

AMENDED IN SENATE AUGUST 19, 2016

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

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**ASSEMBLY BILL**

**No. 1762**

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

February 2, 2016

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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~~ *sealed, except as specified*, 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.

(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

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, county adoption agency, or licensed  
4 adoption agency shall not give final approval for an adoptive  
5 placement in any home in which the prospective adoptive parent  
6 or any adult living in the prospective adoptive home has either of  
7 the following:

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

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

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

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

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

33 8712. (a) (1) The department, county adoption agency, or  
34 licensed adoption agency shall require each person who files an  
35 application for adoption to be fingerprinted and shall secure from  
36 an appropriate law enforcement agency any criminal record of that  
37 person to determine whether the person has ever been convicted  
38 of a crime other than a minor traffic violation. The department,  
39 county adoption agency, or licensed adoption agency may also  
40 secure the person's full criminal record, if any. Any federal-level

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

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

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

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

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

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

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

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

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

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

38 (b) Notwithstanding subdivision (c), the criminal record, if any,  
39 shall be taken into consideration when evaluating the prospective  
40 adoptive parent, and an assessment of the effects of any criminal

1 history on the ability of the prospective adoptive parent to provide  
2 adequate and proper care and guidance to the child shall be  
3 included in the report to the court.

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (d) Any fee charged by a law enforcement agency for  
40 fingerprinting or for checking or obtaining the criminal record of

1 the applicant shall be paid by the applicant. The licensed adoption  
2 agency may defer, waive, or reduce the fee when its payment would  
3 cause economic hardship to the prospective adoptive parents  
4 detrimental to the welfare of the adopted child.

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

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

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

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

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

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

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

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

38 (f) Mistake of fact as to the age of a victim of human trafficking  
39 who is a minor at the time of the commission of the offense is not  
40 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) (1) For any charge, adjudication, or conviction  
 9 for which a human trafficking victim was granted relief under  
 10 Section 236.24 of the Penal Code, the court shall order that all  
 11 records in the case be sealed pursuant to Section ~~851.86~~ and shall  
 12 ~~grant the relief provided in subdivision (b) of Section 851.8-~~  
 13 ~~851.86.~~

14 (2) *Records that have been sealed pursuant to this subdivision*  
 15 *may be accessed, inspected, or utilized by law enforcement for*  
 16 *subsequent investigatory purposes involving persons other than*  
 17 *the defendant.*

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

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

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

33 (2) The human trafficking victim may not be denied rights or  
 34 benefits, including, without limitation, employment, housing,  
 35 financial aid, welfare, or a loan or other financial accommodation,  
 36 based on the arrest, charge, adjudication, or conviction or the  
 37 victim’s failure or refusal to disclose the existence of or information  
 38 concerning those events.

39 (3) The human trafficking victim may not be thereafter charged  
 40 or convicted of perjury or otherwise of giving a false statement by

1 reason of having failed to disclose or acknowledge the existence  
2 of the charge, adjudication, or conviction, or any arrest, charge,  
3 indictment, trial, or other proceedings related thereto.

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

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

6 11105. (a) (1) The Department of Justice shall maintain state  
7 summary criminal history information.

8 (2) As used in this section:

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

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

21 (b) The Attorney General shall furnish state summary criminal  
22 history information to any of the following, if needed in the course  
23 of their duties, provided that when information is furnished to  
24 assist an agency, officer, or official of state or local government,  
25 a public utility, or any other entity, in fulfilling employment,  
26 certification, or licensing duties, Chapter 1321 of the Statutes of  
27 1974 and Section 432.7 of the Labor Code shall apply:

28 (1) The courts of the state.

29 (2) Peace officers of the state, as defined in Section 830.1,  
30 subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section  
31 830.3, subdivision (a) of Section 830.31, and subdivisions (a) and  
32 (b) of Section 830.5.

33 (3) District attorneys of the state.

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

35 (5) City attorneys pursuing civil gang injunctions pursuant to  
36 Section 186.22a, or drug abatement actions pursuant to Section  
37 3479 or 3480 of the Civil Code, or Section 11571 of the Health  
38 and Safety Code.

39 (6) Probation officers of the state.

40 (7) Parole officers of the state.

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

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

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

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

35 (12) The subject of the state summary criminal history  
36 information under procedures established under Article 5  
37 (commencing with Section 11120).

38 (13) Any person or entity when access is expressly authorized  
39 by statute if the criminal history information is required to  
40 implement a statute or regulation that expressly refers to specific

1 criminal conduct applicable to the subject person of the state  
2 summary criminal history information, and contains requirements  
3 or exclusions, or both, expressly based upon that specified criminal  
4 conduct.

5 (14) Health officers of a city, county, city and county, or district  
6 when in the performance of their official duties enforcing Section  
7 120175 of the Health and Safety Code.

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

10 (16) Any humane society, or society for the prevention of cruelty  
11 to animals, for the specific purpose of complying with Section  
12 14502 of the Corporations Code for the appointment of humane  
13 officers.

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

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

35 (19) The court of a tribe, or court of a consortium of tribes, that  
36 has entered into an agreement with the state pursuant to Section  
37 10553.1 of the Welfare and Institutions Code. This information  
38 may be used only for the purposes specified in Section 16504.5  
39 of the Welfare and Institutions Code and for tribal approval or  
40 tribal licensing of foster care or adoptive homes. Article 6

1 (commencing with Section 11140) shall apply to officers, members,  
2 and employees of a tribal court receiving criminal record offender  
3 information pursuant to this section.

