

Introduced by Senator SkinnerFebruary 16, 2018

An act to amend Sections 11105, 11121, 11126, and 13300 of, to add Section 11128 to, and to repeal and add Section 11122 of, the Penal Code, relating to criminal records.

LEGISLATIVE COUNSEL'S DIGEST

SB 1298, as introduced, Skinner. The Increasing Access to Employment Act.

(1) Existing law requires the Department of Justice to maintain state summary criminal history information, as defined, and requires the Attorney General to furnish state summary criminal history information to specified entities and individuals if needed in the course of their duties.

This bill would limit the information the department provides to specified requesters to more recent misdemeanors and felonies, generally within 5 years, and other information, as specified, including offenses for which registration as a sex offender is required. The bill would, for specified requesters, prohibit the disclosure of a conviction that has been dismissed, an arrest that was subsequently deemed a detention, or an arrest that resulted in the successful completion of a diversion program, exoneration, or an arrest that has been sealed. The bill would specify what information is to be provided to a consumer reporting agency, as defined.

This bill would require the department to furnish a copy of the Criminal Offender Record Information (CORI) to the subject when a state or federal summary criminal history information is requested and the information is to be used for employment, licensing, or certification purposes and would require the department to allow the subject a

reasonable opportunity of not less than five days to challenge the accuracy or completeness of any matter contained in the CORI prior to furnishing a report to a third party.

Existing law requires a person who wants a copy of the his or her state summary criminal history information to obtain an application form furnished by the department and provide his or her fingerprints, in addition to other information specified by the department.

This bill would remove the requirement that a person submit fingerprints to obtain his or her state summary criminal history information and would require only that information the department deems necessary.

(2) Existing law authorizes a person who desires to question the accuracy or completeness of any material matter contained in the record to submit a written request to the department and, if the accuracy of the source document is questioned, requires the department to forward it to the person or agency that furnished the questioned information. Existing law gives person or agency 30 days from the receipt of the written request for clarification, to review its information and forward to the department the results of the review. Under existing law, if the person or agency that created the source document concurs in the allegations of inaccuracy or incompleteness in the record, and finds that the error is material, it is required to correct its record and inform the department. Existing law provides the department 30 within which to inform the applicant of its correction of the record.

This bill would authorize an applicant to question the accuracy or completeness of any matter and, if the source document is questioned, would require the department, within 5 days, to verify the accuracy of the source document with the person or agency that furnished the questioned information. The bill would require the department to correct its record, destroy and purge the incorrect information if the department is unable to verify the accuracy or completeness of the source document and would require to destroy and purge the incorrect information. The bill would require the department to inform the applicant of the correction and destruction of the record within 10 days. The bill would also require a person or agency to which the incorrect record has been disseminated to, upon notification, correct the record accordingly and destroy and purge the incorrect information within 30 days. By increasing the requirements on local agencies that supply the source documents, this bill would impose a state-mandated local program.

(3) This bill would establish the Increasing Access to Employment Fund and would make funds available, upon appropriation, to the California Workforce Investment Board to administer a grant program aimed at improving rehabilitation, reentry, and employment and licensing outcomes for people with criminal convictions, as specified.

(4) Existing law requires the disclosure of local summary criminal history information by a local criminal justice agency to certain authorized entities and authorizes the disclosure of that information to other entities in specified circumstances.

The bill would require a local agency to disclose local summary criminal history information to the subject of the request or to an individual who is the subject of the record requested when needed in conjunction with an application to enter the United States or any foreign nation. By increasing the duties of local criminal justice agencies, this bill would impose a state-mandated local program. The bill would also reduce the entities to which local summary criminal history is required to be disclosed and to which that information is authorized to be disclosed, as specified.

Existing law prohibits a local criminal justice agency from releasing information under specified circumstances, including information concerning an arrest or detention followed by a dismissal or release without attempting to determine whether the individual was exonerated.

This bill would prohibit a local criminal justice agency from releasing information relating to convictions that were dismissed, arrests subsequently deemed a detention, arrests that resulted in the successful completion of a diversion program, exoneration, or arrests that were sealed. The bill would also limit the information that a local criminal justice agency can disclose to convictions for which registration as a sex offender is required, information concerning misdemeanor convictions that occurred before 2 years of the date of the request for information, and felony convictions that occurred before 5 years of the date of the request for information.

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 the statutory provisions noted above.

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. (a) This act shall be known, and may be cited,
2 as the Increasing Access to Employment Act.

3 (b) It is the intent of the Legislature that criminal conviction
4 records not operate as an automatic bar to employment, licensure,
5 and certification. It is the intent of the Legislature not to change
6 or impact in any way the role or authority of a licensing board or
7 state agency to assess the fitness of applicants seeking licensure,
8 certification, and employment pursuant to provisions of the
9 Business and Professions Code, Health and Safety Code, Insurance
10 Code, and Welfare and Institutions Code, as applicable. This act
11 supercedes any statute, regulation, rule, or decision directing a
12 licensing board, state agency, employer, or any other applicable
13 person or entity, to obtain criminal history records in a manner
14 that conflicts with the intent of this act.

15 (c) It is the intent of the Legislature to create the Increasing
16 Access to Employment Fund for rehabilitation and reentry services
17 to improve prospects for licensing, certification, and professional
18 employment for people with criminal conviction records. Recidivism is reduced when people with criminal convictions are
19 given the opportunity to secure employment and engage in a trade,
20 occupation, or profession. It is in the interest of public safety to
21 assist in the rehabilitation of criminal offenders by removing
22 impediments and restrictions on an offenders’ ability to obtain
23 employment or engage in a trade, occupation, or profession when
24 those impediments and restrictions are based solely upon the
25 existence of a criminal record. Increasing opportunities for people
26 with criminal records improves the economic well-being of families
27 and communities and is a path to full employment in California.

28 SEC. 2. Section 11105 of the Penal Code is amended to read:

29 11105. (a) (1) The Department of Justice shall maintain state
30 summary criminal history information.

31 (2) As used in this section:

32 (A) “State summary criminal history information” means the
33 master record of information compiled by the Attorney General
34 pertaining to the identification and criminal history of a person,
35

1 ~~such as~~ *including* name, date of birth, physical description,
2 fingerprints, photographs, dates of arrests, arresting agencies and
3 booking numbers, charges, dispositions, sentencing information,
4 and similar data about the person.

5 (B) “State summary criminal history information” does not refer
6 to records and data compiled by criminal justice agencies other
7 than the Attorney General, nor does it refer to records of complaints
8 ~~to or to~~, investigations conducted by, or records of intelligence
9 information or security procedures of, the office of the Attorney
10 General and the Department of Justice.

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

18 (1) The courts of the state.

19 (2) Peace officers of the state, as defined in Section 830.1,
20 subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section
21 830.3, subdivision (a) of Section 830.31, and subdivisions (a) and
22 (b) of Section 830.5.

23 (3) District attorneys of the state.

24 (4) Prosecuting city attorneys or city prosecutors of a city within
25 the state.

