

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1443

Introduced by Senator Galgiani

February 19, 2016

An act to amend Section ~~38570~~ of the Health and Safety Code, 56.10 of the Civil Code, and to amend Sections 2601 and 3003 of, and to add Section 5073 to, the Penal Code, relating to ~~greenhouse gases; incarcerated persons.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1443, as amended, Galgiani. ~~California Global Warming Solutions Act of 2006; market-based compliance mechanisms. Incarcerated persons; health records.~~

(1) Existing law, the Confidentiality of Medical Information Act, prohibits a health care provider, a contractor, or a health care service plan from disclosing medical information, as defined, regarding a patient of the provider or an enrollee or subscriber of the health care service plan without first obtaining an authorization, except as specified. Existing law authorizes a provider of health care or a health care service plan to disclose medical information when, among other things, the information is disclosed to an insurer, employer, health care service plan, hospital service plan, employee benefit plan, governmental authority, contractor, or other person or entity responsible for paying for health care services rendered to the patient, to the extent necessary to allow responsibility for payment to be determined and payment to be made.

This bill would additionally authorize the disclosure of information between a county correctional facility, a county medical facility, a state correctional facility, or a state hospital to ensure the continuity of health

care of an inmate being transferred among those facilities. The bill would also authorize the disclosure and exchange of information by a county correctional facility, a county medical facility, a state correctional facility, or a state hospital to a contracted licensed mental health provider performing a forensic evaluation of an offender or a mentally disordered offender (MDO) or a sexually violent predator (SVP) screening of an offender.

(2) Existing law provides for certain civil rights that are retained by prisoners, including, among others, to correspond, confidentially, with any member of the State Bar or holder of public office, provided that the prison authorities may open and inspect incoming mail to search for contraband.

This bill would expressly state that those rights include, subject to the bill's provisions relating to the disclosure of medical information described above, all privacy rights legally applicable to inmates.

(3) Existing law generally requires that an inmate released on parole or postrelease community supervision be returned to the county of last legal residence. Existing law requires the Department of Corrections and Rehabilitation to electronically transmit to specified county agencies an inmate's tuberculosis status, specific medical, mental health, and outpatient clinic needs, and any medical concerns or disabilities for the county to consider as the offender transitions onto postrelease community supervision for the purpose of identifying the medical and mental health needs of the individual. Existing law requires those transmissions to the county agencies to be in compliance with applicable provisions of federal law.

This bill would delete the electronic transmission requirement described above and instead would require, when jurisdiction of an inmate is transferred from or among the Department of Corrections and Rehabilitation, the State Department of State Hospitals, and county agencies caring for inmates, those agencies to disclose, by electronic transmission when possible, medical, dental, and mental health information regarding each transferred or released inmate, as provided by the bill's provisions. By imposing additional duties on county agencies, the bill would impose a state-mandated local program.

The bill would authorize the sharing of an inmate's health information, as necessary for continuity of care, when an inmate is transferred between or among a state prison, a fire camp operated by the Department of Corrections and Rehabilitation, a state hospital, a county correctional facility, or a county medical facility providing

medical or mental health services to offenders. The bill would require, when an inmate is being released by the Department of Corrections and Rehabilitation to postrelease community supervision, or is being retained in custody at a county or local jail, or county officials will otherwise have responsibility for the inmate's ongoing health care needs, the department to disclose the inmate's health information, as necessary for continuity of care, to the applicable county agency. The bill would provide that the medical, dental, and mental health information to be disclosed among the Department of Corrections and Rehabilitation, the State Department of State Hospitals, and county agencies is limited to the type and amount of information that is determined by licensed medical providers, as a matter of general policy or on a case-by-case basis, to be necessary for continuity of care or to perform a mandatory offender screening, such as an MDO screening or an SVP screening. The bill would authorize that information to be disclosed either as already maintained in existing medical records or as compiled for the purpose of the disclosure, and would authorize that information to include, among other things, medical history, physical information, and public health information. The bill would require all transmissions made pursuant to these provisions to comply with specified provisions of state and federal law, including, among others, the Confidentiality of Medical Information Act.

(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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020. The act authorizes the state board to include the use of market-based compliance mechanisms.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

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

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

1 SECTION 1. Section 56.10 of the Civil Code is amended to
2 read:

3 56.10. (a) A provider of health care, health care service plan,
4 or contractor shall not disclose medical information regarding a
5 patient of the provider of health care or an enrollee or subscriber
6 of a health care service plan without first obtaining an
7 authorization, except as provided in subdivision (b) or (c).

