

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

BILL NUMBER: SB 731

VERSION: AMENDED APRIL 20, 2021

AUTHOR: DURAZO

SPONSOR: NUMEROUS – SEE BELOW

RECOMMENDED POSITION: SUPPORT

SUBJECT: CRIMINAL RECORDS: RELIEF

Summary: This bill would require the Department of Justice to provide arrest and conviction relief for certain specified felony offenses. It would also require the Attorney General to exclude arrest and conviction records that were granted this relief from state or federal summary criminal history information.

Existing Law:

- 1) Requires, beginning July 1, 2022, the Department of Justice to review the records in the statewide criminal justice databases on a monthly basis and identify people with arrest records that are eligible for arrest record relief. (Penal Code (PC) §851.93(a) and (g))
- 2) Provides that a person is eligible for arrest record relief if the arrest occurred on or after January 1, 2021 and meets any of the following (PC §851.93(a)):
 - a) The arrest was for a misdemeanor and the charge was dismissed.
 - b) The arrest was for a misdemeanor, criminal proceedings were not initiated, and at least one calendar year has elapsed since the arrest and there was no conviction, or there was an acquittal from the charges.
 - c) The arrest was for a felony punishable by imprisonment in county jail, criminal proceedings have not been initiated, and at least 3 calendar years have elapsed since the date of arrest and no conviction occurred, or there was an acquittal from the charges.
 - d) The person successfully completed a specified type of diversion program relating to the arrest.
- 3) Requires the arrest record relief to be granted without a petition or a motion by the person if the relevant information is in the department's electronic records. (PC §851.93(b))

- 4) Allows a court to permit defendants who were convicted of certain felonies punishable by imprisonment in county jail, to, after a specified period after completion of the sentence, withdraw a plea of guilty or nolo contendere and enter a not guilty plea, or allows a court to set aside a guilty verdict, if the defendant is not under supervision or serving or charged for another offense. The court must then release the defendant from all penalties and disabilities. (PC §§1203.41)
- 5) Requires, beginning July 1, 2022, the Department of Justice to review the records in the statewide criminal justice databases and identify persons with convictions that are eligible for automatic conviction record relief. A person eligible for such relief must meet specified criteria. (PC §1203.425(a))
- 6) Provides a process by which the prosecuting attorney or probation department may file a petition to prohibit the department from granting automatic relief, based on a showing that granting relief would pose a substantial threat to public safety. (PC §1203.425(b))
- 7) Requires the Department of Justice to maintain state summary criminal history information, and requires the Attorney General to furnish this information to specified agencies to specified entities if needed to perform their duties (PC §11105(a) and (b))

This Bill:

- 1) Amends the law to provide that a person is eligible for arrest record relief if the arrest occurred on or after January 1, 2021 and the arrest was for a felony, provided that criminal proceedings have not been initiated, and at least 3 calendar years have elapsed since the date of arrest and no conviction occurred, or there was an acquittal from the charges. (PC §851.93(a)(2)(C))
- 2) Also amends the law to provide that a person is eligible for arrest record relief if the arrest occurred on or after January 1, 2021 and the arrest was for an offense punishable by imprisonment in state prison or county jail for 8 years or more, there is no indication that criminal proceedings have been initiated, at least 6 years have elapsed since the arrest, and no conviction occurred, or the person was acquitted. (PC §851.93(a)(2)(C))
- 3) Allows a court to permit defendants who were convicted of any felony to, after a specified period after completion of the sentence, withdraw a plea of guilty or nolo contendere and enter a not guilty plea, or allows a court to set aside a guilty verdict, if the defendant is not under supervision or serving or charged for another offense. The court must then release the defendant from all penalties and disabilities. (PC §§1203.41)
- 4) Prohibits state or federal summary criminal history information from including the following information. PC §11105(v)):

- a) Records of arrest that were granted relief under PC §851.93, if at least two calendar years have passed since relief was granted and there were no new felony convictions during that time.
 - b) Records of conviction that were granted relief under several specified provisions, if at least two years has elapsed since relief was granted and there were no new felony convictions during that time.
- 5) The prohibition in item #4 above does not apply to records for which the record-holder is required to register as a sex offender, has an active record in the Supervised Release File, or if based on information available in the department's record, it appears the person is currently service a sentence or if there is an indication of pending criminal charges. (PC §11105(v)(2))
- 6) The prohibition in item #4 above does not apply if the records are required to be disseminated by federal law. (PC §11105(v)(2))

Comment:

- 1) **Author's Intent.** The author states that SB 731 will implement a comprehensive system to prospectively and retroactively seal criminal and arrest records, as follows:

- It provides automated sealing of all arrest records that do not result in a conviction; and
- It provides phased relief for conviction records by expanding record sealing to all sentences following completion of terms of incarceration, post-release supervision, and an additional period of time, provided the person has completed their sentence without any new felony convictions and has no new charges pending.

The author's office also states the following:

"Nationally, an estimated 70 million people - nearly one in three adults, and 8 million people in California alone have a past arrest or conviction on their record. California maintains an individual's criminal records until that person reaches 100 years of age.

As a result of the widespread usage of background checks in today's society, the permanence of these records present thousands of barriers resulting in widespread constraints on civic participation."

- 2) **Effect on the Board.** When an applicant applies for licensure or registration with the Board, the Board receives their state and federal summary criminal history information from the DOJ and the FBI based off of their fingerprint records.

Staff believes that the bill's amendments to Penal Code §11105(v) of the Penal Code would be the portion of the bill most likely to impact the Board. It would prohibit the Board from receiving arrest or conviction information for applicants if their arrest or conviction was granted relief. Prior convictions would not show so long as a period of two years has elapsed since the date the relief was granted, and the applicant was not convicted of a new criminal offense.

In many cases where convictions are old, and the applicant successfully rehabilitated and subsequent convictions never occurred, not receiving a report of these decisions would likely not affect the Board's decision about whether to issue a license or registration.

However, in some instances, failure to receive this information could have implications for public protection. For example, if an applicant had a long-standing pattern of law violations, the inability to review an applicant's entire criminal record could potentially prevent the Board from making a complete and informed decision regarding fitness for licensure.

- 3) **Policy and Advocacy Committee Recommendation.** At its April 16, 2021 meeting, the Policy and Advocacy Committee (Committee) recommended that the Board consider taking a "support" position on this bill.

The bill has been amended since the Committee considered it, on April 20, 2021. However, those amendments were very minor and have no substantive effect on this analysis.

