

AMENDED IN ASSEMBLY APRIL 16, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 2917

Introduced by Assembly Member Zbur

February 15, 2024

An act to amend Sections 851.92, 11105, 13300, and 18155 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 2917, as amended, Zbur. Firearms: restraining orders.

Existing law authorizes a court to issue a gun violence restraining order to prohibit a person from purchasing or possessing a firearm or ammunition for a period of one to 5 years, subject to renewal for additional one- to 5-year periods, if the subject of the petition poses a significant danger of self-harm or harm to another in the near future by having a firearm and the order is necessary to prevent personal injury to the subject of the petition or another. Existing law requires the court, in determining whether grounds for a gun violence restraining order exist, to consider evidence of, among other things, a recent threat of violence or act of violence by the subject directed toward another and a past history of those threats or acts within the last 12 months. Existing law also authorizes a court to consider the unlawful and reckless use, display, or brandishing of a firearm by the subject of the petition.

This bill would require the court to additionally consider a recent threat of violence or act of violence directed toward another group or location, or a past history of those threats or acts. The bill would ~~also~~ authorize the court to consider, among other things, the reckless use, display, or brandishing of a firearm by the subject of the petition, evidence of stalking, evidence of cruelty to animals, or evidence of the

respondent’s threats of violence to advance a political objective. *The bill would also authorize the court to consider violations of comparable firearm-prohibiting protective orders issued by out-of-state courts.* By expanding the scope of a crime, this bill would impose a state-mandated local program.

Existing law requires the Department of Justice to maintain state summary criminal history information, as defined, and to furnish this information to specified entities, including city attorneys pursuing civil gang injunctions or drug abatement actions. Existing law requires a local criminal justice agency to furnish local summary criminal history information to specified entities, including city attorneys pursuing civil gang injunctions or drug abatement actions. Under existing law, the disclosure of state summary criminal history information to an unauthorized person is a crime. Existing law defines “criminal justice agencies” as agencies that perform activities that relate to the apprehension, prosecution, adjudication, incarceration, or correction of criminal offenders, including city attorneys pursuing civil gang injunctions or drug abatement actions. Under existing law, a criminal justice agency, among other things, compiles records and data for the purpose of identifying criminal offenders and maintaining specified information pertaining to each offender, including a summary of arrests and pretrial proceedings.

This bill would include city attorneys *and county counsel* pursuing gun violence restraining orders in those provisions. By expanding the scope of the crime of unlawful disclosure of state summary criminal history information, this bill would impose 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 851.92 of the Penal Code is amended to
2 read:

1 851.92. (a) This section applies when an arrest record is sealed
2 pursuant to Sections 851.87, 851.90, 851.91, 1000.4, and 1001.9.

3 (b) When the court issues an order to seal an arrest, the sealing
4 shall be accomplished as follows:

5 (1) The court shall provide copies of the order and a report on
6 the disposition of the arrest, as follows:

7 (A) Upon issuing the order, the court shall provide a copy to
8 the person whose arrest was sealed and to the prosecuting attorney.

9 (B) Within 30 days of issuing the order, the court shall forward
10 a copy of the order to the law enforcement agency that made the
11 arrest, to any other law enforcement agency that participated in
12 the arrest, and to the law enforcement agency that administers the
13 master local summary criminal history information that contains
14 the arrest record for the sealed arrest.

15 (C) Within 30 days of issuing the order, the court shall furnish
16 a disposition report to the Department of Justice indicating that
17 relief has been ordered and providing the section of the Penal Code
18 under which that relief was granted and the date that relief was
19 granted.

20 (D) A sealing order made pursuant to this subdivision shall not
21 be forwarded to the Department of Justice to be included or notated
22 in the department's manual or electronic fingerprint image or
23 criminal history record systems. Any sealing order made pursuant
24 to this subdivision and received by the Department of Justice shall
25 not be processed by the department.

