

AMENDED IN SENATE AUGUST 17, 2016

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 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 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 require the individual applying for vacatur to submit 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) *This bill would incorporate additional changes to Section 8712 of the Family Code, proposed by AB 1997, that would become operative only if this bill and AB 1997 are enacted and become effective on or before January 1, 2017, and this bill is chaptered last.*

(3)

(4) 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

1 placement in any home in which the prospective adoptive parent
 2 or any adult living in the prospective adoptive home has either of
 3 the following:

4 (A) A felony conviction for child abuse or neglect, spousal
 5 abuse, crimes against a child, including child pornography, or for
 6 a crime involving violence, including rape, sexual assault, or
 7 homicide, but not including other physical assault and battery. For
 8 purposes of this subdivision, crimes involving violence means
 9 those violent crimes contained in clause (i) of subparagraph (A),
 10 and subparagraph (B), of paragraph (1) of subdivision (g) of
 11 Section 1522 of the Health and Safety Code.

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

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

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

28 *SEC. 1.5. Section 8712 of the Family Code is amended to read:*

29 8712. (a) (1) The department, county adoption agency, or
 30 licensed adoption agency shall require each person who files an
 31 application for adoption to be fingerprinted and shall secure from
 32 an appropriate law enforcement agency any criminal record of that
 33 person to determine whether the person has ever been convicted
 34 of a crime other than a minor traffic violation. The department,
 35 county adoption agency, or licensed adoption agency may also
 36 secure the person's full criminal record, ~~if any, with the exception~~
 37 ~~of any convictions for which relief has been granted pursuant to~~
 38 ~~Section 1203.49 of the Penal Code.~~ *any.* Any federal-level criminal
 39 offender record requests to the Department of Justice shall be
 40 submitted with fingerprint images and related information required

1 by the Department of Justice for the purposes of obtaining
2 information as to the existence and content of a record of an
3 out-of-state or federal conviction or arrest of a person or
4 information regarding any out-of-state or federal crimes or arrests
5 for which the Department of Justice establishes that the person is
6 free on bail, or on his or her own recognizance pending trial or
7 appeal. The Department of Justice shall forward to the Federal
8 Bureau of Investigation any requests for federal summary criminal
9 history information received pursuant to this section. The
10 Department of Justice shall review the information returned from
11 the Federal Bureau of Investigation and shall compile and
12 disseminate a response to the department, county adoption agency,
13 or licensed adoption agency.

14 (2) *The department, county adoption agency, or licensed*
15 *adoption agency may obtain arrest or conviction records or reports*
16 *from any law enforcement agency as necessary to the performance*
17 *of its duties, as provided in this section.*

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

24 (c) (1) The department, county adoption agency, or licensed
25 adoption agency shall not give final approval for an adoptive
26 placement in any home in which the prospective adoptive parent
27 or any adult living in the prospective adoptive home has either of
28 the following:

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

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

39 (2) This subdivision shall become operative on October 1, 2008,
40 and shall remain operative only to the extent that compliance with

1 its provisions is required by federal law as a condition of receiving
2 funding under Title IV-E of the federal Social Security Act (42
3 U.S.C. Sec. 670 et seq.).

4 (d) Any fee charged by a law enforcement agency for
5 fingerprinting or for checking or obtaining the criminal record of
6 the applicant shall be paid by the applicant. The department, county
7 adoption agency, or licensed adoption agency may defer, waive,
8 or reduce the fee when its payment would cause economic hardship
9 to prospective adoptive parents detrimental to the welfare of the
10 adopted child, when the child has been in the foster care of the
11 prospective adoptive parents for at least one year, or if necessary
12 for the placement of a special-needs child.

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

14 8811. (a) The department or delegated county adoption agency
15 shall require each person who files an adoption petition to be
16 fingerprinted and shall secure from an appropriate law enforcement
17 agency any criminal record of that person to determine whether
18 the person has ever been convicted of a crime other than a minor
19 traffic violation. The department or delegated county adoption
20 agency may also secure the person's full criminal record, if any.
21 Any federal-level criminal offender record requests to the
22 Department of Justice shall be submitted with fingerprint images
23 and related information required by the Department of Justice for
24 the purposes of obtaining information as to the existence and
25 content of a record of an out-of-state or federal conviction or arrest
26 of a person or information regarding any out-of-state or federal
27 crimes or arrests for which the Department of Justice establishes
28 that the person is free on bail, or on his or her own recognizance
29 pending trial or appeal. The Department of Justice shall forward
30 to the Federal Bureau of Investigation any requests 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 shall compile
34 and disseminate a response to the department or delegated county
35 adoption agency.