8 (b) A provider of health care, a health care service plan, or a
9 contractor shall disclose medical information if the disclosure is
10 compelled by any of the following:

11 (1) By a court ~~pursuant to an order of that court.~~ *order.*

12 (2) By a board, commission, or administrative agency for
13 purposes of adjudication pursuant to its lawful authority.

14 (3) By a party to a proceeding before a court or administrative
15 agency pursuant to a subpoena, subpoena duces tecum, notice to
16 appear served pursuant to Section 1987 of the Code of Civil
17 Procedure, or any provision authorizing discovery in a proceeding
18 before a court or administrative agency.

19 (4) By a board, commission, or administrative agency pursuant
20 to an investigative subpoena issued under Article 2 (commencing
21 with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title
22 2 of the Government Code.

23 (5) By an arbitrator or arbitration panel, when arbitration is
24 lawfully requested by either party, pursuant to a subpoena duces
25 tecum issued under Section 1282.6 of the Code of Civil Procedure,
26 or another provision authorizing discovery in a proceeding before
27 an arbitrator or arbitration panel.

28 (6) By a search warrant lawfully issued to a governmental law
29 enforcement agency.

30 (7) By the patient or the patient’s representative pursuant to
31 Chapter 1 (commencing with Section 123100) of Part 1 of Division
32 106 of the Health and Safety Code.

33 (8) By a coroner, when requested in the course of an
34 investigation by the coroner’s office for the purpose of identifying
35 the decedent or locating next of kin, or when investigating deaths

1 that may involve public health concerns, organ or tissue donation,
2 child abuse, elder abuse, suicides, poisonings, accidents, sudden
3 infant deaths, suspicious deaths, unknown deaths, or criminal
4 deaths, or upon notification of, or investigation of, imminent deaths
5 that may involve organ or tissue donation pursuant to Section
6 7151.15 of the Health and Safety Code, or when otherwise
7 authorized by the decedent's representative. Medical information
8 requested by the coroner under this paragraph shall be limited to
9 information regarding the patient who is the decedent and who is
10 the subject of the investigation or who is the prospective donor
11 and shall be disclosed to the coroner without delay upon request.

12 (9) When otherwise specifically required by law.

13 (c) A provider of health care or a health care service plan may
14 disclose medical information as follows:

15 (1) The information may be disclosed to providers of health
16 care, health care service plans, contractors, or other health care
17 professionals or facilities for purposes of diagnosis or treatment
18 of the patient. This includes, in an emergency situation, the
19 communication of patient information by radio transmission or
20 other means between emergency medical personnel at the scene
21 of an emergency, or in an emergency medical transport vehicle,
22 and emergency medical personnel at a health facility licensed
23 pursuant to Chapter 2 (commencing with Section 1250) of Division
24 2 of the Health and Safety Code.

25 (2) The information may be disclosed to an insurer, employer,
26 health care service plan, hospital service plan, employee benefit
27 plan, governmental authority, contractor, or other person or entity
28 responsible for paying for health care services rendered to the
29 patient, to the extent necessary to allow responsibility for payment
30 to be determined and payment to be made. If (A) the patient is, by
31 reason of a comatose or other disabling medical condition, unable
32 to consent to the disclosure of medical information and (B) no
33 other arrangements have been made to pay for the health care
34 services being rendered to the patient, the information may be
35 disclosed to a governmental authority to the extent necessary to
36 determine the patient's eligibility for, and to obtain, payment under
37 a governmental program for health care services provided to the
38 patient. The information may also be disclosed to another provider
39 of health care or health care service plan as necessary to assist the
40 other provider or health care service plan in obtaining payment

1 for health care services rendered by that provider of health care or
2 health care service plan to the patient.

3 (3) The information may be disclosed to a person or entity that
4 provides billing, claims management, medical data processing, or
5 other administrative services for providers of health care or health
6 care service plans or for any of the persons or entities specified in
7 paragraph (2). However, information so disclosed shall not be
8 further disclosed by the recipient in a way that would violate this
9 part.

10 (4) The information may be disclosed to organized committees
11 and agents of professional societies or of medical staffs of licensed
12 hospitals, licensed health care service plans, professional standards
13 review organizations, independent medical review organizations
14 and their selected reviewers, utilization and quality control peer
15 review organizations as established by Congress in Public Law
16 97-248 in 1982, contractors, or persons or organizations insuring,
17 responsible for, or defending professional liability that a provider
18 may incur, if the committees, agents, health care service plans,
19 organizations, reviewers, contractors, or persons are engaged in
20 reviewing the competence or qualifications of health care
21 professionals or in reviewing health care services with respect to
22 medical necessity, level of care, quality of care, or justification of
23 charges.