4) **Previous Legislation.**

- **AB 2138 (Chapter 995, Statutes of 2018)** was signed into law and made changes regarding when licensing boards can deny, suspend, or revoke a license due to prior convictions or discipline. The bill also required boards to amend their existing regulations governing substantially related crimes or acts, as well as its rehabilitation criteria.
- **AB 2396 (Chapter 737, Statutes of 2014)** was signed by the Governor and became effective on January 1, 2015. This bill removed the Board's ability to deny a license under BPC §480 because the applicant had a conviction, if that conviction had been expunged under Penal Code Sections 1203.4, 1203.4a, and 1203.41. (Penal Code Sections 1203.4, 1203.4a, and 1203.41 allow for the expungement of certain convictions after a specified length of time and fulfillment of the court's punishment. Expungement is not available for certain sex offenses, or for individuals who were sentenced to prison.)

5) **Support and Opposition**

Support:

- A New Way of Life Re-entry Project;

- Alliance of Californians for Community Empowerment (ACCE) Action;
- American Civil Liberties Union/northern California/Southern California/san Diego and Imperial Counties;
- Arts for Healing and Justice Network;
- Asian Americans Advancing Justice – California;
- Asian Solidarity Collective;
- Bend the Arc: Jewish Action;
- California Attorneys for Criminal Justice;
- California Coalition for Women Prisoners;
- California Immigrant Policy Center;
- California Labor Federation, AFL-CIO;
- California Public Defenders Association (CPDA);
- California Religious Action Center of Reform Judaism;
- Californians United for a Responsible Budget;
- Cat Clark Consulting Services LLC;
- Code for America;
- Communities United for Restorative Youth Justice (CURYJ);
- Community Works;
- Courage California;
- Dream Corps;
- Drug Policy Alliance;
- Ella Baker Center for Human Right;
- Family Reunification, Equity and Empowerment Project;
- Family Reunification, Equity & Empowerment;
- Forward Impact Dba Represent Justice;
- Fresno Barrios Unidos;
- Friends Committee on Legislation of California;
- Homeboy Industries;
- Initiate Justice;
- Inland Empire Fair Chance Coalition;
- Inland Equity Partnership;
- Last Prisoner Project;
- Law Enforcement Action Partnership;
- Legal Aid At Work;
- Legal Services for Prisoners With Children;
- Los Angeles Regional Reentry Partnership;
- National Association of Social Workers, California Chapter;
- Phenomenal Angels of The Community;
- Pillars of The Community;
- Re:store Justice;
- Rubicon Programs;
- San Francisco Public Defender;
- Shields for Families;
- Showing Up for Racial Justice (SURJ) Bay Area;

- Showing Up for Racial Justice (SURJ) San Diego;
- Showing Up for Racial Justice North County;
- Social & Environmental Justice Committee of The Universalist Unitarian Church of Riverside;
- Starting Over INC.;
- Team Justice;
- Think Dignity;
- The Reverence Project;
- Tides Advocacy;
- Time for Change Foundation;
- Transition Clinic Network;
- Uncommon Law;
- Underground Scholars Initiative Berkeley;
- We the People - San Diego

Opposition:

- California Association of Licensed Investigators;
- Peace Officers Research Association of California (PORAC)

6) History

2021

04/20/21 Read second time and amended. Re-referred to Com. on APPR.
 04/19/21 From committee: Do pass as amended and re-refer to Com. on APPR. (Ayes 4. Noes 1.) (April 13).
 04/05/21 From committee with author's amendments. Read second time and amended. Re-referred to Com. on PUB. S.
 03/26/21 Set for hearing April 13.
 03/26/21 April 6 hearing postponed by committee.
 03/12/21 Set for hearing April 6.
 03/11/21 Re-referred to Com. on PUB. S.
 03/03/21 From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS.
 03/03/21 Referred to Com. on RLS.
 02/22/21 Joint Rule 55 suspended. (Ayes 32. Noes 4.)
 02/22/21 (Ayes 32. Noes 4.)
 02/22/21 Art. IV. Sec. 8(a) of the Constitution dispensed with.
 02/22/21 Read first time.
 02/22/21 From printer. May be acted upon on or after March 24.
 02/19/21 Introduced. To Com. on RLS. for assignment. To print.

AMENDED IN SENATE APRIL 20, 2021

AMENDED IN SENATE APRIL 5, 2021

AMENDED IN SENATE MARCH 3, 2021

SENATE BILL

No. 731

Introduced by Senators Durazo and Bradford

(Coauthors: Senators Skinner and Wiener) (Coauthors:

Assembly Members Carrillo, Cristina Garcia, Gipson, Kalra, Lee,
Medina, and Stone)

February 19, 2021

An act to amend Sections 851.93, 1203.41, 1203.425, and 11105 of the Penal Code, relating to criminal records.

legislative counsel's digest

SB 731, as amended, Durazo. Criminal records: relief.

Existing law authorizes a defendant who was sentenced to a county jail for the commission of a felony and who has met specified criteria to petition to withdraw their plea of guilty or nolo contendere and enter a plea of not guilty after the completion of their sentence, as specified. Existing law requires the court to dismiss the accusations or information against the defendant and release them from all penalties and disabilities resulting from the offense, except as specified.

This bill would make this relief available to a defendant who has been convicted of any felony.

Commencing July 1, 2022, existing law requires the Department of Justice, on a monthly basis, to review the records in the statewide criminal justice databases and identify persons who are eligible for specified automatic conviction and records of arrest relief without requiring the filing of a petition or motion. Under existing law, a person

is eligible for arrest record relief if they were arrested on or after January 1, 2021, and the arrest was for a misdemeanor and the charge was dismissed or criminal proceedings have not been initiated within one year after the arrest, or the arrest was for a felony punishable in the county jail and criminal proceedings have not been initiated within 3 years after the date of the arrest. Under existing law, a person is eligible for automatic conviction record relief if, on or after January 1, 2021, they were sentenced to probation, and completed it without revocation, or if they were convicted of an infraction or a misdemeanor, and other criteria are met, as specified.

This bill would generally make this arrest record relief available to a person who has been arrested for a felony, including a felony punishable in the state prison, as specified. The bill would additionally make this conviction record relief available for a defendant convicted of a felony for which they did not complete probation without revocation if the defendant appears to have completed all terms of incarceration, probation, mandatory supervision, postrelease supervision, and parole.

Existing law directs the Attorney General to furnish state summary criminal history information, as defined, to specified individuals, organizations, and agencies when necessary for the execution of official duties or to implement a statute or regulation. Existing law also directs the Attorney General to disseminate federal criminal history information when specifically authorized and upon a showing of compelling need. Existing law makes the unauthorized furnishing of criminal history information a crime.