36 (b) Notwithstanding subdivision (c), the criminal record, if any,
37 shall be taken into consideration when evaluating the prospective
38 adoptive parent, and an assessment of the effects of any criminal
39 history on the ability of the prospective adoptive parent to provide

1 adequate and proper care and guidance to the child shall be
2 included in the report to the court.

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

7 (A) A felony conviction for child abuse or neglect, spousal
8 abuse, crimes against a child, including child pornography, or for
9 a crime involving violence, including rape, sexual assault, or
10 homicide, but not including other physical assault and battery. For
11 purposes of this subdivision, crimes involving violence means
12 those violent crimes contained in clause (i) of subparagraph (A),
13 and subparagraph (B), of paragraph (1) of subdivision (g) of
14 Section 1522 of the Health and Safety Code.

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

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

22 (d) Any fee charged by a law enforcement agency for
23 fingerprinting or for checking or obtaining the criminal record of
24 the petitioner shall be paid by the petitioner. The department or
25 delegated county adoption agency may defer, waive, or reduce the
26 fee when its payment would cause economic hardship to the
27 prospective adoptive parents detrimental to the welfare of the
28 adopted child, when the child has been in the foster care of the
29 prospective adoptive parents for at least one year, or if necessary
30 for the placement of a special-needs child.

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

32 8908. (a) A licensed adoption agency shall require each person
33 filing an application for adoption to be fingerprinted and shall
34 secure from an appropriate law enforcement agency any criminal
35 record of that person to determine whether the person has ever
36 been convicted of a crime other than a minor traffic violation. The
37 licensed adoption agency may also secure the person's full criminal
38 record, if any. Any federal-level criminal offender record requests
39 to the Department of Justice shall be submitted with fingerprint
40 images and related information required by the Department of

1 Justice for the purposes of obtaining information as to the existence
2 and content of a record of an out-of-state or federal conviction or
3 arrest of a person or information regarding any out-of-state or
4 federal crimes or arrests for which the Department of Justice
5 establishes that the person is free on bail, or on his or her own
6 recognizance pending trial or appeal. The Department of Justice
7 shall forward to the Federal Bureau of Investigation any requests
8 for federal summary criminal history information received pursuant
9 to this section. The Department of Justice shall review the
10 information returned from the Federal Bureau of Investigation and
11 shall compile and disseminate a fitness determination to the
12 licensed adoption agency.

13 (b) Notwithstanding subdivision (c), the criminal record, if any,
14 shall be taken into consideration when evaluating the prospective
15 adoptive parent, and an assessment of the effects of any criminal
16 history on the ability of the prospective adoptive parent to provide
17 adequate and proper care and guidance to the child shall be
18 included in the report to the court.

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

23 (A) Any felony conviction for child abuse or neglect, spousal
24 abuse, crimes against a child, including child pornography, or for
25 a crime involving violence, including rape, sexual assault, or
26 homicide, but not including other physical assault and battery. For
27 purposes of this subdivision, crimes involving violence means
28 those violent crimes contained in clause (i) of subparagraph (A),
29 and subparagraph (B), of paragraph (1) of subdivision (g) of
30 Section 1522 of the Health and Safety Code.

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

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

38 (d) Any fee charged by a law enforcement agency for
39 fingerprinting or for checking or obtaining the criminal record of
40 the applicant shall be paid by the applicant. The licensed adoption

1 agency may defer, waive, or reduce the fee when its payment would
2 cause economic hardship to the prospective adoptive parents
3 detrimental to the welfare of the adopted child.

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

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

10 (b) A person who deprives or violates the personal liberty of
11 another with the intent to effect or maintain a violation of Section
12 266, 266h, 266i, 266j, 267, 311.1, 311.2, 311.3, 311.4, 311.5,
13 311.6, or 518 is guilty of human trafficking and shall be punished
14 by imprisonment in the state prison for 8, 14, or 20 years and a
15 fine of not more than five hundred thousand dollars (\$500,000).

16 (c) A person who causes, induces, or persuades, or attempts to
17 cause, induce, or persuade, a person who is a minor at the time of
18 commission of the offense to engage in a commercial sex act, with
19 the intent to effect or maintain a violation of Section 266, 266h,
20 266i, 266j, 267, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, or 518
21 is guilty of human trafficking. A violation of this subdivision is
22 punishable by imprisonment in the state prison as follows:

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

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

29 (d) In determining whether a minor was caused, induced, or
30 persuaded to engage in a commercial sex act, the totality of the
31 circumstances, including the age of the victim, his or her
32 relationship to the trafficker or agents of the trafficker, and any
33 handicap or disability of the victim, shall be considered.