24 (5) The information in the possession of a provider of health
25 care or health care service plan may be reviewed by a private or
26 public body responsible for licensing or accrediting the provider
27 of health care or health care service plan. However, no
28 patient-identifying medical information may be removed from the
29 premises except as expressly permitted or required elsewhere by
30 law, nor shall that information be further disclosed by the recipient
31 in a way that would violate this part.

32 (6) The information may be disclosed to the county coroner in
33 the course of an investigation by the coroner's office when
34 requested for all purposes not included in paragraph (8) of
35 subdivision (b).

36 (7) The information may be disclosed to public agencies, clinical
37 investigators, including investigators conducting epidemiologic
38 studies, health care research organizations, and accredited public
39 or private nonprofit educational or health care institutions for bona
40 fide research purposes. However, no information so disclosed shall

1 be further disclosed by the recipient in a way that would disclose
2 the identity of a patient or violate this part.

3 (8) A provider of health care or health care service plan that has
4 created medical information as a result of employment-related
5 health care services to an employee conducted at the specific prior
6 written request and expense of the employer may disclose to the
7 employee's employer that part of the information that:

8 (A) Is relevant in a lawsuit, arbitration, grievance, or other claim
9 or challenge to which the employer and the employee are parties
10 and in which the patient has placed in issue his or her medical
11 history, mental or physical condition, or treatment, provided that
12 information may only be used or disclosed in connection with that
13 proceeding.

14 (B) Describes functional limitations of the patient that may
15 entitle the patient to leave from work for medical reasons or limit
16 the patient's fitness to perform his or her present employment,
17 provided that no statement of medical cause is included in the
18 information disclosed.

19 (9) Unless the provider of health care or a health care service
20 plan is notified in writing of an agreement by the sponsor, insurer,
21 or administrator to the contrary, the information may be disclosed
22 to a sponsor, insurer, or administrator of a group or individual
23 insured or uninsured plan or policy that the patient seeks coverage
24 by or benefits from, if the information was created by the provider
25 of health care or health care service plan as the result of services
26 conducted at the specific prior written request and expense of the
27 sponsor, insurer, or administrator for the purpose of evaluating the
28 application for coverage or benefits.

29 (10) The information may be disclosed to a health care service
30 plan by providers of health care that contract with the health care
31 service plan and may be transferred among providers of health
32 care that contract with the health care service plan, for the purpose
33 of administering the health care service plan. Medical information
34 shall not otherwise be disclosed by a health care service plan except
35 in accordance with this part.

36 (11) This part does not prevent the disclosure by a provider of
37 health care or a health care service plan to an insurance institution,
38 agent, or support organization, subject to Article 6.6 (commencing
39 with Section 791) of Chapter 1 of Part 2 of Division 1 of the
40 Insurance Code, of medical information if the insurance institution,

1 agent, or support organization has complied with all of the
2 requirements for obtaining the information pursuant to Article 6.6
3 (commencing with Section 791) of Chapter 1 of Part 2 of Division
4 1 of the Insurance Code.

5 (12) The information relevant to the patient's condition, care,
6 and treatment provided may be disclosed to a probate court
7 investigator in the course of an investigation required or authorized
8 in a conservatorship proceeding under the
9 Guardianship-Conservatorship Law as defined in Section 1400 of
10 the Probate Code, or to a probate court investigator, probation
11 officer, or domestic relations investigator engaged in determining
12 the need for an initial guardianship or continuation of an existing
13 guardianship.

14 (13) The information may be disclosed to an organ procurement
15 organization or a tissue bank processing the tissue of a decedent
16 for transplantation into the body of another person, but only with
17 respect to the donating decedent, for the purpose of aiding the
18 transplant. For the purpose of this paragraph, "tissue bank" and
19 "tissue" have the same meanings as defined in Section 1635 of the
20 Health and Safety Code.

21 (14) The information may be disclosed when the disclosure is
22 otherwise specifically authorized by law, including, but not limited
23 to, the voluntary reporting, either directly or indirectly, to the
24 federal Food and Drug Administration of adverse events related
25 to drug products or medical device problems, or to disclosures
26 made pursuant to subdivisions (b) and (c) of Section 11167 of the
27 Penal Code by a person making a report pursuant to Sections
28 11165.9 and 11166 of the Penal Code, provided that those
29 disclosures concern a report made by that person.

30 (15) Basic information, including the patient's name, city of
31 residence, age, sex, and general condition, may be disclosed to a
32 state-recognized or federally recognized disaster relief organization
33 for the purpose of responding to disaster welfare inquiries.