Commencing July 1, 2022, this bill would require the Attorney General to exclude records of arrest and conviction that were granted relief under specified provisions from state summary criminal history information, except as specified. By expanding the scope of a crime, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 851.93 of the Penal Code is amended to
2 read:

3 851.93. (a) (1) On a monthly basis, the Department of Justice
4 shall review the records in the statewide criminal justice databases,
5 and based on information in the state summary criminal history
6 repository, shall identify persons with records of arrest that meet
7 the criteria set forth in paragraph (2) and are eligible for arrest
8 record relief.

9 (2) A person is eligible for relief pursuant to this section, if the
10 arrest occurred on or after January 1, 2021, and meets any of the
11 following conditions:

12 (A) The arrest was for a misdemeanor offense and the charge
13 was dismissed.

14 (B) The arrest was for a misdemeanor offense, there is no
15 indication that criminal proceedings have been initiated, at least
16 one calendar year has elapsed since the date of the arrest, and no
17 conviction occurred, or the arrestee was acquitted of any charges
18 that arose, from that arrest.

19 (C) (i) The arrest was for a felony offense not described in
20 clause (ii), there is no indication that criminal proceedings have
21 been initiated, at least three calendar years have elapsed since the
22 date of the arrest, and no conviction occurred, or the arrestee was
23 acquitted of any charges arising, from that arrest.

24 (ii) If the arrest was for an offense punishable by imprisonment
25 in the state prison for eight years or more or by imprisonment
26 pursuant to subdivision (h) of Section 1170 for eight years or more,
27 there is no indication that criminal proceedings have been initiated,
28 at least six years have elapsed since the date of the arrest, and no
29 conviction occurred, or the arrestee was acquitted of any charges
30 arising, from that arrest.

31 (D) The person successfully completed any of the following,
32 relating to that arrest:

33 (i) A prefiling diversion program, as defined in subdivision (d)
34 of Section 851.87, administered by a prosecuting attorney in lieu
35 of filing an accusatory pleading.

36 (ii) A drug diversion program administered by a superior court
37 pursuant to Section 1000.5, or a deferred entry of judgment
38 program pursuant to Section 1000 or 1000.8.

1 (iii) A pretrial diversion program, pursuant to Section 1000.4.

2 (iv) A diversion program, pursuant to Section 1001.9.

3 (v) A diversion program described in Chapter 2.8 (commencing
4 with Section 1001.20), Chapter 2.8A (commencing with Section
5 1001.35), Chapter 2.81 (commencing with Section 1001.40),
6 Chapter 2.9 (commencing with Section 1001.50), Chapter 2.9A
7 (commencing with Section 1001.60), Chapter 2.9B (commencing
8 with Section 1001.70), Chapter 2.9C (commencing with Section
9 1001.80), Chapter 2.9D (commencing with Section 1001.81), or
10 Chapter 2.92 (commencing with Section 1001.85), of Title 6.

11 (b) (1) The department shall grant relief to a person identified
12 pursuant to subdivision (a), without requiring a petition or motion
13 by a party for that relief if the relevant information is present in
14 the department's electronic records.

15 (2) The state summary criminal history information shall
16 include, directly next to or below the entry or entries regarding the
17 person's arrest record, a note stating "arrest relief granted," listing
18 the date that the department granted relief, and this section. This
19 note shall be included in all statewide criminal databases with a
20 record of the arrest.

21 (3) Except as otherwise provided in subdivision (d), an arrest
22 for which arrest relief has been granted is deemed not to have
23 occurred, and a person who has been granted arrest relief is released
24 from any penalties and disabilities resulting from the arrest, and
25 may answer any question relating to that arrest accordingly.

26 (c) On a monthly basis, the department shall electronically
27 submit a notice to the superior court having jurisdiction over the
28 criminal case, informing the court of all cases for which a
29 complaint was filed in that jurisdiction and for which relief was
30 granted pursuant to this section. Commencing on August 1, 2022,
31 for any record retained by the court pursuant to Section 68152 of
32 the Government Code, except as provided in subdivision (d), the
33 court shall not disclose information concerning an arrest that is
34 granted relief pursuant to this section to any person or entity, in
35 any format, except to the person whose arrest was granted relief
36 or a criminal justice agency, as defined in Section 851.92.

37 (d) Relief granted pursuant to this section is subject to all of the
38 following conditions:

39 (1) Arrest relief does not relieve a person of the obligation to
40 disclose an arrest in response to a direct question contained in a

1 questionnaire or application for employment as a peace officer, as
2 defined in Section 830.

3 (2) Relief granted pursuant to this section has no effect on the
4 ability of a criminal justice agency, as defined in Section 851.92,
5 to access and use records that are granted relief to the same extent
6 that would have been permitted for a criminal justice agency had
7 relief not been granted.

8 (3) This section does not limit the ability of a district attorney
9 to prosecute, within the applicable statute of limitations, an offense
10 for which arrest relief has been granted pursuant to this section.

11 (4) Relief granted pursuant to this section does not affect a
12 person's authorization to own, possess, or have in the person's
13 custody or control a firearm, or the person's susceptibility to
14 conviction under Chapter 2 (commencing with Section 29800) of
15 Division 9 of Title 4 of Part 6, if the arrest would otherwise affect
16 this authorization or susceptibility.

17 (5) Relief granted pursuant to this section does not affect any
18 prohibition from holding public office that would otherwise apply
19 under law as a result of the arrest.

20 (6) Relief granted pursuant to this section does not affect the
21 authority to receive, or take adverse action based on, criminal
22 history information, including the authority to receive certified
23 court records received or evaluated pursuant to Section 1522,
24 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
25 pursuant to any statutory or regulatory provisions that incorporate
26 the criteria of those sections.

27 (e) This section does not limit petitions, motions, or orders for
28 arrest record relief, as required or authorized by any other law,
29 including, but not limited to, Sections 851.87, 851.90, 851.91,
30 1000.4, and 1001.9.

31 (f) The department shall annually publish on the OpenJustice
32 Web portal, as described under Section 13010, statistics for each
33 county regarding the total number of arrests granted relief pursuant
34 to this section and the percentage of arrests for which the state
35 summary criminal history information does not include a
36 disposition.

37 (g) This section shall be operative commencing July 1, 2022,
38 subject to an appropriation in the annual Budget Act.

39 SEC. 2. Section 1203.41 of the Penal Code is amended to read:

1 1203.41. (a) If a defendant is convicted of a felony, the court,
2 in its discretion and in the interests of justice, may order the
3 following relief, subject to the conditions of subdivision (b):

4 (1) The court may permit the defendant to withdraw their plea
5 of guilty or plea of nolo contendere and enter a plea of not guilty,
6 or, if the defendant has been convicted after a plea of not guilty,
7 the court shall set aside the verdict of guilty, and, in either case,
8 the court shall dismiss the accusations or information against the
9 defendant and the defendant shall thereafter be released from all
10 penalties and disabilities resulting from the offense of which they
11 have been convicted, except as provided in Section 13555 of the
12 Vehicle Code.