26 (5) City attorneys pursuing civil gang injunctions pursuant to
27 Section 186.22a, or drug abatement actions pursuant to Section
28 3479 or 3480 of the Civil Code, or Section 11571 of the Health
29 and Safety Code.

30 (6) Probation officers of the state.

31 (7) Parole officers of the state.

32 (8) A public defender or attorney of record when representing
33 a person in proceedings upon a petition for *dismissal pursuant to*
34 *Section 1203.4 or 1203.41 or a certificate of rehabilitation and*
35 *pardon pursuant to Section ~~4852.08~~ 4852.01.*

36 (9) A public defender or attorney of record when representing
37 a person in a criminal case, or a parole, mandatory supervision
38 pursuant to paragraph (5) of subdivision (h) of Section 1170, or
39 postrelease community supervision revocation or revocation

1 extension proceeding, and if authorized access by statutory or
2 decisional law.

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

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

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

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

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

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

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

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

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

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

39 (20) Child welfare agency personnel of a tribe or consortium
40 of tribes that has entered into an agreement with the state pursuant

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

13 (21) An officer providing conservatorship investigations
14 pursuant to Sections 5351, 5354, and 5356 of the Welfare and
15 Institutions Code. *With the exception of those offenses for which
16 registration is required pursuant to Section 290, the Department
17 of Justice shall not disseminate information pursuant to this
18 paragraph unless the conviction occurred within five years of the
19 date of the officer's request for information. The Department of
20 Justice shall not disseminate information about an arrest
21 subsequently deemed a detention or an arrest that resulted in
22 exoneration or a grant of relief pursuant to Section 851.91.*

23 (22) A court investigator providing investigations or reviews
24 in conservatorships pursuant to Section 1826, 1850, 1851, or
25 2250.6 of the Probate Code. *With the exception of those offenses
26 for which registration is required pursuant to Section 290, the
27 Department of Justice shall not disseminate information pursuant
28 to this paragraph unless the conviction occurred within five years
29 of the date of the investigator's request for information. The
30 Department of Justice shall not disseminate information about an
31 arrest subsequently deemed a detention or an arrest that resulted
32 in an exoneration or a grant of relief pursuant to Section 851.91.*

33 (23) A person authorized to conduct a guardianship investigation
34 pursuant to Section 1513 of the Probate Code. *With the exception
35 of those offenses for which registration is required pursuant to
36 Section 290, the information provided shall be limited to the record
37 of misdemeanor convictions that occurred within two years of the
38 date of the request for information, felony convictions that occurred
39 within five years of the date of the request for information, and
40 arrests for which the person is released on bail or on his or her*

1 *own recognizance pending trial. The Department of Justice shall*
2 *not disseminate information pursuant to this paragraph of a*
3 *conviction that was dismissed pursuant to Section 1203.4, an arrest*
4 *that was subsequently deemed a detention, or an arrest that*
5 *resulted in the successful completion of a diversion program,*
6 *exoneration, or a grant of relief pursuant to Section 851.91.*

7 (24) A humane officer pursuant to Section 14502 of the
8 Corporations Code for the purposes of performing his or her duties.
9 *The information provided shall be limited to the record of*
10 *misdemeanor convictions that occurred within two years of the*
11 *date of the request for information, felony convictions that occurred*
12 *within five years of the date of the request for information, and*
13 *arrests for which the person is released on bail or on his or her*
14 *own recognizance pending trial. The Department of Justice shall*
15 *not disseminate information pursuant to this paragraph of a*
16 *conviction that was dismissed pursuant to Section 1203.4, an arrest*
17 *that was subsequently deemed a detention, or an arrest that*
18 *resulted in the successful completion of a diversion program,*
19 *exoneration, or a grant of relief pursuant to Section 851.91.*

20 (25) A public agency described in subdivision (b) of Section
21 15975 of the Government Code, for the purpose of oversight and
22 enforcement policies with respect to its contracted providers. *With*
23 *exception of those offenses for which registration is required*
24 *pursuant to Section 290, the information provided shall be limited*
25 *to the record of misdemeanor convictions that occurred within*
26 *two years of the date of the request for information, felony*
27 *convictions that occurred within five years of the date of the request*
28 *for information, and arrests for which the person is released on*
29 *bail or on his or her own recognizance pending trial. The*
30 *Department of Justice shall not disseminate information pursuant*
31 *to this paragraph of a conviction that was dismissed pursuant to*
32 *Section 1203.4, an arrest that was subsequently deemed a*
33 *detention, or an arrest that resulted in the successful completion*
34 *of a diversion program, exoneration, or a grant of relief pursuant*
35 *to Section 851.91.*

36 (26) (A) A state entity, or its designee, that receives federal tax
37 information. A state entity or its designee that is authorized by this
38 paragraph to receive state summary criminal history information
39 also may transmit fingerprint images and related information to
40 the Department of Justice to be transmitted to the Federal Bureau

1 of Investigation for the purpose of the state entity or its designee
2 obtaining federal level criminal offender record information from
3 the Department of Justice. This information shall be used only for
4 the purposes set forth in Section 1044 of the Government Code.
5 *The Department of Justice shall not disseminate information*
6 *pursuant to this paragraph unless the conviction or arrest occurred*
7 *within 10 years of the date of the request for information. The*
8 *Department of Justice shall not disseminate information about an*
9 *arrest that resulted in a grant of relief pursuant to Section 851.91.*

10 (B) For purposes of this paragraph, “federal tax information,”
11 “state entity” and “designee” are as defined in paragraphs (1), (2),
12 and (3), respectively, of subdivision (f) of Section 1044 of the
13 Government Code.

14 (27) *The subject of the record requested, if needed in*
15 *conjunction with an application to enter the United States or a*
16 *foreign nation.*

17 (c) The Attorney General may furnish state summary criminal
18 history information ~~and, when specifically authorized by this~~
19 ~~subdivision, and federal level criminal history information when~~
20 ~~specifically authorized by this subdivision,~~ upon a showing of a
21 compelling need to any of the ~~following, provided that when~~
22 ~~information is furnished to assist an agency, officer, or official of~~
23 ~~state or local government, a public utility, or any other entity in~~
24 ~~fulfilling employment, certification, or licensing duties, Chapter~~
25 ~~1321 of the Statutes of 1974 and Section 432.7 of the Labor Code~~
26 ~~shall apply: following:~~

27 (1) A public utility, as defined in Section 216 of the Public
28 Utilities Code, that operates a nuclear energy facility ~~when access~~
29 ~~is needed in order if receipt of state summary criminal history~~
30 ~~information is needed to assist in employing persons to work at~~
31 ~~the facility, provided that, if the Attorney General supplies the~~
32 ~~data, he or she shall furnish a copy of the data to the person to~~
33 ~~whom the data relates. facility. The information provided shall be~~
34 ~~limited to the record of misdemeanor convictions that occurred~~
35 ~~within two years of the date of the request for information, felony~~
36 ~~convictions that occurred within five years of the date of the request~~
37 ~~for information, and arrests for which the person is released on~~
38 ~~bail or on his or her own recognizance pending trial. The~~
39 ~~Department of Justice shall not disseminate information pursuant~~
40 ~~to this paragraph of a conviction that was dismissed pursuant to~~

1 *Section 1203.4, an arrest that was subsequently deemed a*
2 *detention, or an arrest that resulted in the successful completion*
3 *of a diversion program, exoneration, or a grant of relief pursuant*
4 *to Section 851.91.*

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

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

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

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

18 (6) To a person ~~when~~ if disclosure is requested by a probation,
19 parole, or peace officer with the consent of the subject of the state
20 summary criminal history information and for purposes of
21 furthering the rehabilitation of the subject.