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

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

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

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

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

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

14 (3) “Deprivation or violation of the personal liberty of another”
15 includes substantial and sustained restriction of another’s liberty
16 accomplished through force, fear, fraud, deceit, coercion, violence,
17 duress, menace, or threat of unlawful injury to the victim or to
18 another person, under circumstances where the person receiving
19 or apprehending the threat reasonably believes that it is likely that
20 the person making the threat would carry it out.

21 (4) “Duress” includes a direct or implied threat of force,
22 violence, danger, hardship, or retribution sufficient to cause a
23 reasonable person to acquiesce in or perform an act which he or
24 she would otherwise not have submitted to or performed; a direct
25 or implied threat to destroy, conceal, remove, confiscate, or possess
26 an actual or purported passport or immigration document of the
27 victim; or knowingly destroying, concealing, removing,
28 confiscating, or possessing an actual or purported passport or
29 immigration document of the victim.

30 (5) “Forced labor or services” means labor or services that are
31 performed or provided by a person and are obtained or maintained
32 through force, fraud, duress, or coercion, or equivalent conduct
33 that would reasonably overbear the will of the person.

34 (6) “Great bodily injury” means a significant or substantial
35 physical injury.

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

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

39 (9) “Serious harm” includes any harm, whether physical or
40 nonphysical, including psychological, financial, or reputational

1 harm, that is sufficiently serious, under all the surrounding
2 circumstances, to compel a reasonable person of the same
3 background and in the same circumstances to perform or to
4 continue performing labor, services, or commercial sexual acts in
5 order to avoid incurring that harm.

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

10 (i) The total circumstances, including the age of the victim, the
11 relationship between the victim and the trafficker or agents of the
12 trafficker, and any handicap or disability of the victim, shall be
13 factors to consider in determining the presence of “deprivation or
14 violation of the personal liberty of another,” “duress,” and
15 “coercion” as described in this section.

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

17 236.24. (a) An individual convicted of a nonviolent crime
18 committed while that individual was a human trafficking victim
19 may apply to the court in which the conviction was entered to
20 vacate the conviction if the individual is not in custody and has
21 either not been convicted of any crime for the two years
22 immediately preceding the application or has successfully
23 completed probation for the nonviolent crime. The court may grant
24 the application on a finding that the applicant’s participation in
25 the nonviolent crime was a direct result of the applicant being a
26 human trafficking victim.

27 (b) The court may, with the agreement of the applicant and all
28 involved state or local prosecutorial agencies, consolidate into one
29 hearing a petition with respect to multiple convictions from
30 different jurisdictions.

31 (c) Subject to subdivision (d), the application shall identify the
32 applicant, the offense for which vacatur is sought, and the court
33 in which the conviction was entered. The applicant shall describe
34 in the application, which shall be submitted under penalty of
35 perjury, all the available grounds and evidence for vacatur of the
36 conviction known to the applicant.

37 (d) To maintain the confidentiality of the applicant’s status as
38 a human trafficking victim, the application may be filed identifying
39 the applicant by initials in any publicly available filing relating to
40 the application. The applicant shall submit all evidence under

1 penalty of perjury supporting the application that contains personal
2 identifying information to the court under seal along with a
3 statement under penalty of perjury confirming his or her identity.

4 (e) The application and all supporting evidence, including,
5 without limitation, the identity statement and evidence submitted
6 under penalty of perjury and under seal, shall be served on the
7 state or local prosecutorial agency that obtained the conviction for
8 which the applicant seeks vacatur. The state or local prosecutorial
9 agency shall have 45 days for the date of receipt of service to
10 oppose the application.

11 (f) If opposition to the application is not filed by the applicable
12 state or local prosecutorial agency, the court shall deem the
13 application unopposed and shall grant the application. If the
14 application is opposed, the court shall hold a hearing on the
15 application, at which time the applicant may be required to testify.

16 (g) If the court finds, based on clear and convincing evidence,
17 that the applicant's participation in the nonviolent crime was a
18 direct result of the applicant being a victim of human trafficking,
19 the court may grant the application and vacate the conviction,
20 strike the adjudication of guilt, and order the relief specified in
21 Section 236.25.

22 (h) If the court denies the application because the evidence is
23 insufficient to establish grounds for vacatur, the denial may be
24 without prejudice. If the court denies the application without
25 prejudice, it may state the reasons for its denial in writing or on
26 the record that is memorialized by transcription, audio recording,
27 or video recording and, if those reasons are based on curable
28 deficiencies in the application, allow the applicant a reasonable
29 time period to cure the deficiencies upon which the court based
30 the denial.