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

18 (21) An officer providing conservatorship investigations  
19 pursuant to Sections 5351, 5354, and 5356 of the Welfare and  
20 Institutions Code.

21 (22) A court investigator providing investigations or reviews  
22 in conservatorships pursuant to Section 1826, 1850, 1851, or  
23 2250.6 of the Probate Code.

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

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

28 (25) A public agency described in subdivision (b) of Section  
29 15975 of the Government Code, for the purpose of oversight and  
30 enforcement policies with respect to its contracted providers.

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

- 1 (1) Any public utility, as defined in Section 216 of the Public  
2 Utilities Code, that operates a nuclear energy facility when access  
3 is needed in order to assist in employing persons to work at the  
4 facility, provided that, if the Attorney General supplies the data,  
5 he or she shall furnish a copy of the data to the person to whom  
6 the data relates.
- 7 (2) To a peace officer of the state other than those included in  
8 subdivision (b).
- 9 (3) To an illegal dumping enforcement officer as defined in  
10 subdivision (j) of Section 830.7.
- 11 (4) To a peace officer of another country.
- 12 (5) To public officers, other than peace officers, of the United  
13 States, other states, or possessions or territories of the United  
14 States, provided that access to records similar to state summary  
15 criminal history information is expressly authorized by a statute  
16 of the United States, other states, or possessions or territories of  
17 the United States if the information is needed for the performance  
18 of their official duties.
- 19 (6) To any person when disclosure is requested by a probation,  
20 parole, or peace officer with the consent of the subject of the state  
21 summary criminal history information and for purposes of  
22 furthering the rehabilitation of the subject.
- 23 (7) The courts of the United States, other states, or territories  
24 or possessions of the United States.
- 25 (8) Peace officers of the United States, other states, or territories  
26 or possessions of the United States.
- 27 (9) To any individual who is the subject of the record requested  
28 if needed in conjunction with an application to enter the United  
29 States or any foreign nation.
- 30 (10) (A) (i) Any public utility, as defined in Section 216 of the  
31 Public Utilities Code, or any cable corporation as defined in  
32 subparagraph (B), if receipt of criminal history information is  
33 needed in order to assist in employing current or prospective  
34 employees, contract employees, or subcontract employees who,  
35 in the course of their employment, may be seeking entrance to  
36 private residences or adjacent grounds. The information provided  
37 shall be limited to the record of convictions and any arrest for  
38 which the person is released on bail or on his or her own  
39 recognizance pending trial.

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

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

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

26 (v) This section shall not be construed as imposing any duty  
27 upon public utilities or cable corporations to request state summary  
28 criminal history information on any current or prospective  
29 employees.

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

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

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

4 (ii) Authority for a public utility to request federal level criminal  
5 history information under this paragraph shall commence July 1,  
6 2005.

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

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

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

35 (e) Whenever state summary criminal history information is  
36 furnished as the result of an application and is to be used for  
37 employment, licensing, or certification purposes, the Department  
38 of Justice may charge the person or entity making the request a  
39 fee that it determines to be sufficient to reimburse the department  
40 for the cost of furnishing the information. In addition, the

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

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

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

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

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

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

36 (k) (1) This subdivision applies if state or federal summary  
37 criminal history information is furnished by the Department of  
38 Justice as the result of an application by an authorized agency or  
39 organization and the information is to be used for peace officer  
40 employment or certification purposes. As used in this subdivision,

1 a peace officer is defined in Chapter 4.5 (commencing with Section  
2 830) of Title 3 of Part 2.

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.

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

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

17 (D) Every successful diversion.

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

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

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

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

33 (A) Every conviction rendered against the applicant.

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

38 (C) Every arrest for an offense for which the records of the  
39 Department of Justice do not contain a disposition or did not result  
40 in a conviction, provided that the Department of Justice first makes

1 a genuine effort to determine the disposition of the arrest. However,  
2 information concerning an arrest shall not be disclosed if the  
3 records of the Department of Justice indicate or if the genuine  
4 effort reveals that the subject was exonerated, successfully  
5 completed a diversion or deferred entry of judgment program, or  
6 the arrest was deemed a detention.

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

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

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

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

24 (A) Every conviction of an offense rendered against the  
25 applicant.

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

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

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

38 (3) Notwithstanding the requirements of the sections referenced  
39 in paragraph (1) of this subdivision, the Department of Justice  
40 shall not disseminate information about an arrest subsequently

1 deemed a detention or an arrest that resulted in either the successful  
2 completion of a diversion program or exoneration.

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

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

10 (B) Section 11105.3 or 11105.4.

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

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

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

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

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

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

37 (o) (1) This subdivision shall apply whenever state or federal  
38 summary criminal history information is furnished by the  
39 Department of Justice as the result of an application by an  
40 authorized agency or organization pursuant to Section 379 or 550

1 of the Financial Code, or any statute that incorporates the criteria  
2 of either of those sections or this subdivision by reference, and the  
3 information is to be used for employment, licensing, or certification  
4 purposes.

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

9 (A) Every conviction rendered against the applicant for a  
10 violation or attempted violation of any offense specified in Section  
11 550 of the Financial Code.

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

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

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

29 (A) Every conviction rendered against the applicant.

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

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

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

1 the Department of Justice for subsequent notification pursuant to  
2 Section 11105.2.

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

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

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

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

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

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

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

O