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

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

26 ~~(9) To an individual who is the subject of the record requested~~
27 ~~if needed in conjunction with an application to enter the United~~
28 ~~States or a foreign nation.~~

29 ~~(10)~~

30 (9) (A) (i) A public utility, as defined in Section 216 of the
31 Public Utilities Code, or a cable corporation as defined in
32 subparagraph (B), if receipt of *state summary* criminal history
33 information is needed in order to assist in employing current or
34 prospective employees, contract employees, or subcontract
35 employees who, in the course of their employment, may be seeking
36 entrance to private residences or adjacent grounds. The information
37 provided shall be limited to the record of ~~convictions and arrests~~
38 ~~for which the person is released on bail or on his or her own~~
39 ~~recognizance pending trial. misdemeanor convictions that occurred~~
40 *within two years of the date of the request for information, felony*

1 *convictions that occurred within five years of the date of the request*
2 *for information, and arrests for which the person is released on*
3 *bail or on his or her own recognizance pending trial. The*
4 *Department of Justice shall not disseminate information pursuant*
5 *to this paragraph of a conviction that was dismissed pursuant to*
6 *Section 1203.4, an arrest that was subsequently deemed a*
7 *detention, or an arrest that resulted in the successful completion*
8 *of a diversion program, exoneration, or a grant of relief pursuant*
9 *to Section 851.91.*

10 ~~(ii) If the Attorney General supplies the data pursuant to this~~
11 ~~paragraph, the Attorney General shall furnish a copy of the data~~
12 ~~to the current or prospective employee to whom the data relates.~~

13 ~~(iii)~~

14 *(ii) State summary criminal history information is confidential*
15 *and the receiving public utility or cable corporation shall not*
16 *disclose its contents, other than for the purpose for which it was*
17 *acquired. The state summary criminal history information in the*
18 *possession of the public utility or cable corporation and all copies*
19 *made from it shall be destroyed not more than 30 days after*
20 *employment or promotion or transfer is denied or granted, except*
21 *for those cases where a current or prospective employee is out on*
22 *bail or on his or her own recognizance pending trial, in which case*
23 *the state summary criminal history information and all copies shall*
24 *be destroyed not more than 30 days after the case is resolved.*

25 ~~(iv)~~

26 *(iii) A violation of this paragraph is a misdemeanor, and shall*
27 *give the current or prospective employee who is injured by the*
28 *violation a cause of action against the public utility or cable*
29 *corporation to recover damages proximately caused by the*
30 *violations. A public utility's or cable corporation's request for*
31 *state summary criminal history information for purposes of*
32 *employing current or prospective employees who may be seeking*
33 *entrance to private residences or adjacent grounds in the course*
34 *of their employment shall be deemed a "compelling need" as*
35 *required to be shown in this subdivision.*

36 ~~(v)~~

37 *(iv) This section shall not be construed as imposing a duty upon*
38 *public utilities or cable corporations to request state summary*
39 *criminal history information on current or prospective employees.*

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

5 (C) Requests for federal level criminal history information
6 received by the Department of Justice from entities authorized
7 pursuant to subparagraph (A) shall be forwarded to the Federal
8 Bureau of Investigation by the Department of Justice. Federal level
9 criminal history information received or compiled by the
10 Department of Justice may ~~then~~ be disseminated to the entities
11 referenced in subparagraph (A), as authorized by law.

12 ~~(11)~~

13 (10) To a campus of the California State University or the
14 University of California, or a four-year college or university
15 accredited by a regional accreditation organization approved by
16 the United States Department of Education, if needed in
17 conjunction with an application for admission by a convicted felon
18 to a special education program for convicted felons, including, but
19 not limited to, university alternatives and halfway houses. Only
20 conviction information shall be furnished. ~~The college or university~~
21 ~~may require the convicted felon to be fingerprinted, and any~~ *An*
22 *inquiry to the department under this ~~section~~ paragraph shall*
23 *include the convicted felon’s fingerprints and any other information*
24 *specified by the department. The state summary criminal history*
25 *information in the possession of the college or university and all*
26 *copies made from it shall be destroyed not more than 30 days after*
27 *admission to a special education program is denied or granted.*

28 ~~(12)~~

29 (11) To a foreign government, if requested by the individual
30 who is the subject of the record requested, if needed in conjunction
31 with the individual’s application to adopt a minor child who is a
32 citizen of that foreign nation. Requests for information pursuant
33 to this paragraph shall be in accordance with the process described
34 in Sections 11122 to 11124, inclusive. The response shall be
35 provided to the foreign government or its designee and to the
36 individual who requested the information.

37 (d) ~~Whenever~~ *When* an authorized request for state summary
38 criminal history information pertains to a person whose fingerprints
39 are on file with the Department of Justice and the department has
40 no criminal history of that person, *the person’s criminal history*

1 *only contains convictions dismissed pursuant to Section 1203.4*
 2 *and arrests that resulted in exoneration or a grant of relief*
 3 *pursuant to Section 851.91, and the information is to be used for*
 4 *employment, licensing, or certification purposes, the fingerprint*
 5 *card accompanying the request for information, if any, may be*
 6 *stamped “no criminal record” and returned to the person or entity*
 7 *making the request.*

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

27 (f) ~~Whenever there is a conflict, the processing of criminal~~
 28 ~~fingerprints and fingerprints of applicants for security guard or~~
 29 ~~alarm agent registrations or firearms qualification permits~~
 30 ~~submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4~~
 31 ~~of the Business and Professions Code shall take priority over the~~
 32 ~~processing of other applicant fingerprints.~~

33 (g)
 34 (f) It is not a violation of this section to disseminate statistical
 35 or research information obtained from a record, provided that the
 36 identity of the subject of the record is not disclosed.

37 (h) ~~It is not a violation of this section to include information~~
 38 ~~obtained from a record in (1) a transcript or record of a judicial or~~
 39 ~~administrative proceeding or (2) any other public record if the~~

1 ~~inclusion of the information in the public record is authorized by~~
2 ~~a court, statute, or decisional law.~~

3 ~~(i)~~

4 (g) Notwithstanding any other law, the Department of Justice
5 ~~or a state or local law enforcement agency~~ may require the
6 submission of fingerprints for the purpose of conducting state
7 summary criminal history information checks that are authorized
8 by law.

9 ~~(j)~~

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

14 ~~(k)~~

15 (i) (1) This subdivision shall apply whenever state or federal
16 summary criminal history information is furnished by the
17 Department of Justice as the result of an application by an
18 authorized agency or organization and the information is to be
19 used for peace officer employment or certification purposes. As
20 used in this subdivision, a peace officer is defined in Chapter 4.5
21 (commencing with Section 830) of Title 3 of Part 2.