31 (i) An individual determined to be a ward of the juvenile court
32 in a proceeding pursuant to Section 602 of the Welfare and
33 Institutions Code as a result of a nonviolent crime committed while
34 that individual was a human trafficking victim may apply to the
35 juvenile court that made that determination to have the
36 determination set aside if the individual has not had a sustained
37 petition for any crime or been convicted of any crime for one year
38 prior to the date of application. The court may grant the application
39 upon making a finding, based on clear and convincing evidence,
40 that the applicant's participation in the offense on the proceeding

1 was a direct result of the applicant being a human trafficking
2 victim. Upon making the finding, the court may order the relief
3 prescribed in Section 786 of the Welfare and Institutions Code.

4 (j) In making a determination on an application under either
5 subdivision (a) or (i), the court may consider any evidence it deems
6 of sufficient credibility and probative value, including the sworn
7 statement of the applicant presented under penalty of perjury. If
8 opposition to the application is not filed by the applicable state or
9 local prosecutorial agency, the court may deem the application
10 unopposed. The applicant's statement alone may be sufficient
11 evidence to support the vacating of a conviction, provided the court
12 finds that the statement is credible.

13 (k) If the application is opposed, the court shall hold a hearing
14 on the application, at which time the applicant may be required to
15 testify and be subject to cross examination. A petitioner, or his or
16 her attorney, may be excused from appearing in person at a hearing
17 for relief pursuant to this section only if the court finds a
18 compelling reason why the petitioner cannot attend the hearing,
19 in which case the petitioner may appear telephonically, by
20 videoconference, or by other electronic means established by the
21 court.

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

24 (1) Certified records of a federal, state, tribal, or local court or
25 governmental agency documenting the person's status as a victim
26 of human trafficking at the time of the offense, including
27 identification of a victim of human trafficking by a peace officer
28 pursuant to Section 236.2 and certified records of approval notices
29 or enforcement certifications generated from federal immigration
30 proceedings, create a rebuttable presumption that an offense was
31 committed by the defendant as a direct result of being a human
32 trafficking victim.

33 (2) A sworn statement from a trained professional staff member
34 of a victim services organization, an attorney, a member of the
35 clergy, or a medical or other professional from whom the defendant
36 has sought assistance in addressing the trauma associated with
37 being trafficked.

38 (m) The court may grant an application made under subdivision
39 (a) or (i) if the conviction or adjudication was based on a crime
40 constituting or arising from a commercial sex act, including

1 violation of subdivision (b) of Section 647 or Section 653.22, upon
2 a finding that the applicant was under the age of 18 years at the
3 time of the offense on which the conviction is based.

4 (n) This section and the rights and remedies granted to victims
5 of human trafficking hereunder apply to any conviction entered
6 or adjudication made prior to or after January 1, 2017.

7 SEC. 6. Section 236.25 is added to the Penal Code, to read:

8 236.25. (a) For any charge, adjudication, or conviction for
9 which a human trafficking victim was granted relief under Section
10 236.24 of the Penal Code, the court shall order that all records in
11 the case be sealed pursuant to Section 851.86 and shall grant the
12 relief provided in subdivision (b) of Section 851.8.

13 (b) The human trafficking victim shall be released from all
14 penalties and disabilities resulting from the charge, adjudication,
15 or conviction, and all actions and proceedings by law enforcement
16 personnel, courts, or other government employees that led to the
17 charge, adjudication, or conviction shall be deemed not to have
18 occurred.

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

22 (1) The human trafficking victim may in all circumstances state
23 that he or she has never been arrested for, charged with, or
24 convicted of the crime that is the subject of the charge,
25 adjudication, or conviction, including without limitation in response
26 to questions on employment, housing, financial aid, or loan
27 applications.

28 (2) The human trafficking victim may not be denied rights or
29 benefits, including, without limitation, employment, housing,
30 financial aid, welfare, or a loan or other financial accommodation,
31 based on the arrest, charge, adjudication, or conviction or the
32 victim's failure or refusal to disclose the existence of or information
33 concerning those events.

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

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

40 SEC. 8. Section 11105 of the Penal Code is amended to read:

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

3 (2) As used in this section:

4 (A) “State summary criminal history information” means the
5 master record of information compiled by the Attorney General
6 pertaining to the identification and criminal history of any person,
7 such as name, date of birth, physical description, fingerprints,
8 photographs, dates of arrests, arresting agencies and booking
9 numbers, charges, dispositions, and similar data about the person.

10 (B) “State summary criminal history information” does not refer
11 to records and data compiled by criminal justice agencies other
12 than the Attorney General, nor does it refer to records of complaints
13 to or investigations conducted by, or records of intelligence
14 information or security procedures of, the office of the Attorney
15 General and the Department of Justice.

16 (b) The Attorney General shall furnish state summary criminal
17 history information to any of the following, if needed in the course
18 of their duties, provided that when information is furnished to
19 assist an agency, officer, or official of state or local government,
20 a public utility, or any other entity, in fulfilling employment,
21 certification, or licensing duties, Chapter 1321 of the Statutes of
22 1974 and Section 432.7 of the Labor Code shall apply:

23 (1) The courts of the state.