13 (2) The relief available under this section may be granted only
14 after the lapse of one year following the defendant's completion
15 of the sentence, if the sentence was imposed pursuant to
16 subparagraph (B) of paragraph (5) of subdivision (h) of Section
17 1170, or after the lapse of two years following the defendant's
18 completion of the sentence, if the sentence was imposed pursuant
19 to subparagraph (A) of paragraph (5) of subdivision (h) of Section
20 1170 or if the defendant was sentenced to the state prison.

21 (3) The relief available under this section may be granted only
22 if the defendant is not on parole or under supervision pursuant to
23 subparagraph (B) of paragraph (5) of subdivision (h) of Section
24 1170, and is not serving a sentence for, on probation for, or charged
25 with the commission of any offense.

26 (4) The defendant shall be informed, either orally or in writing,
27 of the provisions of this section and of their right, if any, to petition
28 for a certificate of rehabilitation and pardon at the time they are
29 sentenced.

30 (5) The defendant may make the application and change of plea
31 in person or by attorney, or by a probation officer authorized in
32 writing.

33 (b) Relief granted pursuant to subdivision (a) is subject to all
34 of the following conditions:

35 (1) In any subsequent prosecution of the defendant for any other
36 offense, the prior conviction may be pleaded and proved and shall
37 have the same effect as if the accusation or information had not
38 been dismissed.

39 (2) The order shall state, and the defendant shall be informed,
40 that the order does not relieve them of the obligation to disclose

1 the conviction in response to any direct question contained in any
2 questionnaire or application for public office, for licensure by any
3 state or local agency, or for contracting with the California State
4 Lottery Commission.

5 (3) Dismissal of an accusation or information pursuant to this
6 section does not permit a person to own, possess, or have in their
7 custody or control any firearm or prevent their conviction under
8 Chapter 2 (commencing with Section 29800) of Division 9 of Title
9 4 of Part 6.

10 (4) Dismissal of an accusation or information underlying a
11 conviction pursuant to this section does not permit a person
12 prohibited from holding public office as a result of that conviction
13 to hold public office.

14 (c) This section applies to any conviction specified in
15 subdivision (a) that occurred before, on, or after January 1, 2021.

16 (d) A person who petitions for a change of plea or setting aside
17 of a verdict under this section may be required to reimburse the
18 court for the actual costs of services rendered, whether or not the
19 petition is granted and the records are sealed or expunged, at a rate
20 to be determined by the court not to exceed one hundred fifty
21 dollars (\$150), and to reimburse the county for the actual costs of
22 services rendered, whether or not the petition is granted and the
23 records are sealed or expunged, at a rate to be determined by the
24 county board of supervisors not to exceed one hundred fifty dollars
25 (\$150), and to reimburse any city for the actual costs of services
26 rendered, whether or not the petition is granted and the records are
27 sealed or expunged, at a rate to be determined by the city council
28 not to exceed one hundred fifty dollars (\$150). Ability to make
29 this reimbursement shall be determined by the court using the
30 standards set forth in paragraph (2) of subdivision (g) of Section
31 987.8 and shall not be a prerequisite to a person's eligibility under
32 this section. The court may order reimbursement in any case in
33 which the petitioner appears to have the ability to pay, without
34 undue hardship, all or any portion of the costs for services
35 established pursuant to this subdivision.

36 (e) (1) Relief shall not be granted under this section unless the
37 prosecuting attorney has been given 15 days' notice of the petition
38 for relief. The probation officer shall notify the prosecuting attorney
39 when a petition is filed, pursuant to this section, if the defendant
40 was on mandatory supervision. The parole officer shall notify the

1 prosecuting attorney when a petition is filed, pursuant to this
2 section, if the defendant was on parole.

3 (2) It shall be presumed that the prosecuting attorney has
4 received notice if proof of service is filed with the court.

5 (f) If, after receiving notice pursuant to subdivision (e), the
6 prosecuting attorney fails to appear and object to a petition for
7 dismissal, the prosecuting attorney shall not move to set aside or
8 otherwise appeal the grant of that petition.

9 SEC. 3. Section 1203.425 of the Penal Code is amended to
10 read:

11 1203.425. (a) (1) (A) Commencing July 1, 2022, and subject
12 to an appropriation in the annual Budget Act, on a monthly basis,
13 the Department of Justice shall review the records in the statewide
14 criminal justice databases, and based on information in the state
15 summary criminal history repository and the Supervised Release
16 File, shall identify persons with convictions that meet the criteria
17 set forth in subparagraph (B) and are eligible for automatic
18 conviction record relief.

19 (B) A person is eligible for automatic conviction relief pursuant
20 to this section if they meet all of the following conditions:

21 (i) The person is not required to register pursuant to the Sex
22 Offender Registration Act.

23 (ii) The person does not have an active record for local, state,
24 or federal supervision in the Supervised Release File.

25 (iii) Based upon the information available in the department's
26 record, including disposition dates and sentencing terms, it does
27 not appear that the person is currently serving a sentence for an
28 offense and there is no indication of pending criminal charges.

29 (iv) The conviction meets either of the following criteria:

30 (I) The conviction occurred on or after January 1, 2021, and
31 meets either of the following criteria:

32 ~~(aa)~~

33 ~~(ia)~~ The defendant was sentenced to probation, and, based upon
34 the disposition date and the term of probation specified in the
35 department's records, appears to have completed their term of
36 probation without revocation.

37 ~~(bb)~~

38 ~~(ib)~~ The defendant was convicted of an infraction or
39 misdemeanor, was not granted probation, and, based upon the
40 disposition date and the term specified in the department's records,

1 the defendant appears to have completed their sentence, and at
2 least one calendar year has elapsed since the date of judgment.

3 (II) The conviction occurred on or after January 1, 1973, the
4 defendant was convicted of a felony other than one for which the
5 defendant completed probation without revocation, and based upon
6 the disposition date and the sentence specified in the department's
7 records, appears to have completed all terms of incarceration,
8 probation, mandatory supervision, postrelease supervision, and
9 parole.

10 (2) (A) Except as specified in subdivision (b), the department
11 shall grant relief, including dismissal of a conviction, to a person
12 identified pursuant to paragraph (1) without requiring a petition
13 or motion by a party for that relief if the relevant information is
14 present in the department's electronic records.