34 (16) The information may be disclosed to a third party for
35 purposes of encoding, encrypting, or otherwise anonymizing data.
36 However, no information so disclosed shall be further disclosed
37 by the recipient in a way that would violate this part, including the
38 unauthorized manipulation of coded or encrypted medical
39 information that reveals individually identifiable medical
40 information.

1 (17) For purposes of disease management programs and services
2 as defined in Section 1399.901 of the Health and Safety Code,
3 information may be disclosed as follows: (A) to an entity
4 contracting with a health care service plan or the health care service
5 plan's contractors to monitor or administer care of enrollees for a
6 covered benefit, if the disease management services and care are
7 authorized by a treating physician, or (B) to a disease management
8 organization, as defined in Section 1399.900 of the Health and
9 Safety Code, that complies fully with the physician authorization
10 requirements of Section 1399.902 of the Health and Safety Code,
11 if the health care service plan or its contractor provides or has
12 provided a description of the disease management services to a
13 treating physician or to the health care service plan's or contractor's
14 network of physicians. This paragraph does not require physician
15 authorization for the care or treatment of the adherents of a
16 well-recognized church or religious denomination who depend
17 solely upon prayer or spiritual means for healing in the practice
18 of the religion of that church or denomination.

19 (18) The information may be disclosed, as permitted by state
20 and federal law or regulation, to a local health department for the
21 purpose of preventing or controlling disease, injury, or disability,
22 including, but not limited to, the reporting of disease, injury, vital
23 events, including, but not limited to, birth or death, and the conduct
24 of public health surveillance, public health investigations, and
25 public health interventions, as authorized or required by state or
26 federal law or regulation.

27 (19) The information may be disclosed, consistent with
28 applicable law and standards of ethical conduct, by a
29 psychotherapist, as defined in Section 1010 of the Evidence Code,
30 if the psychotherapist, in good faith, believes the disclosure is
31 necessary to prevent or lessen a serious and imminent threat to the
32 health or safety of a reasonably foreseeable victim or victims, and
33 the disclosure is made to a person or persons reasonably able to
34 prevent or lessen the threat, including the target of the threat.

35 (20) The information may be disclosed as described in Section
36 56.103.

37 (21) (A) The information may be disclosed to an employee
38 welfare benefit plan, as defined under Section 3(1) of the Employee
39 Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1002(1)),
40 which is formed under Section 302(c)(5) of the Taft-Hartley Act

1 (29 U.S.C. Sec. 186(c)(5)), to the extent that the employee welfare
2 benefit plan provides medical care, and may also be disclosed to
3 an entity contracting with the employee welfare benefit plan for
4 billing, claims management, medical data processing, or other
5 administrative services related to the provision of medical care to
6 persons enrolled in the employee welfare benefit plan for health
7 care coverage, if all of the following conditions are met:

8 (i) The disclosure is for the purpose of determining eligibility,
9 coordinating benefits, or allowing the employee welfare benefit
10 plan or the contracting entity to advocate on the behalf of a patient
11 or enrollee with a provider, a health care service plan, or a state
12 or federal regulatory agency.

13 (ii) The request for the information is accompanied by a written
14 authorization for the release of the information submitted in a
15 manner consistent with subdivision (a) and Section 56.11.

16 (iii) The disclosure is authorized by and made in a manner
17 consistent with the Health Insurance Portability and Accountability
18 Act of 1996 (Public Law 104-191).

19 (iv) Any information disclosed is not further used or disclosed
20 by the recipient in any way that would directly or indirectly violate
21 this part or the restrictions imposed by Part 164 of Title 45 of the
22 Code of Federal Regulations, including the manipulation of the
23 information in any way that might reveal individually identifiable
24 medical information.

25 (B) For purposes of this paragraph, Section 1374.8 of the Health
26 and Safety Code shall not apply.

27 (22) Information may be disclosed pursuant to subdivision (a)
28 of Section 15633.5 of the Welfare and Institutions Code by a person
29 required to make a report pursuant to Section 15630 of the Welfare
30 and Institutions Code, provided that the disclosure under
31 subdivision (a) of Section 15633.5 concerns a report made by that
32 person. Covered entities, as they are defined in Section 160.103
33 of Title 45 of the Code of Federal Regulations, shall comply with
34 the requirements of the Health Insurance Portability and
35 Accountability Act (HIPAA) privacy rule pursuant to subsection
36 (c) of Section 164.512 of Title 45 of the Code of Federal
37 Regulations if the disclosure is not for the purpose of public health
38 surveillance, investigation, intervention, or reporting an injury or
39 death.

