

Senate Bill No. 327

CHAPTER 105

An act to amend Section 11105.03 of the Penal Code, relating to state summary criminal history information, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 22, 1997. Filed with Secretary of State July 22, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

SB 327, Greene. Criminal history information: access by public housing authority.

(1) Existing law, in effect until November 30, 1997, authorizes local law enforcement agencies to furnish state summary criminal history information for the purpose of screening prospective residents and prospective and current staff of a regional, county, city, or other local public housing authority, at the request of the chief executive officer of the authority or his or her designee, upon a showing by the authority that it operates housing at which children under the age of 18 years reside or operates housing for persons categorized as aged, blind, or disabled.

This bill would delete this repeal date, thereby extending these provisions indefinitely.

This bill also would extend the provision governing release of information relating to convictions to include a conviction for any felony offense that involves controlled substances or alcoholic beverages, and would delete provisions pertaining to the release of summary criminal history information concerning a person who is on probation or parole.

(2) Existing law prohibits local law enforcement agencies from releasing pursuant to the law described in (1) above any information concerning any conviction that occurred more than 10 years before the date on which the request for information is submitted to the Attorney General.

This bill instead would require local law enforcement agencies to release any information concerning any conviction or release from custody that occurred within 10 years of the date on which the request for information is submitted, unless the conviction is based upon a felony offense that involved controlled substances, alcoholic beverages, or any activity related to controlled substances or alcoholic beverages, in which case the release of information would be required only if the conviction occurred within 5 years of the request date.



This bill also would require that the information released to the local public housing authority pursuant to this section be released to parole or probation officers at the same time.

The bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 11105.03 of the Penal Code is amended to read:

11105.03. (a) Subject to the requirements and conditions set forth in this section and Section 11105, local law enforcement agencies are hereby authorized to provide state criminal summary history information obtained through CLETS for the purpose of screening prospective participants and prospective and current staff of a regional, county, city, or other local public housing authority, at the request of the chief executive officer of the authority or his or her designee, upon a showing by that authority that the authority operates housing at which children under the age of 18 years reside or operates housing for persons categorized as aged, blind, or disabled.

(b) The following requirements shall apply to information released by local law enforcement agencies pursuant to subdivision (a):

(1) Local law enforcement agencies shall not release any information unless it relates to a conviction for a serious felony, as defined in subdivision (c) of Section 1192.7, a conviction for any offense punishable under Section 273.5, 422.6, 422.7, 422.75, 422.9, 1170.75, 12020, 12021, or 12021.1, a conviction under Section 273.6 that involves a violation of a protective order, as defined in Section 6218 of the Family Code, or a conviction for any felony offense that involves controlled substances or alcoholic beverages, or any felony offense that involves any activity related to controlled substances or alcoholic beverages, or a conviction for any offense that involves domestic violence, as defined in Section 13700.

(2) Local law enforcement agencies shall not release any information concerning any arrest for an offense that did not result in a conviction.

(3) Local law enforcement agencies shall not release any information concerning any offense committed by a person who was under 18 years of age at the time he or she committed the offense.

(4) Local law enforcement agencies shall release any information concerning any conviction or release from custody that occurred within 10 years of the date on which the request for information is submitted to the Attorney General, unless the conviction was based upon a felony offense that involved controlled substances or alcoholic beverages or a felony offense that involved any activity related to



controlled substances or alcoholic beverages. Where a conviction was based on any of these felony offenses, local law enforcement agencies shall release any information concerning this conviction if the conviction occurred within five years of the date on which a request for the information was submitted.

(5) Notwithstanding paragraph (4), if information that meets the requirements of paragraphs (2) to (4), inclusive, is located and the information reveals a conviction of an offense specified in paragraph (1), local law enforcement agencies shall release all summary criminal history information concerning the person whether or not the information meets the requirements of paragraph (4), provided, however, that the information meets the requirements of paragraphs (1) to (3), inclusive.

(6) Information released to the local public housing authority pursuant to this section shall also be released to parole or probation officers at the same time.

(c) State summary criminal history information shall be used by the chief executive officer of the housing authority or a designee only for purposes of identifying prospective participants in subsidized programs and prospective and current staff who have access to residences, whose criminal history is likely to pose a risk to children under the age of 18 years or persons categorized as aged, blind, or disabled living in the housing operated by the authority.

(d) If a housing authority obtains summary criminal history information for the purpose of screening a prospective participant pursuant to this section, it shall review and evaluate that information in the context of other available information and shall not evaluate the person's suitability as a prospective participant based solely on his or her past criminal history.

(e) If a housing authority determines that a prospective participant is not eligible as a resident, it shall promptly notify him or her of the basis for its determination and, upon request, shall provide him or her within a reasonable time after the determination is made with an opportunity for an informal hearing on the determination in accordance with Section 960.207 of Title 24 of the Code of Federal Regulations.

(f) Any information obtained from state summary criminal history information pursuant to this section is confidential and the recipient public housing authority shall not disclose or use the information for any purpose other than that authorized by this section. The state summary criminal history information in the possession of the authority and all copies made from it shall be destroyed not more than 30 days after the authority's final decision whether to act on the housing status of the individual to whom the information relates.

(g) The local public housing authority receiving state summary criminal history information pursuant to this section shall adopt regulations governing the receipt, maintenance, and use of the



information. The regulations shall include provisions that require notice that the authority has access to criminal records of participants and employees who have access to programs.

(h) Use of this information is to be consistent with Title 24 of the Code of Federal Regulations and the current regulations adopted by the housing authority using the information.

(i) Nothing in this section shall be construed to require a housing authority to request and review an applicant's criminal history.

(j) The California Housing Authorities Association, after compiling data from all public housing authorities that receive summary criminal information pursuant to this chapter, shall report its findings based upon this data to the Legislature prior to January 1, 2000.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent the repeal of the program authorized by this act, it is necessary that this act take effect immediately.