26 (2) The arrest record shall be updated, as follows:

27 (A) The local summary criminal history information shall
28 include, directly next to or below the entry or entries regarding the
29 sealed arrest, a note stating "arrest sealed" and providing the date
30 that the court issued the order, and the section pursuant to which
31 the arrest was sealed. This note shall be included in all master
32 copies of the arrest record, digital or otherwise.

33 (B) The state summary criminal history information shall
34 include, directly next to or below the entry or entries regarding the
35 sealed arrest, a note stating "arrest relief granted," providing the
36 date that the court issued the order and the section of the Penal
37 Code pursuant to which the relief was granted. This note shall be
38 included in all master copies of the arrest record, digital or
39 otherwise.

1 (3) A police investigative report related to the sealed arrest shall,
2 only as to the person whose arrest was sealed, be stamped
3 “ARREST SEALED: DO NOT RELEASE OUTSIDE THE
4 CRIMINAL JUSTICE SECTOR,” and shall note next to the stamp
5 the date the arrest was sealed and the section pursuant to which
6 the arrest was sealed. The responsible local law enforcement
7 agency shall ensure that this note is included in all master copies,
8 digital or otherwise, of the police investigative report related to
9 the arrest that was sealed.

10 (4) Court records related to the sealed arrest shall, only as to
11 the person whose arrest was sealed, be stamped “ARREST
12 SEALED: DO NOT RELEASE OUTSIDE OF THE CRIMINAL
13 JUSTICE SECTOR,” and shall note next to the stamp the date of
14 the sealing and the section pursuant to which the arrest was sealed.
15 This stamp and note shall be included on all master court dockets,
16 digital or otherwise, relating to the arrest.

17 (5) Arrest records, police investigative reports, and court records
18 that are sealed under this section shall not be disclosed to any
19 person or entity except the person whose arrest was sealed or a
20 criminal justice agency. Nothing shall prohibit disclosure of
21 information between criminal history providers.

22 (6) Notwithstanding the sealing of an arrest, a criminal justice
23 agency may continue, in the regular course of its duties, to access,
24 furnish to other criminal justice agencies, and use, including, but
25 not limited to, by discussing in open court and in unsealed court
26 filings, sealed arrests, sealed arrest records, sealed police
27 investigative reports, sealed court records, and information relating
28 to sealed arrests, to the same extent that would have been permitted
29 for a criminal justice agency if the arrest had not been sealed.

30 (c) Unless specifically authorized by this section, a person or
31 entity, other than a criminal justice agency or the person whose
32 arrest was sealed, who disseminates information relating to a sealed
33 arrest is subject to a civil penalty of not less than five hundred
34 dollars (\$500) and not more than two thousand five hundred dollars
35 (\$2,500) per violation. The civil penalty may be enforced by a city
36 attorney, district attorney, or the Attorney General. This subdivision
37 does not limit any existing private right of action. A civil penalty
38 imposed under this section shall be cumulative to civil remedies
39 or penalties imposed under any other law.

1 (d) As used in this section and Sections 851.87, 851.90, 851.91,
2 1000.4, and 1001.9, all of the following terms have the following
3 meanings:

4 (1) “Arrest record” and “record pertaining to an arrest” mean
5 information about the arrest or detention that is contained in either
6 of the following:

7 (A) The master, or a copy of the master, local summary criminal
8 history information, as defined in subdivision (a) of Section 13300.

9 (B) The master, or a copy of the master, state summary criminal
10 history information as defined in subparagraph (A) of paragraph
11 (2) of subdivision (a) of Section 11105.

12 (2) “Court records” means records, files, and materials created,
13 compiled, or maintained by or for the court in relation to court
14 proceedings, and includes, but is not limited to, indexes, registers
15 of actions, court minutes, court orders, court filings, court exhibits,
16 court progress and status reports, court history summaries, copies
17 of state summary criminal history information and local summary
18 criminal history information, and any other criminal history
19 information contained in any of those materials.