1 (23) Information may be disclosed among a county correctional
2 facility, a county medical facility, a state correctional facility, or
3 a state hospital to ensure the continuity of health care of an inmate
4 being transferred among those facilities.

5 (24) Information may be disclosed and exchanged by a county
6 correctional facility, a county medical facility, a state correctional
7 facility, or a state hospital to a contracted licensed mental health
8 provider performing a forensic evaluation of an offender or a
9 mentally disordered offender (MDO) or sexually violent predator
10 (SVP) screening of an offender.

11 (d) Except to the extent expressly authorized by a patient,
12 enrollee, or subscriber, or as provided by subdivisions (b) and (c),
13 a provider of health care, health care service plan, contractor, or
14 corporation and its subsidiaries and affiliates shall not intentionally
15 share, sell, use for marketing, or otherwise use medical information
16 for a purpose not necessary to provide health care services to the
17 patient.

18 (e) Except to the extent expressly authorized by a patient or
19 enrollee or subscriber or as provided by subdivisions (b) and (c),
20 a contractor or corporation and its subsidiaries and affiliates shall
21 not further disclose medical information regarding a patient of the
22 provider of health care or an enrollee or subscriber of a health care
23 service plan or insurer or self-insured employer received under
24 this section to a person or entity that is not engaged in providing
25 direct health care services to the patient or his or her provider of
26 health care or health care service plan or insurer or self-insured
27 employer.

28 *SEC. 2. Section 2601 of the Penal Code is amended to read:*

29 2601. Subject only to the provisions of that section, each person
30 described in Section 2600 shall have the following civil rights:

31 (a) Except as provided in Section 2225 of the Civil Code, to
32 inherit, own, sell, or convey real or personal property, including
33 all written and artistic material produced or created by the person
34 during the period of imprisonment. However, to the extent
35 authorized in Section 2600, the Department of Corrections may
36 restrict or prohibit sales or conveyances that are made for business
37 purposes.

38 (b) To correspond, confidentially, with any member of the State
39 Bar or holder of public office, provided that the prison authorities
40 may open and inspect incoming mail to search for contraband.

1 (c) Subject to paragraphs (23) and (24) of subdivision (c) of
 2 Section 56.10 of the Civil Code, as those paragraphs relate to
 3 medically necessary sharing of personal medical and mental health
 4 information to further the continuity of care for offenders, to all
 5 privacy rights legally applicable to inmates.

6 ~~(e)~~

7 (d) (1) To purchase, receive, and read any and all newspapers,
 8 periodicals, and books accepted for distribution by the United
 9 States Post Office. Pursuant to this section, prison authorities may
 10 exclude any of the following matter:

11 (A) Obscene publications or writings, and mail containing
 12 information concerning where, how, or from whom this matter
 13 may be obtained.

14 (B) Any matter of a character tending to incite murder, arson,
 15 riot, violent racism, or any other form of violence.

16 (C) Any matter concerning gambling or a lottery.

17 (2) Nothing in this section shall be construed as limiting the
 18 right of prison authorities to do the following:

19 (A) Open and inspect any and all packages received by an
 20 inmate.

21 (B) Establish reasonable restrictions as to the number of
 22 newspapers, magazines, and books that the inmate may have in
 23 his or her cell or elsewhere in the prison at one time.

24 ~~(d)~~

25 (e) To initiate civil actions, subject to a three dollar (\$3) filing
 26 fee to be collected by the Department of Corrections, in addition
 27 to any other filing fee authorized by law, and subject to Title 3a
 28 (commencing with Section 391) of the Code of Civil Procedure.

29 ~~(e)~~

30 (f) To marry.

31 ~~(f)~~

32 (g) To create a power of appointment.

33 ~~(g)~~

34 (h) To make a will.

35 ~~(h)~~

36 (i) To receive all benefits provided for in Sections 3370 and
 37 3371 of the Labor Code and in Section 5069.

38 *SEC. 3. Section 3003 of the Penal Code is amended to read:*

39 3003. (a) Except as otherwise provided in this section, an
 40 inmate who is released on parole or postrelease supervision as

1 provided by Title 2.05 (commencing with Section 3450) shall be
2 returned to the county that was the last legal residence of the inmate
3 prior to his or her incarceration. For purposes of this subdivision,
4 “last legal residence” shall not be construed to mean the county
5 wherein the inmate committed an offense while confined in a state
6 prison or local jail facility or while confined for treatment in a
7 state hospital.