15 (B) The state summary criminal history information shall
16 include, directly next to or below the entry or entries regarding the
17 person's criminal record, a note stating "relief granted," listing the
18 date that the department granted relief and this section. This note
19 shall be included in all statewide criminal databases with a record
20 of the conviction.

21 (C) Except as otherwise provided in paragraph (4) and in Section
22 13555 of the Vehicle Code, a person granted conviction relief
23 pursuant to this section shall be released from all penalties and
24 disabilities resulting from the offense of which the person has been
25 convicted.

26 (3) Commencing July 1, 2022, and subject to an appropriation
27 in the annual Budget Act, on a monthly basis, the department shall
28 electronically submit a notice to the superior court having
29 jurisdiction over the criminal case, informing the court of all cases
30 for which a complaint was filed in that jurisdiction and for which
31 relief was granted pursuant to this section. Commencing on August
32 1, 2022, for any record retained by the court pursuant to Section
33 68152 of the Government Code, except as provided in paragraph
34 (4), the court shall not disclose information concerning a conviction
35 granted relief pursuant to this section or Section 1203.4, 1203.4a,
36 1203.41, or 1203.42, to any person or entity, in any format, except
37 to the person whose conviction was granted relief or a criminal
38 justice agency, as defined in Section 851.92.

39 (4) Relief granted pursuant to this section is subject to the
40 following conditions:

1 (A) Relief granted pursuant to this section does not relieve a
2 person of the obligation to disclose a criminal conviction in
3 response to a direct question contained in a questionnaire or
4 application for employment as a peace officer, as defined in Section
5 830.

6 (B) Relief granted pursuant to this section does not relieve a
7 person of the obligation to disclose the conviction in response to
8 a direct question contained in a questionnaire or application for
9 public office, or for contracting with the California State Lottery
10 Commission.

11 (C) Relief granted pursuant to this section has no effect on the
12 ability of a criminal justice agency, as defined in Section 851.92,
13 to access and use records that are granted relief to the same extent
14 that would have been permitted for a criminal justice agency had
15 relief not been granted.

16 (D) Relief granted pursuant to this section does not limit the
17 jurisdiction of the court over a subsequently filed motion to amend
18 the record, petition or motion for postconviction relief, or collateral
19 attack on a conviction for which relief has been granted pursuant
20 to this section.

21 (E) Relief granted pursuant to this section does not affect a
22 person's authorization to own, possess, or have in the person's
23 custody or control a firearm, or the person's susceptibility to
24 conviction under Chapter 2 (commencing with Section 29800) of
25 Division 9 of Title 4 of Part 6, if the criminal conviction would
26 otherwise affect this authorization or susceptibility.

27 (F) Relief granted pursuant to this section does not affect a
28 prohibition from holding public office that would otherwise apply
29 under law as a result of the criminal conviction.

30 (G) Relief granted pursuant to this section does not affect the
31 authority to receive, or take adverse action based on, criminal
32 history information, including the authority to receive certified
33 court records received or evaluated pursuant to Section 1522,
34 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
35 pursuant to any statutory or regulatory provisions that incorporate
36 the criteria of those sections.

37 (H) Relief granted pursuant to this section does not make eligible
38 a person who is otherwise ineligible to provide, or receive payment
39 for providing, in-home supportive services pursuant to Article 7
40 (commencing with Section 12300) of Chapter 3 of Part 3 of

1 Division 9 of the Welfare and Institutions Code, or pursuant to
2 Section 14132.95, 14132.952, or 14132.956 of the Welfare and
3 Institutions Code.

4 (I) In a subsequent prosecution of the defendant for any other
5 offense, the prior conviction may be pleaded and proved and shall
6 have the same effect as if the relief had not been granted.

7 (J) Relief granted pursuant to this section does not release the
8 defendant from the terms and conditions of any unexpired criminal
9 protective orders that have been issued by the court pursuant to
10 paragraph (1) of subdivision (i) of Section 136.2, subdivision (j)
11 of Section 273.5, subdivision (I) of Section 368, or subdivision
12 (k) of Section 646.9. These protective orders shall remain in full
13 effect until expiration or until any further order by the court
14 modifying or terminating the order, despite the dismissal of the
15 underlying accusation or information.

16 (5) This section shall not limit petitions, motions, or orders for
17 relief in a criminal case, as required or authorized by any other
18 law, including, but not limited to, Sections 1203.4, 1203.4a, 1016.5,
19 and 1473.7.

20 (6) Commencing July 1, 2022, and subject to an appropriation
21 in the annual Budget Act, the department shall annually publish
22 statistics for each county regarding the total number of convictions
23 granted relief pursuant to this section and the total number of
24 convictions prohibited from automatic relief pursuant to
25 subdivision (b), on the OpenJustice Web portal, as defined in
26 Section 13010.

27 (b) (1) The prosecuting attorney, probation department, or the
28 Department of Corrections and Rehabilitation may, no later than
29 90 calendar days before the date of a person's eligibility for relief
30 pursuant to this section, file a petition to prohibit the department
31 from granting automatic relief pursuant to this section, based on
32 a showing that granting that relief would pose a substantial threat
33 to the public safety.

34 (2) The court shall give notice to the defendant and conduct a
35 hearing on the petition within 45 days after the petition is filed.

36 (3) At a hearing on the petition pursuant to this subdivision, the
37 defendant, the probation department, the Department of Corrections
38 and Rehabilitation, the prosecuting attorney, and the arresting
39 agency, through the prosecuting attorney, may present evidence
40 to the court. Notwithstanding Sections 1538.5 and 1539, the hearing

1 may be heard and determined upon declarations, affidavits, police
2 investigative reports, copies of state summary criminal history
3 information and local summary criminal history information, or
4 any other evidence submitted by the parties that is material,
5 reliable, and relevant.

6 (4) The prosecutor, probation department, or Department of
7 Corrections and Rehabilitation has the initial burden of proof to
8 show that granting conviction relief would pose a substantial threat
9 to the public safety. In determining whether granting relief would
10 pose a substantial threat to the public safety, the court may consider
11 any relevant factors including, but not limited to, either of the
12 following:

13 (A) Declarations or evidence regarding the offense for which a
14 grant of relief is being contested.

15 (B) The defendant's record of arrests and convictions.

16 (5) If the court finds that the prosecutor, probation department,
17 or the Department of Corrections and Rehabilitation, has satisfied
18 the burden of proof, the burden shifts to the defendant to show that
19 the hardship of not obtaining relief outweighs the threat to the
20 public safety of providing relief. In determining whether the
21 defendant's hardship outweighs the threat to the public safety, the
22 court may consider any relevant factors including, but not limited
23 to, either of the following:

24 (A) The hardship to the defendant that has been caused by the
25 conviction and that would be caused if relief is not granted.