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

26 (A) Every conviction rendered against the ~~applicant~~, *applicant*,
27 *unless the conviction was dismissed pursuant to Section 1203.4.*

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

32 (C) Every ~~arrest or detention, except for an arrest or detention~~
33 ~~resulting in an exoneration~~, *arrest*, provided, however, that where
34 the records of the Department of Justice do not contain a
35 disposition for the arrest, the Department of Justice first makes a
36 genuine effort to determine the disposition of the arrest.
37 *Information concerning an arrest shall not be disclosed if the*
38 *records of the Department of Justice indicate, or if the genuine*
39 *effort reveals, that the subject was exonerated, the arrest was*

1 *deemed a detention, or the subject was granted relief pursuant to*
 2 *Section 851.91.*

3 (D) Every successful diversion.

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

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

9 (G) Sentencing information, if present in the department’s
 10 records at the time of the response.

11 ~~(H)~~

12 (j) (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 a criminal
 15 justice agency or organization as defined in Section 13101, and
 16 the information is to be used for criminal justice employment,
 17 licensing, or certification purposes.

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

22 (A) Every conviction rendered against the ~~applicant~~ *applicant*,
 23 *unless the conviction was dismissed pursuant to Section 1203.4.*

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

28 (C) Every arrest for an offense for which the records of the
 29 Department of Justice do not contain a disposition or which did
 30 not result in a conviction, provided that the Department of Justice
 31 first makes a genuine effort to determine the disposition of the
 32 arrest. However, information concerning an arrest shall not be
 33 disclosed if the records of the Department of Justice ~~indicate~~
 34 *indicate*, or if the genuine effort ~~reveals~~ *reveals*, that the subject
 35 was exonerated, successfully completed a diversion or deferred
 36 entry of judgment program, ~~or~~ the arrest was deemed a detention,
 37 or the subject was granted relief pursuant to Section 851.91.

38 (D) Every date and agency name associated with all retained
 39 peace officer or nonsworn law enforcement agency employee

1 preemployment criminal offender record information search
2 requests.

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

4 (F) Sentencing information, if present in the department's
5 records at the time of the response.

6 ~~(m)~~

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

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

19 (A) ~~Every conviction of an offense rendered against the~~
20 ~~applicant, *Misdemeanor convictions that occurred within two years*~~
21 ~~*of the date of the request for information and felony convictions*~~
22 ~~*that occurred within five years of the date of the request for*~~
23 ~~*information, except a conviction for which relief has been granted*~~
24 ~~pursuant to Section 1203.49.~~

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

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

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

37 (E) Sentencing information, if present in the department's
38 records at the time of the response.

39 (3) Notwithstanding the requirements of the sections referenced
40 in paragraph ~~(1)~~ of this subdivision, (1), the Department of Justice

1 shall not disseminate information about an arrest subsequently
 2 deemed a detention or an arrest that resulted in the successful
 3 completion of a diversion program, exoneration, or a grant of relief
 4 pursuant to Section 851.91.

5 ~~(n)~~

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

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

13 (B) Section 11105.3 or 11105.4.

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

15 (D) A statute that incorporates the criteria of any of the statutory
 16 provisions listed in subparagraph (A), (B), or (C), or of this
 17 subdivision, by reference.

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

24 (A) Every conviction, except a conviction for which relief has
 25 been granted pursuant to Section 1203.49, rendered against the
 26 applicant for a violation or attempted violation of an offense
 27 specified in subdivision (a) of Section 15660 of the Welfare and
 28 Institutions Code. However, with the exception of those offenses
 29 for which registration is required pursuant to Section 290, ~~the~~
 30 ~~Department of Justice shall not disseminate information pursuant~~
 31 ~~to this subdivision unless the conviction occurred within 10 years~~
 32 ~~of the date of the agency's request for information or the conviction~~
 33 ~~is over 10 years old but the subject of the request was incarcerated~~
 34 ~~within 10 years of the agency's request for information. the~~
 35 ~~information provided shall be limited to the record of misdemeanor~~
 36 ~~convictions that occurred within two years of the date of the request~~
 37 ~~for information and felony convictions that occurred within five~~
 38 ~~years of the date of the request for information. The Department~~
 39 ~~of Justice shall not disseminate information pursuant to this~~

1 *subdivision if the conviction was dismissed pursuant to Section*
2 *1203.4.*

3 (B) Every arrest for a violation or attempted violation of an
4 offense specified in subdivision (a) of Section 15660 of the Welfare
5 and Institutions Code for which the applicant is presently awaiting
6 trial, whether the applicant is incarcerated or has been released on
7 bail or on his or her own recognizance pending trial. *The*
8 *Department of Justice shall not disseminate information pursuant*
9 *to this subdivision if the arrest resulted in exoneration or a grant*
10 *of relief pursuant to Section 851.91.*

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

12 (D) Sentencing information, if present in the department's
13 records at the time of the response.

14 ~~(E)~~

15 (m) (1) This subdivision shall apply whenever state or federal
16 summary criminal history information is furnished by the
17 Department of Justice as the result of an application by an
18 authorized agency or organization pursuant to Section 379 or 550
19 of the Financial Code, or a statute that incorporates the criteria of
20 either of those sections or this subdivision by reference, and the
21 information is to be used for employment, licensing, or certification
22 purposes.

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

27 (A) Every conviction rendered against the applicant for a
28 violation or attempted violation of an offense specified in Section
29 550 of the Financial Code, except a conviction for which relief
30 has been granted pursuant to Section 1203.49.

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

36 (C) Sentencing information, if present in the department's
37 records at the time of the response.

38 ~~(D)~~

39 (n) (1) This subdivision shall apply whenever state or federal
40 criminal history information is furnished by the Department of

1 Justice as the result of an application by an agency, organization,
 2 or individual not defined in subdivision (i), (j), (k), (l), or (m), ~~(n)~~,
 3 ~~or (o)~~; or by a transportation company authorized pursuant to
 4 Section 11105.3, or a statute that incorporates the criteria of that
 5 section or this subdivision by reference, and the information is to
 6 be used for employment, licensing, or certification purposes.

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

11 ~~(A) Every conviction rendered against the applicant, except a~~
 12 ~~conviction for which relief has been granted pursuant to Section~~
 13 ~~1203.49. The record of misdemeanor convictions that occurred~~
 14 ~~within two years of the date of the request for information and~~
 15 ~~felony convictions that occurred within five years of the date of~~
 16 ~~the request for information. The Department of Justice shall not~~
 17 ~~disseminate information pursuant to this subdivision if the~~
 18 ~~conviction was dismissed pursuant to Section 1203.4, or for an~~
 19 ~~arrest subsequently deemed a detention or an arrest that resulted~~
 20 ~~in the successful completion of a diversion program, exoneration,~~
 21 ~~or a grant of relief pursuant to Section 851.91.~~

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

26 ~~(C)~~

27 (B) Sex offender registration status of the applicant.