24 (2) Peace officers of the state, as defined in Section 830.1,
25 subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section
26 830.3, subdivision (a) of Section 830.31, and subdivisions (a) and
27 (b) of Section 830.5.

28 (3) District attorneys of the state.

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

30 (5) City attorneys pursuing civil gang injunctions pursuant to
31 Section 186.22a, or drug abatement actions pursuant to Section
32 3479 or 3480 of the Civil Code, or Section 11571 of the Health
33 and Safety Code.

34 (6) Probation officers of the state.

35 (7) Parole officers of the state.

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

39 (9) A public defender or attorney of record when representing
40 a person in a criminal case, or a parole, mandatory supervision

1 pursuant to paragraph (5) of subdivision (h) of Section 1170, or
2 postrelease community supervision revocation or revocation
3 extension proceeding, and if authorized access by statutory or
4 decisional law.

5 (10) Any agency, officer, or official of the state if the criminal
6 history information is required to implement a statute or regulation
7 that expressly refers to specific criminal conduct applicable to the
8 subject person of the state summary criminal history information,
9 and contains requirements or exclusions, or both, expressly based
10 upon that specified criminal conduct. The agency, officer, or
11 official of the state authorized by this paragraph to receive state
12 summary criminal history information may also transmit fingerprint
13 images and related information to the Department of Justice to be
14 transmitted to the Federal Bureau of Investigation.

15 (11) Any city or county, city and county, district, or any officer
16 or official thereof if access is needed in order to assist that agency,
17 officer, or official in fulfilling employment, certification, or
18 licensing duties, and if the access is specifically authorized by the
19 city council, board of supervisors, or governing board of the city,
20 county, or district if the criminal history information is required
21 to implement a statute, ordinance, or regulation that expressly
22 refers to specific criminal conduct applicable to the subject person
23 of the state summary criminal history information, and contains
24 requirements or exclusions, or both, expressly based upon that
25 specified criminal conduct. The city or county, city and county,
26 district, or the officer or official thereof authorized by this
27 paragraph may also transmit fingerprint images and related
28 information to the Department of Justice to be transmitted to the
29 Federal Bureau of Investigation.

30 (12) The subject of the state summary criminal history
31 information under procedures established under Article 5
32 (commencing with Section 11120).

33 (13) Any person or entity when access is expressly authorized
34 by statute if the criminal history information is required to
35 implement a statute or regulation that expressly refers to specific
36 criminal conduct applicable to the subject person of the state
37 summary criminal history information, and contains requirements
38 or exclusions, or both, expressly based upon that specified criminal
39 conduct.

1 (14) Health officers of a city, county, city and county, or district
2 when in the performance of their official duties enforcing Section
3 120175 of the Health and Safety Code.

4 (15) Any managing or supervising correctional officer of a
5 county jail or other county correctional facility.

6 (16) Any humane society, or society for the prevention of cruelty
7 to animals, for the specific purpose of complying with Section
8 14502 of the Corporations Code for the appointment of humane
9 officers.

10 (17) Local child support agencies established by Section 17304
11 of the Family Code. When a local child support agency closes a
12 support enforcement case containing summary criminal history
13 information, the agency shall delete or purge from the file and
14 destroy any documents or information concerning or arising from
15 offenses for or of which the parent has been arrested, charged, or
16 convicted, other than for offenses related to the parent's having
17 failed to provide support for minor children, consistent with the
18 requirements of Section 17531 of the Family Code.

19 (18) County child welfare agency personnel who have been
20 delegated the authority of county probation officers to access state
21 summary criminal history information pursuant to Section 272 of
22 the Welfare and Institutions Code for the purposes specified in
23 Section 16504.5 of the Welfare and Institutions Code. Information
24 from criminal history records provided pursuant to this subdivision
25 shall not be used for any purposes other than those specified in
26 this section and Section 16504.5 of the Welfare and Institutions
27 Code. When an agency obtains records obtained both on the basis
28 of name checks and fingerprint checks, final placement decisions
29 shall be based only on the records obtained pursuant to the
30 fingerprint check.

31 (19) The court of a tribe, or court of a consortium of tribes, that
32 has entered into an agreement with the state pursuant to Section
33 10553.1 of the Welfare and Institutions Code. This information
34 may be used only for the purposes specified in Section 16504.5
35 of the Welfare and Institutions Code and for tribal approval or
36 tribal licensing of foster care or adoptive homes. Article 6
37 (commencing with Section 11140) shall apply to officers, members,
38 and employees of a tribal court receiving criminal record offender
39 information pursuant to this section.