26 (B) Declarations or evidence regarding the defendant's good
27 character.

28 (6) If the court grants a petition pursuant to this subdivision,
29 the court shall furnish a disposition report to the Department of
30 Justice pursuant to Section 13151, stating that relief pursuant to
31 this section was denied, and the department shall not grant relief
32 pursuant to this section.

33 (7) A person denied relief pursuant to this section may continue
34 to be eligible for relief pursuant to Section 1203.4 or 1203.4a. If
35 the court subsequently grants relief pursuant to one of those
36 sections, the court shall furnish a disposition report to the
37 Department of Justice pursuant to Section 13151, stating that relief
38 was granted pursuant to the applicable section, and the department
39 shall grant relief pursuant to that section.

1 (c) At the time of sentencing, the court shall advise a defendant,
2 either orally or in writing, of the provisions of this section and of
3 the defendant's right, if any, to petition for a certificate of
4 rehabilitation and pardon.

5 SEC. 4. Section 11105 of the Penal Code is amended to read:

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

8 (2) As used in this section:

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

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

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

29 (1) The courts of the state.

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

34 (3) District attorneys of the state.

35 (4) Prosecuting city attorneys or city prosecutors of a city within
36 the state.

37 (5) City attorneys pursuing civil gang injunctions pursuant to
38 Section 186.22a, or drug abatement actions pursuant to Section
39 3479 or 3480 of the Civil Code, or Section 11571 of the Health
40 and Safety Code.

1 (6) Probation officers of the state.

2 (7) Parole officers of the state.

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

6 (9) A public defender or attorney of record when representing
7 a person in a criminal case or a juvenile delinquency proceeding,
8 including all appeals and postconviction motions, or a parole,
9 mandatory supervision pursuant to paragraph (5) of subdivision
10 (h) of Section 1170, or postrelease community supervision
11 revocation or revocation extension proceeding, if the information
12 is requested in the course of representation.

13 (10) An agency, officer, or official of the state if the state
14 summary criminal history information is required to implement a
15 statute or regulation that expressly refers to specific criminal
16 conduct applicable to the subject person of the state summary
17 criminal history information, and contains requirements or
18 exclusions, or both, expressly based upon that specified criminal
19 conduct. The agency, officer, or official of the state authorized by
20 this paragraph to receive state summary criminal history
21 information may perform state and federal criminal history
22 information checks as provided for in subdivision (u). The
23 Department of Justice shall provide a state or federal response to
24 the agency, officer, or official pursuant to subdivision (p).

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

1 (12) The subject of the state summary criminal history
2 information under procedures established under Article 5
3 (commencing with Section 11120).

4 (13) A person or entity when access is expressly authorized by
5 statute if the criminal history information is required to implement
6 a statute or regulation that expressly refers to specific criminal
7 conduct applicable to the subject person of the state summary
8 criminal history information, and contains requirements or
9 exclusions, or both, expressly based upon that specified criminal
10 conduct.

11 (14) Health officers of a city, county, city and county, or district
12 when in the performance of their official duties enforcing Section
13 120175 of the Health and Safety Code.

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

16 (16) A humane society, or society for the prevention of cruelty
17 to animals, for the specific purpose of complying with Section
18 14502 of the Corporations Code for the appointment of humane
19 officers.

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

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

1 (19) The court of a tribe, or court of a consortium of tribes, that
2 has entered into an agreement with the state pursuant to Section
3 10553.1 of the Welfare and Institutions Code. This information
4 may be used only for the purposes specified in Section 16504.5
5 of the Welfare and Institutions Code and for tribal approval or
6 tribal licensing of foster care or adoptive homes. Article 6
7 (commencing with Section 11140) shall apply to officers, members,
8 and employees of a tribal court receiving state summary criminal
9 history information pursuant to this section.

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

24 (21) An officer providing conservatorship investigations
25 pursuant to Sections 5351, 5354, and 5356 of the Welfare and
26 Institutions Code.

27 (22) A court investigator providing investigations or reviews
28 in conservatorships pursuant to Section 1826, 1850, 1851, or
29 2250.6 of the Probate Code.

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

32 (24) A humane officer pursuant to Section 14502 of the
33 Corporations Code for the purposes of performing the officer's
34 duties.

35 (25) A public agency described in subdivision (b) of Section
36 15975 of the Government Code, for the purpose of oversight and
37 enforcement policies with respect to its contracted providers.

38 (26) (A) A state entity, or its designee, that receives federal tax
39 information. A state entity or its designee that is authorized by this
40 paragraph to receive state summary criminal history information

also may transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation for the purpose of the state entity or its designee obtaining federal level criminal offender record information from the Department of Justice. This information shall be used only for the purposes set forth in Section 1044 of the Government Code.

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

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

(1) A public utility, as defined in Section 216 of the Public Utilities Code, that operates a nuclear energy facility when access is needed in order to assist in employing persons to work at the facility, provided that, if the Attorney General supplies the data, the Attorney General shall furnish a copy of the data to the person to whom the data relates.

(2) A peace officer of the state other than those included in subdivision (b).

(3) An illegal dumping enforcement officer as defined in subdivision (j) of Section 830.7.

(4) A peace officer of another country.

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

(6) A person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state

1 summary criminal history information and for purposes of
2 furthering the rehabilitation of the subject.

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

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

7 (9) An individual who is the subject of the record requested if
8 needed in conjunction with an application to enter the United States
9 or a foreign nation.

10 (10) (A) (i) A public utility, as defined in Section 216 of the
11 Public Utilities Code, or a cable corporation as defined in
12 subparagraph (B), if receipt of criminal history information is
13 needed in order to assist in employing current or prospective
14 employees, contract employees, or subcontract employees who,
15 in the course of their employment, may be seeking entrance to
16 private residences or adjacent grounds. The information provided
17 shall be limited to the record of convictions and arrests for which
18 the person is released on bail or on their own recognizance pending
19 trial.

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

23 (iii) State summary criminal history information is confidential
24 and the receiving public utility or cable corporation shall not
25 disclose its contents, other than for the purpose for which it was
26 acquired. The state summary criminal history information in the
27 possession of the public utility or cable corporation and all copies
28 made from it shall be destroyed not more than 30 days after
29 employment or promotion or transfer is denied or granted, except
30 for those cases where a current or prospective employee is out on
31 bail or on their own recognizance pending trial, in which case the
32 state summary criminal history information and all copies shall be
33 destroyed not more than 30 days after the case is resolved.