28 ~~(D)~~

29 (C) Sentencing information, if present in the department's
 30 records at the time of the response.

31 *(o) (1) This subdivision shall apply whenever state summary*
 32 *criminal history information is furnished by the Department of*
 33 *Justice as the result of an application by a consumer reporting*
 34 *agency as defined in Section 1785.3 of the Civil Code, or a statute*
 35 *that incorporates the criteria of that section or this subdivision by*
 36 *reference, and the information is to be used for employment,*
 37 *licensing, or certification purposes.*

38 (2) Notwithstanding any other law, whenever state summary
 39 criminal history information is initially furnished pursuant to
 40 paragraph (1), the Department of Justice shall disseminate the

1 *record of misdemeanor convictions that occurred within two years*
2 *of the date of the request for information and felony convictions*
3 *that occurred within five years of the date of the request for*
4 *information. The Department of Justice shall not disseminate*
5 *information pursuant to this subdivision if the conviction was*
6 *dismissed pursuant to Section 1203.4, the arrest was subsequently*
7 *deemed a detention, or the arrest resulted in the successful*
8 *completion of a diversion program, exoneration, or a grant of*
9 *relief pursuant to Section 851.91.*

10 ~~(q)~~

11 (p) All agencies, organizations, or individuals defined in
12 subdivisions (i), (j), (k), (l), (m), ~~(n), (o), and (p)~~ and (n) may
13 contract with the Department of Justice for subsequent notification
14 pursuant to Section 11105.2. This subdivision ~~shall~~ *does* not
15 supersede sections that mandate an agency, organization, or
16 individual ~~to~~ contract with the Department of Justice for subsequent
17 notification pursuant to Section 11105.2.

18 ~~(r)~~

19 (q) This section does not require the Department of Justice to
20 cease compliance with any other statutory notification
21 requirements.

22 ~~(s)~~

23 (r) The provisions of Section 50.12 of Title 28 of the Code of
24 Federal Regulations are to be followed in processing federal
25 criminal history information.

26 ~~(t)~~

27 (s) Whenever state or federal summary criminal history
28 information is furnished by the Department of Justice as the result
29 of an application by an authorized agency, organization, or
30 individual defined in subdivisions ~~(k) to (p)~~, (i) to (o), inclusive,
31 and the information is to be used for employment, licensing, or
32 certification purposes, ~~the authorized agency, organization, or~~
33 ~~individual~~ *Department of Justice shall expeditiously simultaneously*
34 *furnish a copy of the information to the person to whom the*
35 *information relates if the information is a basis for an adverse*
36 *employment, licensing, or certification decision. relates.* When
37 furnished other than in person, the copy shall be delivered to the
38 last contact information provided by the applicant.

39 (t) *Whenever state or federal summary criminal history*
40 *information is requested by an authorized agency, organization,*

1 or individual, and the information is to be used for employment,
2 licensing, or certification purposes, the department shall first
3 furnish a copy of the Criminal Offender Record Information
4 (CORI) to the subject of the request. After furnishing a copy to the
5 record subject, and prior to furnishing a report to a third party,
6 the department shall allow the subject a reasonable opportunity
7 of not less than five days to challenge the accuracy or completeness
8 of any matter contained in the CORI. The department shall make
9 the necessary corrections pursuant to Section 11126 prior to
10 furnishing the information to the requesting agency, organization,
11 or individual.

12 (u) Whenever state or federal summary criminal history
13 information is furnished by the Department of Justice as the result
14 of an application by an authorized agency, organization, or
15 individual defined in subdivisions (i) to (p), inclusive, and the
16 information is to be used for employment, licensing, or certification
17 purposes, the state summary criminal history information in the
18 possession of the authorized agency, organization, or individual,
19 and all copies made from it, shall be destroyed not more than 30
20 days after employment, licensure, or certification, is denied or
21 granted.

22 SEC. 3. Section 11121 of the Penal Code is amended to read:
23 11121. It is the function and intent of this article to afford
24 persons concerning whom a record is maintained ~~in the files of~~
25 ~~the bureau~~ an opportunity to obtain a copy of the record compiled
26 ~~from such files;~~ record, learn the source of the information
27 compiled in the record, and to refute any erroneous or inaccurate
28 information contained therein.

29 SEC. 4. Section 11122 of the Penal Code is repealed.
30 ~~11122. Any person desiring a copy of the record relating to~~
31 ~~himself shall obtain an application form furnished by the~~
32 ~~department which shall require his fingerprints in addition to such~~
33 ~~other information as the department shall specify. Applications~~
34 ~~may be obtained from police departments, sheriff departments, or~~
35 ~~the Department of Justice. The fingerprinting agency may fix a~~
36 ~~reasonable fee for affixing the applicant's fingerprints to the form,~~
37 ~~and shall retain such fee.~~

38 SEC. 5. Section 11122 is added to the Penal Code, to read:
39 11122. A person who wants a copy of his or her record shall
40 submit a form, furnished by the department, that includes

1 information the department deems necessary. Applications may
2 be obtained from the department or any state or local law
3 enforcement agency.

4 SEC. 6. Section 11126 of the Penal Code is amended to read:

5 11126. (a) If the applicant desires to question the accuracy or
6 completeness of ~~any material~~ *a matter* contained in the record, he
7 or she may submit a written request to the department in a form
8 established by it. The request shall include a statement of the
9 alleged inaccuracy or incompleteness in the record, ~~and its~~
10 ~~materiality~~, and shall specify any proof or corroboration available.
11 Upon receipt of the request, the department shall review the record
12 to determine if the information correctly reflects the source
13 document, and if it does not, the department shall make the
14 necessary corrections and shall provide the applicant with a
15 corrected copy of the record. ~~If the accuracy of the source~~
16 ~~document is questioned, the department shall forward it to the~~
17 ~~person or agency which furnished the questioned information. This~~
18 ~~person or agency shall, within 30 days of receipt of the written~~
19 ~~request for clarification, review its information and forward to the~~
20 ~~department the results of the review. An applicant may question~~
21 ~~the accuracy or completeness of the source document. If the~~
22 ~~accuracy of the source document is questioned, the department~~
23 ~~shall, within five days, verify its accuracy with the person or agency~~
24 ~~that furnished the questioned information.~~

25 (b) ~~If the agency concurs in the allegations of inaccuracy or~~
26 ~~incompleteness in the record, and finds that the error is material,~~
27 ~~department is unable to verify the accuracy or completeness of the~~
28 ~~source document, it shall correct its record and shall so record,~~
29 ~~destroy and purge the incorrect information, and inform the~~
30 ~~department, which agency that provided the information. The~~
31 ~~agency shall correct the record accordingly. accordingly and shall~~
32 ~~destroy and purge the incorrect information. The department shall~~
33 ~~inform the applicant of its the correction and destruction of the~~
34 ~~record under this subdivision within 30 10 days. The department~~
35 ~~and the agency shall notify all persons and agencies to which they~~
36 ~~have disseminated the incorrect record in the past 90 days of the~~
37 ~~correction of the record, and the applicant shall be informed that~~
38 ~~the notification has been given. The department and the agency~~
39 ~~shall also notify those persons or agencies to which the incorrect~~
40 ~~record has been disseminated which that have been specifically~~