1 (20) Child welfare agency personnel of a tribe or consortium
 2 of tribes that has entered into an agreement with the state pursuant
 3 to Section 10553.1 of the Welfare and Institutions Code and to
 4 whom the state has delegated duties under paragraph (2) of
 5 subdivision (a) of Section 272 of the Welfare and Institutions Code.
 6 The purposes for use of the information shall be for the purposes
 7 specified in Section 16504.5 of the Welfare and Institutions Code
 8 and for tribal approval or tribal licensing of foster care or adoptive
 9 homes. When an agency obtains records on the basis of name
 10 checks and fingerprint checks, final placement decisions shall be
 11 based only on the records obtained pursuant to the fingerprint
 12 check. Article 6 (commencing with Section 11140) shall apply to
 13 child welfare agency personnel receiving criminal record offender
 14 information pursuant to this section.

15 (21) An officer providing conservatorship investigations
 16 pursuant to Sections 5351, 5354, and 5356 of the Welfare and
 17 Institutions Code.

18 (22) A court investigator providing investigations or reviews
 19 in conservatorships pursuant to Section 1826, 1850, 1851, or
 20 2250.6 of the Probate Code.

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

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

25 (25) A public agency described in subdivision (b) of Section
 26 15975 of the Government Code, for the purpose of oversight and
 27 enforcement policies with respect to its contracted providers.

28 (c) The Attorney General may furnish state summary criminal
 29 history information and, when specifically authorized by this
 30 subdivision, federal level criminal history information upon a
 31 showing of a compelling need to any of the following, provided
 32 that when information is furnished to assist an agency, officer, or
 33 official of state or local government, a public utility, or any other
 34 entity in fulfilling employment, certification, or licensing duties,
 35 Chapter 1321 of the Statutes of 1974 and Section 432.7 of the
 36 Labor Code shall apply:

37 (1) Any public utility, as defined in Section 216 of the Public
 38 Utilities Code, that operates a nuclear energy facility when access
 39 is needed in order to assist in employing persons to work at the
 40 facility, provided that, if the Attorney General supplies the data,

1 he or she shall furnish a copy of the data to the person to whom
2 the data relates.

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

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

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

8 (5) To public officers, other than peace officers, of the United
9 States, other states, or possessions or territories of the United
10 States, provided that access to records similar to state summary
11 criminal history information is expressly authorized by a statute
12 of the United States, other states, or possessions or territories of
13 the United States if the information is needed for the performance
14 of their official duties.

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

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

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

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

26 (10) (A) (i) Any public utility, as defined in Section 216 of the
27 Public Utilities Code, or any cable corporation as defined in
28 subparagraph (B), if receipt of criminal history information is
29 needed in order to assist in employing current or prospective
30 employees, contract employees, or subcontract employees who,
31 in the course of their employment, may be seeking entrance to
32 private residences or adjacent grounds. The information provided
33 shall be limited to the record of convictions and any arrest for
34 which the person is released on bail or on his or her own
35 recognizance pending trial.

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

39 (iii) Any information obtained from the state summary criminal
40 history is confidential and the receiving public utility or cable

1 corporation shall not disclose its contents, other than for the
2 purpose for which it was acquired. The state summary criminal
3 history information in the possession of the public utility or cable
4 corporation and all copies made from it shall be destroyed not
5 more than 30 days after employment or promotion or transfer is
6 denied or granted, except for those cases where a current or
7 prospective employee is out on bail or on his or her own
8 recognizance pending trial, in which case the state summary
9 criminal history information and all copies shall be destroyed not
10 more than 30 days after the case is resolved.

11 (iv) A violation of this paragraph is a misdemeanor, and shall
12 give the current or prospective employee who is injured by the
13 violation a cause of action against the public utility or cable
14 corporation to recover damages proximately caused by the
15 violations. Any public utility's or cable corporation's request for
16 state summary criminal history information for purposes of
17 employing current or prospective employees who may be seeking
18 entrance to private residences or adjacent grounds in the course
19 of their employment shall be deemed a "compelling need" as
20 required to be shown in this subdivision.

21 (v) This section shall not be construed as imposing any duty
22 upon public utilities or cable corporations to request state summary
23 criminal history information on any current or prospective
24 employees.

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

29 (C) Requests for federal level criminal history information
30 received by the Department of Justice from entities authorized
31 pursuant to subparagraph (A) shall be forwarded to the Federal
32 Bureau of Investigation by the Department of Justice. Federal level
33 criminal history information received or compiled by the
34 Department of Justice may then be disseminated to the entities
35 referenced in subparagraph (A), as authorized by law.

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

1 (ii) Authority for a public utility to request federal level criminal
2 history information under this paragraph shall commence July 1,
3 2005.