20 (3) “Criminal history provider” means a person or entity that is
21 not a criminal justice agency and that provides background
22 screening services or criminal history information on identified
23 individuals to the public or to those outside the criminal justice
24 sector upon request, charge, or pursuant to a contractual agreement
25 or that aggregates into databases that are open to the public or to
26 those outside the criminal justice sector upon request or charge,
27 or pursuant to a contractual agreement, that are not created or
28 maintained by a criminal justice agency, criminal history
29 information on identified individuals. For the purposes of this
30 paragraph, a criminal history provider includes an investigative
31 consumer reporting agency, as defined in Section 1786.2 of the
32 Civil Code, a consumer credit reporting agency, as defined in
33 Section 1785.3 of the Civil Code, and a consumer reporting agency,
34 as defined in Section 603(f) of the Fair Credit Reporting Act (15
35 U.S.C. 1681a(f)).

36 (4) “Criminal justice agency” means an agency at any level of
37 government that performs, as its principal function, activities
38 relating to the apprehension, prosecution, defense, adjudication,
39 incarceration, or correction of criminal suspects and criminal

- 1 offenders. A criminal justice agency includes, but is not limited
2 to, any of the following:
- 3 (A) A court of this state.
 - 4 (B) A peace officer, as defined in Section 830.1, subdivisions
5 (a) and (e) of Section 830.2, subdivision (a) of Section 830.3,
6 subdivision (a) of Section 830.31, and subdivisions (a) and (b) of
7 Section 830.5.
 - 8 (C) A district attorney.
 - 9 (D) A prosecuting city attorney.
 - 10 (E) A city attorney pursuing civil gang injunctions pursuant to
11 Section 186.22a, drug abatement actions pursuant to Section 3479
12 or 3480 of the Civil Code or Section 11571 of the Health and
13 Safety Code, or a *city attorney or county counsel pursuing gun*
14 *violence restraining orders pursuant to Division 3.2 (commencing*
15 *with Section 18100) of Title 2 of Part 6.*
 - 16 (F) A probation officer.
 - 17 (G) A parole officer.
 - 18 (H) A public defender or an attorney representing a person, or
19 a person representing themselves, in a criminal proceeding, a
20 proceeding to revoke parole, mandatory supervision, or postrelease
21 community supervision, or in proceeding described in Chapter 3.5
22 (commencing with Section 4852.01) of Title 6 of Part 3.
 - 23 (I) An expert, investigator, or other specialist contracted by a
24 prosecuting attorney or defense attorney to accomplish the purpose
25 of the prosecution, defense, or representation in the criminal
26 proceeding.
 - 27 (J) A correctional officer.
- 28 (5) “Police investigative report” means intelligence, analytical,
29 and investigative reports and files created, compiled, and
30 maintained by a law enforcement criminal justice agency and
31 relating to a potential crime, violation of the law, arrest, detention,
32 prosecution, or law enforcement investigation.
- 33 SEC. 2. Section 11105 of the Penal Code is amended to read:
34 11105. (a) (1) The Department of Justice shall maintain state
35 summary criminal history information.
- 36 (2) As used in this section:
- 37 (A) “State summary criminal history information” means the
38 master record of information compiled by the Attorney General
39 pertaining to the identification and criminal history of a person,
40 such as name, date of birth, physical description, fingerprints,

1 photographs, dates of arrests, arresting agencies and booking
2 numbers, charges, dispositions, sentencing information, and similar
3 data about the person.

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

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

17 (1) The courts of the state.

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

22 (3) District attorneys of the state.

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

25 (5) City attorneys pursuing civil gang injunctions pursuant to
26 Section 186.22a, drug abatement actions pursuant to Section 3479
27 or 3480 of the Civil Code or Section 11571 of the Health and
28 Safety Code, or *a city attorney or county counsel pursuing gun*
29 *violence restraining orders pursuant to Division 3.2 (commencing*
30 *with Section 18100) of Title 2 of Part 6.*

31 (6) Probation officers of the state.