34 (iv) A violation of this paragraph is a misdemeanor, and shall
35 give the current or prospective employee who is injured by the
36 violation a cause of action against the public utility or cable
37 corporation to recover damages proximately caused by the
38 violations. A public utility's or cable corporation's request for
39 state summary criminal history information for purposes of
40 employing current or prospective employees who may be seeking

1 entrance to private residences or adjacent grounds in the course
2 of their employment shall be deemed a “compelling need” as
3 required to be shown in this subdivision.

4 (v) This section does not impose a duty upon public utilities or
5 cable corporations to request state summary criminal history
6 information on current or prospective employees.

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

11 (C) Requests for federal level criminal history information
12 received by the Department of Justice from entities authorized
13 pursuant to subparagraph (A) shall be forwarded to the Federal
14 Bureau of Investigation by the Department of Justice. Federal level
15 criminal history information received or compiled by the
16 Department of Justice may then be disseminated to the entities
17 referenced in subparagraph (A), as authorized by law.

18 (11) A campus of the California State University or the
19 University of California, or a four-year college or university
20 accredited by a regional accreditation organization approved by
21 the United States Department of Education, if needed in
22 conjunction with an application for admission by a convicted felon
23 to a special education program for convicted felons, including, but
24 not limited to, university alternatives and halfway houses. Only
25 conviction information shall be furnished. The college or university
26 may require the convicted felon to be fingerprinted, and any inquiry
27 to the department under this section shall include the convicted
28 felon’s fingerprints and any other information specified by the
29 department.

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

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

1 criminal history of that person, and the information is to be used
2 for employment, licensing, or certification purposes, the fingerprint
3 card accompanying the request for information, if any, may be
4 stamped “no criminal record” and returned to the person or entity
5 making the request.

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

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

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

34 (h) It is not a violation of this section to include information
35 obtained from a record in a transcript or record of a judicial or
36 administrative proceeding or any other public record if the
37 inclusion of the information in the public record is authorized by
38 a court, statute, or decisional law.

39 (i) Notwithstanding any other law, the Department of Justice
40 or a state or local law enforcement agency may require the

1 submission of fingerprints for the purpose of conducting state
2 summary criminal history information checks that are authorized
3 by law.

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

8 (k) (1) This subdivision shall apply whenever state or federal
9 summary criminal history information is furnished by the
10 Department of Justice as the result of an application by an
11 authorized agency or organization and the information is to be
12 used for peace officer employment or certification purposes. As
13 used in this subdivision, a peace officer is defined in Chapter 4.5
14 (commencing with Section 830) of Title 3 of Part 2.

15 (2) Except as otherwise provided in subdivision (v) and
16 notwithstanding any other law, whenever state summary criminal
17 history information is initially furnished pursuant to paragraph (1),
18 the Department of Justice shall disseminate the following
19 information:

20 (A) Every conviction rendered against the applicant.

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

25 (C) Every arrest or detention, except for an arrest or detention
26 resulting in an exoneration, provided, however, that where the
27 records of the Department of Justice do not contain a disposition
28 for the arrest, the Department of Justice first makes a genuine effort
29 to determine the disposition of the arrest.

30 (D) Every successful diversion.

31 (E) Every date and agency name associated with all retained
32 peace officer or nonsworn law enforcement agency employee
33 preemployment criminal offender record information search
34 requests.

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

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

38 (l) (1) This subdivision shall apply whenever state or federal
39 summary criminal history information is furnished by the
40 Department of Justice as the result of an application by a criminal

1 justice agency or organization as defined in Section 13101, and
2 the information is to be used for criminal justice employment,
3 licensing, or certification purposes.

4 (2) Except as otherwise provided in subdivision (v) and
5 notwithstanding any other law, whenever state summary criminal
6 history information is initially furnished pursuant to paragraph (1),
7 the Department of Justice shall disseminate the following
8 information:

9 (A) Every conviction rendered against the applicant.

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

14 (C) Every arrest for an offense for which the records of the
15 Department of Justice do not contain a disposition or which did
16 not result in a conviction, provided that the Department of Justice
17 first makes a genuine effort to determine the disposition of the
18 arrest. However, information concerning an arrest shall not be
19 disclosed if the records of the Department of Justice indicate or if
20 the genuine effort reveals that the subject was exonerated,
21 successfully completed a diversion or deferred entry of judgment
22 program, or the arrest was deemed a detention, or the subject was
23 granted relief pursuant to Section 851.91.

24 (D) Every date and agency name associated with all retained
25 peace officer or nonsworn law enforcement agency employee
26 preemployment criminal offender record information search
27 requests.

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

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

31 (m) (1) This subdivision shall apply whenever state or federal
32 summary criminal history information is furnished by the
33 Department of Justice as the result of an application by an
34 authorized agency or organization pursuant to Section 1522,
35 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
36 a statute that incorporates the criteria of any of those sections or
37 this subdivision by reference, and the information is to be used for
38 employment, licensing, or certification purposes.

39 (2) Except as otherwise provided in subdivision (v) and
40 notwithstanding any other law, whenever state summary criminal

1 history information is initially furnished pursuant to paragraph (1),
2 the Department of Justice shall disseminate the following
3 information:

4 (A) Every conviction of an offense rendered against the
5 applicant, except a conviction for which relief has been granted
6 pursuant to Section 1203.49.

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

11 (C) Every arrest for an offense for which the Department of
12 Social Services is required by paragraph (1) of subdivision (a) of
13 Section 1522 of the Health and Safety Code to determine if an
14 applicant has been arrested. However, if the records of the
15 Department of Justice do not contain a disposition for an arrest,
16 the Department of Justice shall first make a genuine effort to
17 determine the disposition of the arrest.

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

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

21 (3) Notwithstanding the requirements of the sections referenced
22 in paragraph (1) of this subdivision, the Department of Justice
23 shall not disseminate information about an arrest subsequently
24 deemed a detention or an arrest that resulted in the successful
25 completion of a diversion program, exoneration, or a grant of relief
26 pursuant to Section 851.91.

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

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

34 (B) Section 11105.3 or 11105.4.

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

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

39 (2) With the exception of applications submitted by
40 transportation companies authorized pursuant to Section 11105.3,

1 and except as otherwise provided in subdivision (v), and
2 notwithstanding any other law, whenever state summary criminal
3 history information is initially furnished pursuant to paragraph (1),
4 the Department of Justice shall disseminate the following
5 information:

6 (A) Every conviction, except a conviction for which relief has
7 been granted pursuant to Section 1203.49, rendered against the
8 applicant for a violation or attempted violation of an offense
9 specified in subdivision (a) of Section 15660 of the Welfare and
10 Institutions Code. However, with the exception of those offenses
11 for which registration is required pursuant to Section 290, the
12 Department of Justice shall not disseminate information pursuant
13 to this subdivision unless the conviction occurred within 10 years
14 of the date of the agency's request for information or the conviction
15 is over 10 years old but the subject of the request was incarcerated
16 within 10 years of the agency's request for information.