4 (11) To any campus of the California State University or the
5 University of California, or any four year college or university
6 accredited by a regional accreditation organization approved by
7 the United States Department of Education, if needed in
8 conjunction with an application for admission by a convicted felon
9 to any special education program for convicted felons, including,
10 but not limited to, university alternatives and halfway houses. Only
11 conviction information shall be furnished. The college or university
12 may require the convicted felon to be fingerprinted, and any inquiry
13 to the department under this section shall include the convicted
14 felon's fingerprints and any other information specified by the
15 department.

16 (12) To any foreign government, if requested by the individual
17 who is the subject of the record requested, if needed in conjunction
18 with the individual's application to adopt a minor child who is a
19 citizen of that foreign nation. Requests for information pursuant
20 to this paragraph shall be in accordance with the process described
21 in Sections 11122 to 11124, inclusive. The response shall be
22 provided to the foreign government or its designee and to the
23 individual who requested the information.

24 (d) Whenever an authorized request for state summary criminal
25 history information pertains to a person whose fingerprints are on
26 file with the Department of Justice and the department has no
27 criminal history of that person, and the information is to be used
28 for employment, licensing, or certification purposes, the fingerprint
29 card accompanying the request for information, if any, may be
30 stamped "no criminal record" and returned to the person or entity
31 making the request.

32 (e) Whenever state summary criminal history information is
33 furnished as the result of an application and is to be used for
34 employment, licensing, or certification purposes, the Department
35 of Justice may charge the person or entity making the request a
36 fee that it determines to be sufficient to reimburse the department
37 for the cost of furnishing the information. In addition, the
38 Department of Justice may add a surcharge to the fee to fund
39 maintenance and improvements to the systems from which the
40 information is obtained. Notwithstanding any other law, any person

1 or entity required to pay a fee to the department for information
2 received under this section may charge the applicant a fee sufficient
3 to reimburse the person or entity for this expense. All moneys
4 received by the department pursuant to this section, Sections
5 11105.3 and 26190, and former Section 13588 of the Education
6 Code shall be deposited in a special account in the General Fund
7 to be available for expenditure by the department to offset costs
8 incurred pursuant to those sections and for maintenance and
9 improvements to the systems from which the information is
10 obtained upon appropriation by the Legislature.

11 (f) Whenever there is a conflict, the processing of criminal
12 fingerprints and fingerprints of applicants for security guard or
13 alarm agent registrations or firearms qualification permits
14 submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4
15 of the Business and Professions Code shall take priority over the
16 processing of other applicant fingerprints.

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

20 (h) It is not a violation of this section to include information
21 obtained from a record in (1) a transcript or record of a judicial or
22 administrative proceeding or (2) any other public record if the
23 inclusion of the information in the public record is authorized by
24 a court, statute, or decisional law.

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

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

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

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

5 (A) Every conviction rendered against the applicant.

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

10 (C) Every arrest or detention, except for an arrest or detention
11 resulting in an exoneration, provided, however, that where the
12 records of the Department of Justice do not contain a disposition
13 for the arrest, the Department of Justice first makes a genuine effort
14 to determine the disposition of the arrest.

15 (D) Every successful diversion.

16 (E) Every date and agency name associated with all retained
17 peace officer or nonsworn law enforcement agency employee
18 preemployment criminal offender record information search
19 requests.

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

21 (l) (1) This subdivision shall apply whenever state or federal
22 summary criminal history information is furnished by the
23 Department of Justice as the result of an application by a criminal
24 justice agency or organization as defined in Section 13101, and
25 the information is to be used for criminal justice employment,
26 licensing, or certification purposes.

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

31 (A) Every conviction rendered against the applicant.

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

36 (C) Every arrest for an offense for which the records of the
37 Department of Justice do not contain a disposition or did not result
38 in a conviction, provided that the Department of Justice first makes
39 a genuine effort to determine the disposition of the arrest. However,
40 information concerning an arrest shall not be disclosed if the

1 records of the Department of Justice indicate or if the genuine
2 effort reveals that the subject was exonerated, successfully
3 completed a diversion or deferred entry of judgment program, or
4 the arrest was deemed a detention.

5 (D) Every date and agency name associated with all retained
6 peace officer or nonsworn law enforcement agency employee
7 preemployment criminal offender record information search
8 requests.

9 (E) Sex offender registration status of the applicant.

10 (m) (1) This subdivision shall apply whenever state or federal
11 summary criminal history information is furnished by the
12 Department of Justice as the result of an application by an
13 authorized agency or organization pursuant to Section 1522,
14 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
15 any statute that incorporates the criteria of any of those sections
16 or this subdivision by reference, and the information is to be used
17 for employment, licensing, or certification purposes.