1 requested by the applicant to receive notification of the correction
2 of the record, and the applicant shall be informed that the
3 notification has been given. *A person or agency to which the*
4 *incorrect record has been disseminated shall, upon notification*
5 *by the department or agency, correct the record accordingly and*
6 *destroy and purge the incorrect information under this subdivision*
7 *within 30 days.*

8 (c) If the department or the agency denies the allegations of
9 inaccuracy or incompleteness in the record, the matter shall be
10 referred for administrative adjudication in accordance with Chapter
11 5 (commencing with Section 11500) of Part 1, Division 3, Title 2
12 of the Government Code for a determination of whether ~~material~~
13 inaccuracy or incompleteness exists in the record. The department
14 shall be the respondent in the hearing. If ~~a material~~ *an* inaccuracy
15 or incompleteness is found in any record, the department and the
16 agency in charge of that record shall be directed to correct it
17 accordingly. The department and the agency shall notify all persons
18 and agencies to which they have disseminated the incorrect record
19 ~~in the past 90 days~~ of the correction of the record, and the applicant
20 shall be informed that the notification has been given. *A person*
21 *or agency to which the incorrect record has been disseminated*
22 *shall, upon notification by the department or agency, correct the*
23 *record accordingly and destroy and purge the incorrect*
24 *information under this subdivision within 30 days.* The department
25 and the agency shall also notify those persons or agencies to which
26 the incorrect record has been disseminated which have been
27 specifically requested by the applicant to receive notification of
28 the correction of the record, and the applicant shall be informed
29 that the notification has been given. Judicial review of the decision
30 shall be governed by Section 11523 of the Government Code. The
31 applicant shall be informed of the decision within 30 days of its
32 issuance in accordance with Section 11518 of the Government
33 Code.

34 SEC. 7. Section 11128 is added to the Penal Code, to read:

35 11128. (a) The Legislature hereby establishes the Increasing
36 Access to Employment Fund within the State Treasury.
37 Notwithstanding Section 13340 of the Government Code, the fund
38 is continuously appropriated without regard for fiscal year for
39 carrying out the purposes of this act.

1 (b) Moneys in the Increasing Access to Employment Fund shall
2 be continuously appropriated to the California Workforce
3 Investment Board, to administer a grant program aimed at
4 improving rehabilitation, reentry, and employment and licensing
5 outcomes for people with criminal convictions and shall not be
6 subject to appropriation or transfer by the Legislature for any other
7 purpose. These funds shall not be used to supplant existing state
8 or local funds used for these purposes.

9 (c) The Workforce Investment Board shall be responsible for
10 administering the grant program and shall not spend more than 5
11 percent of the total funds it receives from the Increasing Access
12 to Employment Fund on an annual basis for administrative costs.
13 The grant program shall be awarded competitively on an annual
14 basis. Any portion of a grant that a grantee does not use within the
15 specified grant period shall revert to the Increasing Access to
16 Employment Fund.

17 (d) The Workforce Investment Board shall develop criteria for
18 the selection of grant recipients through a public application
19 process, including, but not limited to, the rating and ranking of
20 applications that meet the threshold criteria set forth in this section.
21 In developing the grant program, the Workforce Investment Board
22 shall consult with stakeholders, including nonprofit
23 community-based organizations that serve formerly incarcerated
24 people and people with criminal convictions.

25 (e) The Workforce Investment Board, when considering grant
26 applications, shall give preference to programs that provide:

27 (1) Postsecondary education, support services vocational
28 training, and apprenticeships to individuals with criminal
29 convictions.

30 (2) Assistance with applications for professional and
31 occupational licenses and certifications, pardons, certificates of
32 rehabilitation, and petitions for dismissals for individuals with
33 criminal convictions.

34 (3) Technical assistance and training on fair chance hiring and
35 evidence-based, best practices relating to workforce needs and
36 hiring of people with criminal convictions, to employers, small
37 business owners, and business chambers.

38 SEC. 8. Section 13300 of the Penal Code is amended to read:

39 13300. (a) As used in this section:

1 (1) “Local summary criminal history information” means the
2 master record of information compiled by any local criminal justice
3 agency pursuant to Chapter 2 (commencing with Section 13100)
4 of Title 3 of Part 4 pertaining to the identification and criminal
5 history of any person, ~~such as~~ *including* name, date of birth,
6 physical description, dates of arrests, arresting agencies and
7 booking numbers, charges, dispositions, and similar data about
8 the person.

9 (2) “Local summary criminal history information” does not
10 refer to records and data compiled by criminal justice agencies
11 other than that local agency, nor does it refer to records of
12 complaints ~~to or~~ *to*, investigations conducted by, or records of
13 intelligence information or security procedures of, the local agency.

14 (3) “Local agency” means a local criminal justice agency.

15 (b) *Notwithstanding any other law, the Department of Justice*
16 *or any state or local law enforcement agency may conduct*
17 *summary criminal history information record checks as authorized*
18 *by law.*

19 (c) *A local agency shall furnish local summary criminal history*
20 *information to either of the following:*

21 (1) *The subject of the local summary criminal history*
22 *information.*

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

26 ~~(b)~~

27 (d) ~~A local agency shall~~ *may* furnish local summary criminal
28 history information to any of the following, when needed in the
29 course of their duties, ~~provided that when information is furnished~~
30 ~~to assist an agency, officer, or official of state or local government,~~
31 ~~a public utility, or any entity, in fulfilling employment,~~
32 ~~certification, or licensing duties, Chapter 1321 of the Statutes of~~
33 ~~1974 and Section 432.7 of the Labor Code shall apply:~~ *duties:*

34 (1) The courts of the state.

35 (2) Peace officers of the state, as defined in Section 830.1,
36 subdivisions (a) and (d) of Section 830.2, subdivisions (a), (b),
37 and (j) of Section 830.3, and subdivisions (a), (b), and (c) of
38 Section 830.5.

39 (3) District attorneys of the state.