8 (b) Notwithstanding subdivision (a), an inmate may be returned
9 to another county if that would be in the best interests of the public.
10 If the Board of Parole Hearings setting the conditions of parole
11 for inmates sentenced pursuant to subdivision (b) of Section 1168,
12 as determined by the parole consideration panel, or the Department
13 of Corrections and Rehabilitation setting the conditions of parole
14 for inmates sentenced pursuant to Section 1170, decides on a return
15 to another county, it shall place its reasons in writing in the
16 parolee’s permanent record and include these reasons in the notice
17 to the sheriff or chief of police pursuant to Section 3058.6. In
18 making its decision, the paroling authority shall consider, among
19 others, the following factors, giving the greatest weight to the
20 protection of the victim and the safety of the community:

21 (1) The need to protect the life or safety of a victim, the parolee,
22 a witness, or any other person.

23 (2) Public concern that would reduce the chance that the
24 inmate’s parole would be successfully completed.

25 (3) The verified existence of a work offer, or an educational or
26 vocational training program.

27 (4) The existence of family in another county with whom the
28 inmate has maintained strong ties and whose support would
29 increase the chance that the inmate’s parole would be successfully
30 completed.

31 (5) The lack of necessary outpatient treatment programs for
32 parolees receiving treatment pursuant to Section 2960.

33 (c) The Department of Corrections and Rehabilitation, in
34 determining an out-of-county commitment, shall give priority to
35 the safety of the community and any witnesses and victims.

36 (d) In making its decision about an inmate who participated in
37 a joint venture program pursuant to Article 1.5 (commencing with
38 Section 2717.1) of Chapter 5, the paroling authority shall give
39 serious consideration to releasing him or her to the county where
40 the joint venture program employer is located if that employer

1 states to the paroling authority that he or she intends to employ
2 the inmate upon release.

3 (e) (1) The following information, if available, shall be released
4 by the Department of Corrections and Rehabilitation to local law
5 enforcement agencies regarding a paroled inmate or inmate placed
6 on postrelease community supervision pursuant to Title 2.05
7 (commencing with Section 3450) who is released in their
8 jurisdictions:

9 (A) Last, first, and middle names.

10 (B) Birth date.

11 (C) Sex, race, height, weight, and hair and eye color.

12 (D) Date of parole or placement on postrelease community
13 supervision and discharge.

14 (E) Registration status, if the inmate is required to register as a
15 result of a controlled substance, sex, or arson offense.

16 (F) California Criminal Information Number, FBI number, social
17 security number, and driver's license number.

18 (G) County of commitment.

19 (H) A description of scars, marks, and tattoos on the inmate.

20 (I) Offense or offenses for which the inmate was convicted that
21 resulted in parole or postrelease community supervision in this
22 instance.

23 (J) Address, including all of the following information:

24 (i) Street name and number. Post office box numbers are not
25 acceptable for purposes of this subparagraph.

26 (ii) City and ZIP Code.

27 (iii) Date that the address provided pursuant to this subparagraph
28 was proposed to be effective.

29 (K) Contact officer and unit, including all of the following
30 information:

31 (i) Name and telephone number of each contact officer.

32 (ii) Contact unit type of each contact officer such as units
33 responsible for parole, registration, or county probation.

34 (L) A digitized image of the photograph and at least a single
35 digit fingerprint of the parolee.

36 (M) A geographic coordinate for the inmate's residence location
37 for use with a Geographical Information System (GIS) or
38 comparable computer program.

39 ~~(2) Unless the information is unavailable, the Department of~~
40 ~~Corrections and Rehabilitation shall electronically transmit to the~~

1 county agency identified in subdivision (a) of Section 3451 the
2 inmate's tuberculosis status, specific medical, mental health, and
3 outpatient clinic needs, and any medical concerns or disabilities
4 for the county to consider as the offender transitions onto
5 postrelease community supervision pursuant to Section 3450, for
6 the purpose of identifying the medical and mental health needs of
7 the individual. All transmissions to the county agency shall be in
8 compliance with applicable provisions of the federal Health
9 Insurance Portability and Accountability Act of 1996 (HIPAA)
10 (Public Law 104-191), the federal Health Information Technology
11 for Clinical Health Act (HITECH) (Public Law 111-005), and the
12 implementing of privacy and security regulations in Parts 160 and
13 164 of Title 45 of the Code of Federal Regulations. This paragraph
14 shall not take effect until the Secretary of the United States
15 Department of Health and Human Services, or his or her designee,
16 determines that this provision is not preempted by HIPAA.

17 ~~(3) Except for the information required by paragraph (2), the~~
18 (2) *The* information required by this subdivision shall come
19 from the statewide parolee database. The information obtained
20 from each source shall be based on the same timeframe.