17 (B) Every arrest for a violation or attempted violation of an
18 offense specified in subdivision (a) of Section 15660 of the Welfare
19 and Institutions Code for which the applicant is presently awaiting
20 trial, whether the applicant is incarcerated or has been released on
21 bail or on their own recognizance pending trial.

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

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

25 (o) (1) This subdivision shall apply whenever state or federal
26 summary criminal history information is furnished by the
27 Department of Justice as the result of an application by an
28 authorized agency or organization pursuant to Section 379 or 550
29 of the Financial Code, or a statute that incorporates the criteria of
30 either of those sections or this subdivision by reference, and the
31 information is to be used for employment, licensing, or certification
32 purposes.

33 (2) Except as otherwise provided in subdivision (v) and
34 notwithstanding any other law, whenever state summary criminal
35 history information is initially furnished pursuant to paragraph (1),
36 the Department of Justice shall disseminate the following
37 information:

38 (A) Every conviction rendered against the applicant for a
39 violation or attempted violation of an offense specified in Section

1 550 of the Financial Code, except a conviction for which relief
2 has been granted pursuant to Section 1203.49.

3 (B) Every arrest for a violation or attempted violation of an
4 offense specified in Section 550 of the Financial Code for which
5 the applicant is presently awaiting trial, whether the applicant is
6 incarcerated or has been released on bail or on their own
7 recognizance pending trial.

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

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

18 (2) Except as otherwise provided in subdivision (v) and
19 notwithstanding any other law, whenever state summary criminal
20 history information is initially furnished pursuant to paragraph (1),
21 the Department of Justice shall disseminate the following
22 information:

23 (A) Every conviction rendered against the applicant, except a
24 conviction for which relief has been granted pursuant to Section
25 1203.4, 1203.4a, 1203.41, 1203.42, 1203.425, or 1203.49. The
26 Commission on Teacher Credentialing shall receive every
27 conviction rendered against an applicant, retroactive to January 1,
28 2020, regardless of relief granted pursuant to Section 1203.4,
29 1203.4a, 1203.41, 1203.42, 1203.425, or 1203.49.

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

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

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

37 (q) All agencies, organizations, or individuals defined in
38 subdivisions (k) to (p), inclusive, may contract with the Department
39 of Justice for subsequent notification pursuant to Section 11105.2.

40 This subdivision shall not supersede sections that mandate an

1 agency, organization, or individual to contract with the Department
2 of Justice for subsequent notification pursuant to Section 11105.2.

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

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

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

20 (u) (1) If a fingerprint-based criminal history information check
21 is required pursuant to any statute, that check shall be requested
22 from the Department of Justice and shall be applicable to the person
23 identified in the referencing statute. The agency or entity identified
24 in the statute shall submit to the Department of Justice fingerprint
25 images and related information required by the Department of
26 Justice of the types of applicants identified in the referencing
27 statute, for the purpose of obtaining information as to the existence
28 and content of a record of state or federal convictions and state or
29 federal arrests and also information as to the existence and content
30 of a record of the state or federal arrests for which the Department
31 of Justice establishes that the person is free on bail or on their own
32 recognizance pending trial or appeal.

33 (2) If requested, the Department of Justice shall transmit
34 fingerprint images and related information received pursuant to
35 this section to the Federal Bureau of Investigation for the purpose
36 of obtaining a federal criminal history information check. The
37 Department of Justice shall review the information returned from
38 the Federal Bureau of Investigation, and compile and disseminate
39 a response or a fitness determination, as appropriate, to the agency
40 or entity identified in the referencing statute.

1 (3) The Department of Justice shall provide a state- or
2 federal-level response or a fitness determination, as appropriate,
3 to the agency or entity identified in the referencing statute, pursuant
4 to the identified subdivision.

5 (4) The agency or entity identified in the referencing statute
6 shall request from the Department of Justice subsequent notification
7 service, as provided pursuant to Section 11105.2, for persons
8 described in the referencing statute.

9 (5) The Department of Justice shall charge a fee sufficient to
10 cover the reasonable cost of processing the request described in
11 this subdivision.

12 (v) (1)—~~Commencing~~, *Commencing* July 1, 2022,
13 notwithstanding any other law, state or federal summary criminal
14 history furnished by the department pursuant to this section shall
15 not include the following information:

16 (A) Records of arrest that were granted relief under Section
17 851.93, if a period of at least two calendar years have passed since
18 the date on which relief was granted under Section 851.93, during
19 which the subject of the record was not convicted of a new felony
20 offense.

21 (B) Records granted relief under Section 1203.425, or Section
22 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.49, if a period of two
23 years has elapsed since the date on which relief was granted under
24 Section 1203.425, or Section 1203.4, 1203.4a, 1203.41, 1203.42,
25 or 1203.49, during which the subject of the record was not
26 convicted of a new felony offense.

27 (2) Paragraph (1) does not apply to any of the following:

28 (A) Any record in which the subject of the record is required
29 to register pursuant to the Sex Offender Registration Act, has an
30 active record for local, state, or federal supervision in the
31 Supervised Release File, or, based on the information available in
32 the department's record, it appears the person is currently serving
33 a sentence for an offense or there is an indication of pending
34 criminal charges.

35 (B) The furnishing of state summary criminal history
36 information pursuant to paragraphs (1) to (9), inclusive, of
37 subdivision (b), ~~for purposes described in subdivisions (k) and (l).~~
38 *any purpose permitted under this section.*

39 (C) If dissemination of records identified by paragraph (1) is
40 required by federal law.

1 (D) The furnishing of state summary criminal history
2 information for the purposes related to the regulation of firearms.

3 (E) The furnishing of state summary criminal history information
4 pursuant to paragraph (12) of subdivision (b).

5 (F) Records of arrests or conviction for Section 220, 243.4, or
6 264.1, subdivision (a) of Section 273a, or, prior to January 1, 1994,
7 paragraph (1) of Section 273a, Section 273ab, 273d, 273.5, 288,
8 or 289, subdivision (c) of Section 290, or Section 368, if furnished
9 when responding to an application by an authorized agency or
10 organization pursuant to Section 1522 of the Health and Safety
11 Code or a statute that incorporates the criteria of any of that section
12 by reference.

13 SEC. 5. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.

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