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

- 1 (5) City attorneys pursuing civil gang injunctions pursuant to
2 Section 186.22a, or drug abatement actions pursuant to Section
3 3479 or 3480 of the Civil Code, or Section 11571 of the Health
4 and Safety Code.
- 5 (6) Probation officers of the state.
- 6 (7) Parole officers of the state.
- 7 (8) A public defender or attorney of record when representing
8 a person in proceedings upon a petition for a certificate of
9 rehabilitation and pardon pursuant to Section 4852.08.
- 10 (9) A public defender or attorney of record when representing
11 a person in a criminal case, or a parole, mandatory supervision, or
12 postrelease community supervision revocation or revocation
13 extension hearing, and when authorized access by statutory or
14 decisional law.
- 15 ~~(10) Any agency, officer, or official of the state when the local
16 summary criminal history information is required to implement a
17 statute, regulation, or ordinance that expressly refers to specific
18 criminal conduct applicable to the subject person of the local
19 summary criminal history information, and contains requirements
20 or exclusions, or both, expressly based upon the specified criminal
21 conduct.~~
- 22 ~~(11) Any city, county, city and county, or district, or any officer
23 or official thereof, when access is needed in order to assist the
24 agency, officer, or official in fulfilling employment, certification,
25 or licensing duties, and when the access is specifically authorized
26 by the city council, board of supervisors, or governing board of
27 the city, county, or district when the local summary criminal history
28 information is required to implement a statute, regulation, or
29 ordinance that expressly refers to specific criminal conduct
30 applicable to the subject person of the local summary criminal
31 history information, and contains requirements or exclusions, or
32 both, expressly based upon the specified criminal conduct.~~
- 33 ~~(12) The subject of the local summary criminal history
34 information.~~
- 35 ~~(13) Any person or entity when access is expressly authorized
36 by statute when the local summary criminal history information
37 is required to implement a statute, regulation, or ordinance that
38 expressly refers to specific criminal conduct applicable to the
39 subject person of the local summary criminal history information,~~

1 and contains requirements or exclusions, or both, expressly based
2 upon the specified criminal conduct.

3 (14)

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

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

15 (16) ~~County child welfare agency personnel who have been
16 delegated the authority of county probation officers to access state
17 summary criminal information pursuant to Section 272 of the
18 Welfare and Institutions Code for the purposes specified in Section
19 16504.5 of the Welfare and Institutions Code.~~

20 (17) ~~A humane officer appointed pursuant to Section 14502 of
21 the Corporations Code, for the purposes of performing his or her
22 duties. A local agency may charge a reasonable fee sufficient to
23 cover the costs of providing information pursuant to this paragraph.~~

24 (e)

25 (e) The local agency may furnish local summary criminal history
26 information, upon a showing of a compelling need, to any of the
27 following, provided that when information is furnished to assist
28 an agency, officer, or official of state or local government, a public
29 utility, or any entity, in fulfilling employment, certification, or
30 licensing duties, Chapter 1321 of the Statutes of 1974 and Section
31 432.7 of the Labor Code shall apply: *following:*

32 (1) Any public utility, as defined in Section 216 of the Public
33 Utilities Code, which operates a nuclear energy facility when access
34 is needed to assist in employing persons to work at the facility,
35 provided that, if the local agency supplies the information, it shall
36 furnish a copy of this information to the person to whom the
37 information relates.

38 (2)

39 (1) To a peace officer of the state other than those included in
40 subdivision (b): (d).

1 ~~(3)~~

2 (2) An animal control officer, authorized to exercise powers
3 specified in Section 830.9, for the purposes of performing his or
4 her official duties. A local agency may charge a reasonable fee
5 sufficient to cover the costs of providing information pursuant to
6 this paragraph.

7 ~~(4)~~

8 (3) To a peace officer of another country.

9 ~~(5)~~

10 (4) To ~~a public officers, officer,~~ other than a peace-officers,
11 ~~officer,~~ of the United States, ~~other states, or possessions or~~
12 ~~territories another state, possession, or territory~~ of the United
13 States, provided that access to records similar to local summary
14 criminal history information is expressly authorized by a statute
15 of the United States, ~~other states, or possessions or territories the~~
16 ~~other state, possession, or territory~~ of the United States when this
17 information is needed for the performance of their official duties.

18 ~~(6)~~

19 (5) To any person ~~when~~ if disclosure is requested by a probation,
20 parole, or peace officer with the consent of the subject of the local
21 summary criminal history information and for purposes of
22 furthering the rehabilitation of the subject.

23 ~~(7)~~

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

26 ~~(8)~~

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

29 ~~(9) To any individual who is the subject of the record requested~~
30 ~~when needed in conjunction with an application to enter the United~~
31 ~~States or any foreign nation.~~

32 ~~(10) Any public utility, as defined in Section 216 of the Public~~
33 ~~Utilities Code, when access is needed to assist in employing~~
34 ~~persons who will be seeking entrance to private residences in the~~
35 ~~course of their employment. The information provided shall be~~
36 ~~limited to the record of convictions and any arrest for which the~~
37 ~~person is released on bail or on his or her own recognizance~~
38 ~~pending trial.~~

1 If the local agency supplies the information pursuant to this
2 paragraph, it shall furnish a copy of the information to the person
3 to whom the information relates.

4 Any information

5 (f) *Information* obtained from the local summary criminal history
6 is confidential and the receiving ~~public utility person, agency, or~~
7 ~~entity~~ shall not disclose its contents, other than for the purpose for
8 which it was acquired. ~~The local summary criminal history~~
9 ~~information in the possession of the public utility and all copies~~
10 ~~made from it shall be destroyed 30 days after employment is denied~~
11 ~~or granted, including any appeal periods, except for those cases~~
12 ~~where an employee or applicant 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 30~~
15 ~~days after the case is resolved, including any appeal periods. A~~
16 ~~violation of any of the provisions of this paragraph is a~~
17 ~~misdemeanor, and shall give the person who is injured by the~~
18 ~~violation a cause of action against the public utility to recover~~
19 ~~damages proximately caused by the violation.~~

20 A violation of any of the provisions of this paragraph is a
21 misdemeanor, and shall give the employee or applicant who is
22 injured by the violation a cause of action against the public utility
23 to recover damages proximately caused by the violation.

24 Nothing in this section shall be construed as imposing any duty
25 upon public utilities to request local summary criminal history
26 information on any current or prospective employee.

27 Seeking entrance to private residences in the course of
28 employment shall be deemed a “compelling need” as required to
29 be shown in this subdivision.

30 (11) ~~Any city, county, city and county, or district, or any officer~~
31 ~~or official thereof, if a written request is made to a local law~~
32 ~~enforcement agency and the information is needed to assist in the~~
33 ~~screening of a prospective concessionaire, and any affiliate or~~
34 ~~associate thereof, as these terms are defined in subdivision (k) of~~
35 ~~Section 432.7 of the Labor Code, for the purposes of consenting~~
36 ~~to, or approving of, the prospective concessionaire’s application~~
37 ~~for, or acquisition of, any beneficial interest in a concession, lease,~~
38 ~~or other property interest.~~

39 Any local government’s request for local summary criminal
40 history information for purposes of screening a prospective

1 ~~concessionaire and their affiliates or associates before approving~~
2 ~~or denying an application for, or acquisition of, any beneficial~~
3 ~~interest in a concession, lease, or other property interest is deemed~~
4 ~~a “compelling need” as required by this subdivision. However,~~
5 ~~only local summary criminal history information pertaining to~~
6 ~~criminal convictions may be obtained pursuant to this paragraph.~~

7 ~~Any information obtained from the local summary criminal~~
8 ~~history is confidential and the receiving local government shall~~
9 ~~not disclose its contents, other than for the purpose for which it~~
10 ~~was acquired. The local summary criminal history information in~~
11 ~~the possession of the local government and all copies made from~~
12 ~~it shall be destroyed not more than 30 days after the local~~
13 ~~government’s final decision to grant or deny consent to, or approval~~
14 ~~of, the prospective concessionaire’s application for, or acquisition~~
15 ~~of, a beneficial interest in a concession, lease, or other property~~
16 ~~interest. Nothing in this section shall be construed as imposing~~
17 ~~any duty upon a local government, or any officer or official thereof,~~
18 ~~to request local summary criminal history information on any~~
19 ~~current or prospective concessionaire or their affiliates or~~
20 ~~associates.~~