21 ~~(4)~~
22 (3) All of the information required by this subdivision shall be
23 provided utilizing a computer-to-computer transfer in a format
24 usable by a desktop computer system. The transfer of this
25 information shall be continually available to local law enforcement
26 agencies upon request.

27 ~~(5)~~
28 (4) The unauthorized release or receipt of the information
29 described in this subdivision is a violation of Section 11143.

30 (f) Notwithstanding any other law, an inmate who is released
31 on parole shall not be returned to a location within 35 miles of the
32 actual residence of a victim of, or a witness to, a violent felony as
33 defined in paragraphs (1) to (7), inclusive, and paragraph (16) of
34 subdivision (c) of Section 667.5 or a felony in which the defendant
35 inflicts great bodily injury on a person other than an accomplice
36 that has been charged and proved as provided for in Section
37 12022.53, 12022.7, or 12022.9, if the victim or witness has
38 requested additional distance in the placement of the inmate on
39 parole, and if the Board of Parole Hearings or the Department of

1 Corrections and Rehabilitation finds that there is a need to protect
2 the life, safety, or well-being of a victim or witness.

3 (g) Notwithstanding any other law, an inmate who is released
4 on parole for a violation of Section 288 or 288.5 whom the
5 Department of Corrections and Rehabilitation determines poses a
6 high risk to the public shall not be placed or reside, for the duration
7 of his or her parole, within one-half mile of a public or private
8 school including any or all of kindergarten and grades 1 to 12,
9 inclusive.

10 (h) Notwithstanding any other law, an inmate who is released
11 on parole or postrelease community supervision for a stalking
12 offense shall not be returned to a location within 35 miles of the
13 victim's actual residence or place of employment if the victim or
14 witness has requested additional distance in the placement of the
15 inmate on parole or postrelease community supervision, and if the
16 Board of Parole Hearings or the Department of Corrections and
17 Rehabilitation, or the supervising county agency, as applicable,
18 finds that there is a need to protect the life, safety, or well-being
19 of the victim. If an inmate who is released on postrelease
20 community supervision cannot be placed in his or her county of
21 last legal residence in compliance with this subdivision, the
22 supervising county agency may transfer the inmate to another
23 county upon approval of the receiving county.

24 (i) The authority shall give consideration to the equitable
25 distribution of parolees and the proportion of out-of-county
26 commitments from a county compared to the number of
27 commitments from that county when making parole decisions.

28 (j) An inmate may be paroled to another state pursuant to any
29 other law. The Department of Corrections and Rehabilitation shall
30 coordinate with local entities regarding the placement of inmates
31 placed out of state on postrelease community supervision pursuant
32 to Title 2.05 (commencing with Section 3450).

33 (k) (1) ~~Except as provided in paragraph (2), the~~ *The* Department
34 of Corrections and Rehabilitation shall be the agency primarily
35 responsible for, and shall have control over, the program, resources,
36 and staff implementing the Law Enforcement Automated Data
37 System (LEADS) in conformance with subdivision (e). County
38 agencies supervising inmates released to postrelease community
39 supervision pursuant to Title 2.05 (commencing with Section 3450)
40 shall provide any information requested by the department to

1 ensure the availability of accurate information regarding inmates
2 released from state prison. This information may include the
3 issuance of warrants, revocations, or the termination of postrelease
4 community supervision. On or before August 1, 2011, county
5 agencies designated to supervise inmates released to postrelease
6 community supervision shall notify the department that the county
7 agencies have been designated as the local entity responsible for
8 providing that supervision.

9 (2) Notwithstanding paragraph (1), the Department of Justice
10 shall be the agency primarily responsible for the proper release of
11 information under LEADS that relates to fingerprint cards.

12 (l) In addition to the requirements under subdivision (k), the
13 Department of Corrections and Rehabilitation shall submit to the
14 Department of Justice data to be included in the supervised release
15 file of the California Law Enforcement Telecommunications
16 System (CLETS) so that law enforcement can be advised through
17 CLETS of all persons on postrelease community supervision and
18 the county agency designated to provide supervision. The data
19 required by this subdivision shall be provided via electronic
20 transfer.

