reputational
10 harm, that is sufficiently serious, under all the surrounding
11 circumstances, to compel a reasonable person of the same
12 background and in the same circumstances to perform or to
13 continue performing labor, services, or commercial sexual acts in
14 order to avoid incurring that harm.

15 (10) “Nonviolent crime” means any crime or offense other than
16 murder, attempted murder, voluntary manslaughter, mayhem,
17 kidnapping, rape, robbery, arson, carjacking, or any other violent
18 felony as defined in subdivision (c) of Section 667.5.

19 (i) The total circumstances, including the age of the victim, the
20 relationship between the victim and the trafficker or agents of the
21 trafficker, and any handicap or disability of the victim, shall be
22 factors to consider in determining the presence of “deprivation or
23 violation of the personal liberty of another,” “duress,” and
24 “coercion” as described in this section.

25 SEC. 5. Section 236.24 is added to the Penal Code, to read:

26 236.24. (a) An individual convicted of a nonviolent crime
27 committed while that individual was a human trafficking victim
28 may apply to the court in which the conviction was entered to
29 vacate the conviction if the individual ~~has not been convicted of~~
30 ~~any crime after successfully completing probation, or if probation~~
31 ~~is not granted, for two years after release from custody. is not in~~
32 *custody and has either not been convicted of any crime for the two*
33 *years immediately preceding the application or has successfully*
34 *completed probation for the nonviolent crime. The court shall may*
35 *grant the application on a finding that the applicant’s participation*
36 *in the offense on which the applicant was convicted nonviolent*
37 *crime was a direct result of the applicant being a human trafficking*
38 *victim.*

39 (b) *The court may, with the agreement of the applicant and all*
40 *involved state or local prosecutorial agencies, consolidate into*

1 *one hearing a petition with respect to multiple convictions from*
 2 *different jurisdictions.*

3 ~~(b)~~

4 (c) Subject to subdivision ~~(e)~~, (d), the application shall identify
 5 the applicant, the offense for which vacatur is sought, and the court
 6 in which the conviction was entered. The applicant shall describe
 7 in the ~~application~~ *application, which shall be submitted under*
 8 *penalty of perjury*, all the available grounds and evidence for
 9 vacatur of the conviction known to the applicant.

10 ~~(e)~~

11 (d) To maintain the confidentiality of the applicant’s status as
 12 a human trafficking victim, the application may be filed identifying
 13 the applicant by initials in any publicly available filing relating to
 14 the application. The applicant shall submit all evidence *under*
 15 *penalty of perjury* supporting the application that contains personal
 16 identifying information to the court under seal along with a
 17 statement under penalty of perjury confirming his or her identity.

18 ~~(d)~~

19 (e) The application and all supporting evidence, including,
 20 without limitation, the identity statement and evidence submitted
 21 *under penalty of perjury and* under seal, shall be served on the
 22 state or local prosecutorial agency that obtained the conviction for
 23 which the applicant seeks vacatur. The state or local prosecutorial
 24 agency shall have ~~30~~ 45 days for the date of receipt of service to
 25 oppose the application.

26 ~~(e)~~

27 (f) If opposition to the application is not filed by the applicable
 28 state or local prosecutorial agency, the court shall deem the
 29 application unopposed and shall grant the application. If the
 30 application is opposed, the court shall hold a hearing on the
 31 ~~application.~~ *application, at which time the applicant may be*
 32 *required to testify.*

33 ~~(f)~~

34 (g) If the court finds, based on clear and convincing evidence,
 35 that the applicant’s participation in the ~~offense on which the~~
 36 ~~conviction was based~~ *nonviolent crime* was a direct result of the
 37 applicant being a victim of human trafficking, the court ~~shall~~ *may*
 38 grant the application and vacate the conviction, strike the
 39 adjudication of guilt, and order the relief specified in Section

1 ~~236.25 and may also take additional action and grant additional~~
2 ~~relief as it deems appropriate under the circumstances. 236.25.~~

3 ~~(g)~~

4 (h) If the court denies the application because the evidence is
5 insufficient to establish grounds for vacatur, the denial ~~shall may~~
6 be without prejudice. ~~The court shall~~ *If the court denies the*
7 *application without prejudice, it may state the reasons for its denial*
8 *in writing or on the record that is memorialized by transcription,*
9 *audio recording, or video recording and, if those reasons are based*
10 *on curable deficiencies in the application, allow the applicant a*
11 *reasonable time period to cure the deficiencies upon which the*
12 *court based the denial.*

13 ~~(h)~~

14 (i) An individual determined to be a ward of the juvenile court
15 in a proceeding pursuant to Section 602 of the Welfare and
16 Institutions Code as a result of a nonviolent crime committed while
17 that individual was a human trafficking victim may apply to the
18 juvenile court that made that determination to have the
19 determination set aside if the individual has not had a sustained
20 petition for any crime or been convicted of any crime for one year
21 prior to the date of application. The court ~~shall may~~ grant the
22 application upon making a finding, based on clear and convincing
23 evidence, that the applicant’s participation in the offense on the
24 proceeding was a direct result of the applicant being a human
25 trafficking victim. Upon making the finding, the court ~~shall may~~
26 order the relief prescribed in Section 786 of the Welfare and
27 Institutions Code.