21 ~~(12) A public agency described in subdivision (b) of Section~~
22 ~~15975 of the Government Code, for the purpose of oversight and~~
23 ~~enforcement policies with respect to its contracted providers.~~

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

32 ~~(e) A local agency taking fingerprints of a person who is an~~
33 ~~applicant for licensing, employment, or certification may charge~~
34 ~~a fee to cover the cost of taking the fingerprints and processing~~
35 ~~the required documents.~~

36 ~~(f) Whenever local summary criminal history information~~
37 ~~furnished pursuant to this section is to be used for employment,~~
38 ~~licensing, or certification purposes, the local agency shall charge~~
39 ~~the person or entity making the request a fee which it determines~~
40 ~~to be sufficient to reimburse the local agency for the cost of~~

1 furnishing the information, provided that no fee shall be charged
2 to any public law enforcement agency for local summary criminal
3 history information furnished to assist it in employing, licensing,
4 or certifying a person who is applying for employment with the
5 agency as a peace officer or criminal investigator. Any state agency
6 required to pay a fee to the local agency for information received
7 under this section may charge the applicant a fee sufficient to
8 reimburse the agency for the expense.

9 ~~(g) Whenever there is a conflict, the processing of criminal
10 fingerprints shall take priority over the processing of applicant
11 fingerprints.~~

12 ~~(h) It is not a violation of this article to disseminate statistical
13 or research information obtained from a record, provided that the
14 identity of the subject of the record is not disclosed.~~

15 ~~(i) It is not a violation of this article to include information
16 obtained from a record in (1) a transcript or record of a judicial or
17 administrative proceeding or (2) any other public record when the
18 inclusion of the information in the public record is authorized by
19 a court, statute, or decisional law.~~

20 ~~(j) Notwithstanding any other law, a public prosecutor may, in
21 response to a written request made pursuant to Section 6253 of
22 the Government Code, provide information from a local summary
23 criminal history, if release of the information would enhance public
24 safety, the interest of justice, or the public's understanding of the
25 justice system and the person making the request declares that the
26 request is made for a scholarly or journalistic purpose. If a person
27 in a declaration required by this subdivision willfully states as true
28 any material fact that he or she knows to be false, he or she shall
29 be subject to a civil penalty not exceeding ten thousand dollars
30 (\$10,000). The requestor shall be informed in writing of this
31 penalty. An action to impose a civil penalty under this subdivision
32 may be brought by any public prosecutor and shall be enforced as
33 a civil judgment.~~

34 ~~(k) Notwithstanding any other law, the Department of Justice
35 or any state or local law enforcement agency may require the
36 submission of fingerprints for the purpose of conducting summary
37 criminal history information record checks which are authorized
38 by law.~~

39 ~~(l) Any local criminal justice agency may release, within five
40 years of the arrest, information concerning an arrest or detention~~

1 of a peace officer or applicant for a position as a peace officer, as
2 defined in Section 830, which did not result in conviction, and for
3 which the person did not complete a postarrest diversion program
4 or a deferred entry of judgment program, to a government agency
5 employer of that peace officer or applicant.

6 ~~(m) Any local criminal justice agency may release information~~
7 ~~concerning an arrest of a peace officer or applicant for a position~~
8 ~~as a peace officer, as defined in Section 830, which did not result~~
9 ~~in conviction but for which the person completed a postarrest~~
10 ~~diversion program or a deferred entry of judgment program, or~~
11 ~~information concerning a referral to and participation in any~~
12 ~~postarrest diversion program or a deferred entry of judgment~~
13 ~~program to a government agency employer of that peace officer~~
14 ~~or applicant.~~

15 ~~(n) Notwithstanding subdivision (l) or (m), a~~

16 ~~(g) A local criminal justice agency shall not release information~~
17 ~~under the following circumstances:~~

18 ~~(1) Information concerning an arrest for which diversion or a~~
19 ~~deferred entry of judgment program has been ordered without~~
20 ~~attempting to determine whether diversion or a deferred entry of~~
21 ~~judgment program has been successfully completed: a conviction~~
22 ~~dismissed pursuant to Section 1203.4, an arrest subsequently~~
23 ~~deemed a detention, or an arrest that resulted in the successful~~
24 ~~completion of a diversion program, exoneration, or a grant of~~
25 ~~relief pursuant to Section 851.91.~~

26 ~~(2) Information concerning an arrest or detention followed by~~
27 ~~a dismissal or release without attempting to determine whether the~~
28 ~~individual was exonerated.~~

29 ~~(3) Information concerning an arrest without a disposition~~
30 ~~without attempting to determine whether diversion has been~~
31 ~~successfully completed or the individual was exonerated.~~

32 ~~(2) With the exception of those offenses for which registration~~
33 ~~is required pursuant to Section 290, information concerning~~
34 ~~misdemeanor convictions that occurred before two years of the~~
35 ~~date of the request for information and felony convictions that~~
36 ~~occurred before five years of the date of the request for~~
37 ~~information.~~

38 ~~(3) Information requested by an agency, officer, or official of~~
39 ~~state or local government, a public utility, or any entity, to assist~~
40 ~~in fulfilling employment, certification, or licensing duties. Agencies,~~

1 officers, officials of state or local government, a public utility, or
2 any entity, seeking information to assist an in fulfilling employment,
3 certification, or licensing duties may obtain an applicant's state
4 summary criminal history information from the Department of
5 Justice pursuant to Section 11105. This section does not impose
6 any duty upon agencies, officers, officials of state or local
7 government, a public utility, or any entity to request local summary
8 criminal history information on any current or prospective
9 applicant.

10 (h) It is not a violation of this article to disseminate statistical
11 or research information obtained from a record, provided that the
12 identity of the subject of the record is not disclosed.

13 (i) Notwithstanding any other law, a public prosecutor may, in
14 response to a written request made pursuant to Section 6253 of
15 the Government Code, provide information from a local summary
16 criminal history, if release of the information would enhance public
17 safety, the interest of justice, or the public's understanding of the
18 justice system and the person making the request declares that the
19 request is made for a scholarly or journalistic purpose. If a person
20 in a declaration required by this subdivision willfully states as
21 true any material fact that he or she knows to be false, he or she
22 shall be subject to a civil penalty not exceeding ten thousand
23 dollars (\$10,000). The requestor shall be informed in writing of
24 this penalty. An action to impose a civil penalty under this
25 subdivision may be brought by any public prosecutor and shall be
26 enforced as a civil judgment.

27 SEC. 9. If the Commission on State Mandates determines that
28 this act contains costs mandated by the state, reimbursement to
29 local agencies and school districts for those costs shall be made
30 pursuant to Part 7 (commencing with Section 17500) of Division
31 4 of Title 2 of the Government Code.

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