18 (2) Notwithstanding any other provision of law, whenever state
19 summary criminal history information is initially furnished
20 pursuant to paragraph (1), the Department of Justice shall
21 disseminate the following information:

22 (A) Every conviction of an offense rendered against the
23 applicant.

24 (B) Every arrest for an offense for which the applicant is
25 presently awaiting trial, whether the applicant is incarcerated or
26 has been released on bail or on his or her own recognizance
27 pending trial.

28 (C) Every arrest for an offense for which the Department of
29 Social Services is required by paragraph (1) of subdivision (a) of
30 Section 1522 of the Health and Safety Code to determine if an
31 applicant has been arrested. However, if the records of the
32 Department of Justice do not contain a disposition for an arrest,
33 the Department of Justice shall first make a genuine effort to
34 determine the disposition of the arrest.

35 (D) Sex offender registration status of the applicant.

36 (3) Notwithstanding the requirements of the sections referenced
37 in paragraph (1) of this subdivision, the Department of Justice
38 shall not disseminate information about an arrest subsequently
39 deemed a detention or an arrest that resulted in either the successful
40 completion of a diversion program or exoneration.

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

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

8 (B) Section 11105.3 or 11105.4.

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

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

13 (2) With the exception of applications submitted by
14 transportation companies authorized pursuant to Section 11105.3,
15 and notwithstanding any other law, whenever state summary
16 criminal history information is initially furnished pursuant to
17 paragraph (1), the Department of Justice shall disseminate the
18 following information:

19 (A) Every conviction rendered against the applicant for a
20 violation or attempted violation of any offense specified in
21 subdivision (a) of Section 15660 of the Welfare and Institutions
22 Code. However, with the exception of those offenses for which
23 registration is required pursuant to Section 290, the Department
24 of Justice shall not disseminate information pursuant to this
25 subdivision unless the conviction occurred within 10 years of the
26 date of the agency's request for information or the conviction is
27 over 10 years old but the subject of the request was incarcerated
28 within 10 years of the agency's request for information.

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

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

35 (o) (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 379 or 550
39 of the Financial Code, or any statute that incorporates the criteria
40 of either of those sections or this subdivision by reference, and the

1 information is to be used for employment, licensing, or certification
2 purposes.

3 (2) Notwithstanding any other law, whenever state summary
4 criminal history information is initially furnished pursuant to
5 paragraph (1), the Department of Justice shall disseminate the
6 following information:

7 (A) Every conviction rendered against the applicant for a
8 violation or attempted violation of any offense specified in Section
9 550 of the Financial Code.

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

15 (p) (1) This subdivision shall apply whenever state or federal
16 criminal history information is furnished by the Department of
17 Justice as the result of an application by an agency, organization,
18 or individual not defined in subdivision (k), (l), (m), (n), or (o), or
19 by a transportation company authorized pursuant to Section
20 11105.3, or any statute that incorporates the criteria of that section
21 or this subdivision by reference, and the information is to be used
22 for employment, licensing, or certification purposes.

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

27 (A) Every conviction rendered against the applicant.

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

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

33 (q) All agencies, organizations, or individuals defined in
34 subdivisions (k), (l), (m), (n), (o), and (p) may contract with the
35 Department of Justice for subsequent notification pursuant to
36 Section 11105.2. This subdivision shall not supersede sections that
37 mandate an agency, organization, or individual to contract with
38 the Department of Justice for subsequent notification pursuant to
39 Section 11105.2.

1 (r) This section does not require the Department of Justice to
2 cease compliance with any other statutory notification
3 requirements.

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

7 (t) Whenever state or federal summary criminal history
8 information is furnished by the Department of Justice as the result
9 of an application by an authorized agency, organization, or
10 individual defined in subdivisions (k) to (p), inclusive, and the
11 information is to be used for employment, licensing, or certification
12 purposes, the authorized agency, organization, or individual shall
13 expeditiously furnish a copy of the information to the person to
14 whom the information relates if the information is a basis for an
15 adverse employment, licensing, or certification decision. When
16 furnished other than in person, the copy shall be delivered to the
17 last contact information provided by the applicant.

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

22 *SEC. 9. Section 1.5 of this bill incorporates amendments to*
23 *Section 8712 of the Family Code proposed by both this bill and*
24 *Assembly Bill 1997. It shall only become operative if (1) both bills*
25 *are enacted and become effective on or before January 1, 2017,*
26 *(2) each bill amends Section 8712 of the Family Code, and (3) this*
27 *bill is enacted after Assembly Bill 1997, in which case Section 1*
28 *of this bill shall not become operative.*

29 ~~SEC. 9.~~

30 *SEC. 10.* No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.

O