28 ~~(i)~~

29 (j) In making a determination on an application under either
30 subdivision (a) or ~~(h)~~, (i), the court may consider any evidence it
31 deems of sufficient credibility and probative value, including the
32 sworn statement of the applicant. ~~The statement, alone, is applicant~~
33 *presented under penalty of perjury. If opposition to the application*
34 *is not filed by the applicable state or local prosecutorial agency,*
35 *the court may deem the application unopposed. The applicant’s*
36 *statement alone may be sufficient evidence to support the vacating*
37 *of a conviction, provided the court finds that the statement is*
38 *credible. Evidence*

39 (k) *If the application is opposed, the court shall hold a hearing*
40 *on the application, at which time the applicant may be required*

1 to testify and be subject to cross examination. A petitioner, or his
 2 or her attorney, may be excused from appearing in person at a
 3 hearing for relief pursuant to this section only if the court finds a
 4 compelling reason why the petitioner cannot attend the hearing,
 5 in which case the petitioner may appear telephonically, by
 6 videoconference, or by other electronic means established by the
 7 court.

8 (l) Evidence in support of granting an application may also
 9 include, but is not limited to, all of the following:

10 (1) Certified records of a federal, state, tribal, or local court or
 11 governmental agency documenting the person’s status as a victim
 12 of human trafficking at the time of the offense, including
 13 identification of a victim of human trafficking by a peace officer
 14 pursuant to Section 236.2 and certified records of approval notices
 15 or enforcement certifications generated from federal immigration
 16 proceedings, create a rebuttable presumption that an offense was
 17 committed by the defendant as a direct result of being a human
 18 trafficking victim.

19 (2) A sworn statement from a trained professional staff member
 20 of a victim services organization, an attorney, a member of the
 21 clergy, or a medical or other professional from whom the defendant
 22 has sought assistance in addressing the trauma associated with
 23 being trafficked.

24 (j)
 25 (m) The court ~~shall~~ may grant an application made under
 26 subdivision (a) or ~~(h)~~ (i) if the conviction or adjudication was based
 27 on a crime constituting or arising from a commercial sex act,
 28 including violation of subdivision (b) of Section 647 or Section
 29 653.22, upon a finding that the applicant was under the age of 18
 30 years at the time of the offense on which the conviction is based.

31 (k)
 32 (n) This section and the rights and remedies granted to victims
 33 of human trafficking hereunder apply to any conviction entered
 34 or adjudication made prior to or after January 1, ~~2017~~ 2017.

35 SEC. 6. Section 236.25 is added to the Penal Code, to read:
 36 236.25. (a) For any charge, adjudication, or conviction for
 37 which a human trafficking victim was granted relief under Section
 38 236.24 of the Penal Code, the court shall order that all records in
 39 the case be sealed pursuant to Section 851.86 and shall grant the
 40 relief provided in subdivision (b) of Section 851.8.

1 (b) The human trafficking victim shall be released from all
2 penalties and disabilities resulting from the charge, adjudication,
3 or conviction, and all actions and proceedings by law enforcement
4 personnel, courts, or other government employees that led to the
5 charge, adjudication, or conviction shall be deemed not to have
6 occurred.

7 (c) All of the following shall apply to a human trafficking victim
8 granted relief pursuant to Section 236.24, or under any substantially
9 equivalent statute of another jurisdiction:

10 (1) The human trafficking victim may in all circumstances state
11 that he or she has never been arrested for, charged with, or
12 convicted of the crime that is the subject of the charge,
13 adjudication, or conviction, including without limitation in response
14 to questions on employment, housing, financial aid, or loan
15 applications.

16 (2) The human trafficking victim may not be denied rights or
17 benefits, including, without limitation, employment, housing,
18 financial aid, welfare, or a loan or other financial accommodation,
19 based on the arrest, charge, adjudication, or conviction or the
20 victim's failure or refusal to disclose the existence of or information
21 concerning those events.

22 (3) The human trafficking victim may not be thereafter charged
23 or convicted of perjury or otherwise of giving a false statement by
24 reason of having failed to disclose or acknowledge the existence
25 of the charge, adjudication, or conviction, or any arrest, charge,
26 indictment, trial, or other proceedings related thereto.

27 SEC. 7. Section 1203.49 of the Penal Code is repealed.

28 SEC. 8. 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 (e) of Section 830.2, subdivision (a) of Section
14 830.3, subdivision (a) of Section 830.31, and subdivisions (a) and
15 (b) of Section 830.5.

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. Information
11 from criminal history records provided pursuant to this subdivision
12 shall not be used for any purposes other than those specified in
13 this section and Section 16504.5 of the Welfare and Institutions
14 Code. When an agency obtains records obtained both on the basis
15 of name checks and fingerprint checks, final placement decisions
16 shall be based only on the records obtained pursuant to the
17 fingerprint check.

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

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

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

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

7 (23) A person authorized to conduct a guardianship investigation
8 pursuant to Section 1513 of the Probate Code.