21 *SEC. 4. Section 5073 is added to the Penal Code, to read:*

22 *5073. When jurisdiction of an inmate is transferred from or*
23 *among the Department of Corrections and Rehabilitation, the State*
24 *Department of State Hospitals, and county agencies caring for*
25 *inmates, these agencies shall disclose, by electronic transmission*
26 *when possible, medical, dental, and mental health information*
27 *regarding each transferred or released inmate as follows:*

28 (a) *An inmate's health information, as necessary for continuity*
29 *of care, may be shared when an inmate is transferred between or*
30 *among any of the following facilities:*

31 (1) *A state prison.*

32 (2) *A fire camp operated by the Department of Corrections and*
33 *Rehabilitation.*

34 (3) *A state hospital.*

35 (4) *A county correctional facility.*

36 (5) *A county medical facility providing medical or mental health*
37 *services to offenders.*

38 (b) *When an inmate is being released by the Department of*
39 *Corrections and Rehabilitation to postrelease community*
40 *supervision pursuant to Section 3450, or is being retained in*

1 custody at a county or local jail, or county officials will otherwise
2 have responsibility for the inmate's ongoing health care needs,
3 the Department of Corrections and Rehabilitation shall disclose
4 the inmate's health information, as necessary for continuity of
5 care, to the applicable county agency.

6 (c) The medical, dental, and mental health information to be
7 disclosed among the Department of Corrections and Rehabilitation,
8 the State Department of State Hospitals, and county agencies is
9 limited to the type and amount of information that is determined
10 by licensed medical providers, as a matter of general policy or on
11 a case-by-case basis, to be necessary for continuity of care or to
12 perform a mandatory offender screening, such as a mentally
13 disordered offender (MDO) screening or a sexually violent
14 predator (SVP) screening. The information may be disclosed either
15 as maintained in existing medical records or as compiled for the
16 purpose of the disclosure, and may include, but is not limited to,
17 all of the following:

- 18 (1) Medical history and physical information.
- 19 (2) Medications, including psychiatric and medical medications.
- 20 (3) Diagnostic information, such as lab and radiology tests.
- 21 (4) Public health information.
- 22 (5) Mental health evaluations, summaries, and treatment plans.
- 23 (6) Voluntary and involuntary mental health inpatient
24 admissions.
- 25 (7) Mental health commitments, capacity determinations, and
26 adjudications relating to an inmate's danger to self, danger to
27 others, or the inmate's having a grave disability.
- 28 (8) Dental histories, examinations, and treatment plans.

29 (d) All transmissions made pursuant to this section shall comply
30 with the Confidentiality of Medical Information Act (Part 2.6
31 commencing with Section 56) of Division 1 of the Civil Code),
32 Chapter 1 (commencing with Section 123100) of Part 1 of Division
33 106 of the Health and Safety Code, the Information Practices Act
34 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4
35 of Division 3 of the Civil Code), the federal Health Insurance
36 Portability and Accountability Act of 1996 (HIPAA) (Public Law
37 104-191), the federal Health Information Technology for Clinical
38 Health Act (HITECH) (Public Law 111-005), and the
39 corresponding implementing regulations relating to privacy and

1 *security in Parts 160 and 164 of Title 45 of the Code of Federal*
2 *Regulations.*

3 *SEC. 5. If the Commission on State Mandates determines that*
4 *this act contains costs mandated by the state, reimbursement to*
5 *local agencies and school districts for those costs shall be made*
6 *pursuant to Part 7 (commencing with Section 17500) of Division*
7 *4 of Title 2 of the Government Code.*

8 ~~SECTION 1. Section 38570 of the Health and Safety Code is~~
9 ~~amended to read:~~

10 ~~38570. (a) The state board may include in the regulations~~
11 ~~adopted pursuant to Section 38562 the use of market-based~~
12 ~~compliance mechanisms to comply with the regulations.~~

13 ~~(b) Prior to the inclusion of a market-based compliance~~
14 ~~mechanism in the regulations, to the extent feasible and in~~
15 ~~furtherance of achieving the statewide greenhouse gas emissions~~
16 ~~limit, the state board shall do all of the following:~~

17 ~~(1) Consider the potential for direct, indirect, and cumulative~~
18 ~~emission impacts from these mechanisms, including localized~~
19 ~~impacts in communities that are already adversely impacted by air~~
20 ~~pollution.~~

21 ~~(2) Design a market-based compliance mechanism to prevent~~
22 ~~an increase in the emissions of toxic air contaminants or criteria~~
23 ~~air pollutants.~~

24 ~~(3) Maximize additional environmental and economic benefits~~
25 ~~for California, as appropriate.~~

26 ~~(e) The state board shall adopt regulations governing how~~
27 ~~market-based compliance mechanisms may be used by regulated~~
28 ~~entities subject to greenhouse gas emission limits and mandatory~~
29 ~~emission reporting requirements to achieve compliance with their~~
30 ~~greenhouse gas emissions limits.~~