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

11 (25) A public agency described in subdivision (b) of Section
12 15975 of the Government Code, for the purpose of oversight and
13 enforcement policies with respect to its contracted providers.

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

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

29 (2) To a peace officer of the state other than those included in
30 subdivision (b).

31 (3) To an illegal dumping enforcement officer as defined in
32 subdivision (j) of Section 830.7.

33 (4) To a peace officer of another country.

34 (5) To public officers, other than peace officers, of the United
35 States, other states, or possessions or territories of the United
36 States, provided that access to records similar to state summary
37 criminal history information is expressly authorized by a statute
38 of the United States, other states, or possessions or territories of
39 the United States if the information is needed for the performance
40 of their official duties.

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

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

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

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

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

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

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

37 (iv) A violation of this paragraph is a misdemeanor, and shall
38 give the current or prospective employee who is injured by the
39 violation a cause of action against the public utility or cable
40 corporation to recover damages proximately caused by the

1 violations. Any public utility’s or cable corporation’s request for
2 state summary criminal history information for purposes of
3 employing current or prospective employees who may be seeking
4 entrance to private residences or adjacent grounds in the course
5 of their employment shall be deemed a “compelling need” as
6 required to be shown in this subdivision.

7 (v) This section shall not be construed as imposing any duty
8 upon public utilities or cable corporations to request state summary
9 criminal history information on any current or prospective
10 employees.

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

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

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

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

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

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

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

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

36 (f) Whenever there is a conflict, the processing of criminal
37 fingerprints and fingerprints of applicants for security guard or
38 alarm agent registrations or firearms qualification permits
39 submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4

1 of the Business and Professions Code shall take priority over the
2 processing of other applicant fingerprints.

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

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

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

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

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

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

30 (A) Every conviction rendered against the applicant.

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

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

40 (D) Every successful diversion.

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

5 (F) Sex offender registration status of the applicant.

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 law, whenever state summary
13 criminal history information is initially furnished pursuant to
14 paragraph (1), the Department of Justice shall disseminate the
15 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 (E) Sex offender registration status of the applicant.

35 (m) (1) This subdivision shall apply whenever state or federal
36 summary criminal history information is furnished by the
37 Department of Justice as the result of an application by an
38 authorized agency or organization pursuant to Section 1522,
39 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
40 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 (D) Sex offender registration status of the applicant.

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

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

31 (A) Paragraph (10) of subdivision (c), when the information is
32 to be used by a cable corporation.

33 (B) Section 11105.3 or 11105.4.

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

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

38 (2) With the exception of applications submitted by
39 transportation companies authorized pursuant to Section 11105.3,
40 and notwithstanding any other law, whenever state summary

1 criminal history information is initially furnished pursuant to
2 paragraph (1), the Department of Justice shall disseminate the
3 following information:

4 (A) Every conviction rendered against the applicant for a
5 violation or attempted violation of any offense specified in
6 subdivision (a) of Section 15660 of the Welfare and Institutions
7 Code. However, with the exception of those offenses for which
8 registration is required pursuant to Section 290, the Department
9 of Justice shall not disseminate information pursuant to this
10 subdivision unless the conviction occurred within 10 years of the
11 date of the agency's request for information or the conviction is
12 over 10 years old but the subject of the request was incarcerated
13 within 10 years of the agency's request for information.

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

19 (C) Sex offender registration status of the applicant.

20 (o) (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 pursuant to Section 379 or 550
24 of the Financial Code, or any statute that incorporates the criteria
25 of either of those sections or this subdivision by reference, and the
26 information is to be used for employment, licensing, or certification
27 purposes.

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

32 (A) Every conviction rendered against the applicant for a
33 violation or attempted violation of any offense specified in Section
34 550 of the Financial Code.

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

1 (p) (1) This subdivision shall apply whenever state or federal
2 criminal history information is furnished by the Department of
3 Justice as the result of an application by an agency, organization,
4 or individual not defined in subdivision (k), (l), (m), (n), or (o), or
5 by a transportation company authorized pursuant to Section
6 11105.3, or any statute that incorporates the criteria of that section
7 or this subdivision by reference, and the information is to be used
8 for employment, licensing, or certification purposes.

9 (2) Notwithstanding any other law, whenever state summary
10 criminal history information is initially furnished pursuant to
11 paragraph (1), the Department of Justice shall disseminate the
12 following information:

13 (A) Every conviction rendered against the applicant.

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

18 (C) Sex offender registration status of the applicant.

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

26 (r) This section does not require the Department of Justice to
27 cease compliance with any other statutory notification
28 requirements.

29 (s) The provisions of Section 50.12 of Title 28 of the Code of
30 Federal Regulations are to be followed in processing federal
31 criminal history information.

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

1 furnished other than in person, the copy shall be delivered to the
2 last contact information provided by the applicant.

3 (u) State summary criminal history information compiled by
4 the Attorney General and disseminated pursuant to this section
5 shall exclude any charge or conviction for which relief has been
6 granted pursuant to Section 236.24 or 236.25.

7 SEC. 9. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.