32 (7) Parole officers of the state.

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

36 (9) A public defender or attorney of record when representing
37 a person in a criminal case or a juvenile delinquency proceeding,
38 including all appeals and postconviction motions, or a parole,
39 mandatory supervision pursuant to paragraph (5) of subdivision
40 (h) of Section 1170, or postrelease community supervision

1 revocation or revocation extension proceeding, if the information
2 is requested in the course of representation.

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 perform state and federal criminal history
12 information checks as provided for in subdivision (u). The
13 Department of Justice shall provide a state or federal response to
14 the agency, officer, or official pursuant to subdivision (p).

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

16 (22) A court investigator providing investigations or reviews
17 in conservatorships pursuant to Section 1826, 1850, 1851, or
18 2250.6 of the Probate Code.

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

21 (24) A humane officer pursuant to Section 14502 of the
22 Corporations Code for the purposes of performing the officer's
23 duties.

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

27 (26) (A) A state entity, or its designee, that receives federal tax
28 information. A state entity or its designee that is authorized by this
29 paragraph to receive state summary criminal history information
30 also may transmit fingerprint images and related information to
31 the Department of Justice to be transmitted to the Federal Bureau
32 of Investigation for the purpose of the state entity or its designee
33 obtaining federal-level criminal offender record information from
34 the Department of Justice. This information shall be used only for
35 the purposes set forth in Section 1044 of the Government Code.

36 (B) For purposes of this paragraph, "federal tax information,"
37 "state entity" and "designee" are as defined in paragraphs (1), (2),
38 and (3), respectively, of subdivision (f) of Section 1044 of the
39 Government Code.

1 (27) The director of the State Department of State Hospitals, or
2 their designee, for use related to research and evaluation studies
3 described in Section 4046 of the Welfare and Institutions Code,
4 and subject to the limitations described in that section.

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

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

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

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

24 (4) A peace officer of another country.

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

32 (6) A person when disclosure is requested by a probation, parole,
33 or peace officer with the consent of the subject of the state
34 summary criminal history information and for purposes of
35 furthering the rehabilitation of the subject.

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

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

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

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

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

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

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

38 (v) This section shall not be construed as imposing a duty upon
39 public utilities or cable corporations to request state summary
40 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) A campus of the California State University or the
13 University of California, or a four-year college or university
14 accredited by a regional accreditation organization approved by
15 the United States Department of Education, if needed in
16 conjunction with an application for admission by a convicted felon
17 to a special education program for convicted felons, including, but
18 not limited to, university alternatives and halfway houses. Only
19 conviction information shall be furnished. The college or university
20 may require the convicted felon to be fingerprinted, and any inquiry
21 to the department under this section shall include the convicted
22 felon’s fingerprints and any other information specified by the
23 department.

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

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

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

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

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

29 (h) It is not a violation of this section to include information
30 obtained from a record in (1) a transcript or record of a judicial or
31 administrative proceeding or (2) any other public record if the
32 inclusion of the information in the public record is authorized by
33 a court, statute, or decisional law.

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

39 (j) The state summary criminal history information shall include
40 any finding of mental incompetence pursuant to Chapter 6

1 (commencing with Section 1367) of Title 10 of Part 2 arising out
2 of a complaint charging a felony offense specified in Section 290.

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

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

14 (A) Every conviction rendered against the applicant.

15 (B) Every arrest for an offense for which the applicant is
16 presently awaiting trial, whether the applicant is incarcerated or
17 has been released on bail or on their own recognizance pending
18 trial.

19 (C) Every arrest or detention, except for an arrest or detention
20 resulting in an exoneration, provided, however, that where the
21 records of the Department of Justice do not contain a disposition
22 for the arrest, the Department of Justice first makes a genuine effort
23 to determine the disposition of the arrest.

24 (D) Every successful diversion.

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

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

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

32 (l) (1) This subdivision shall apply whenever state or federal
33 summary criminal history information is furnished by the
34 Department of Justice as the result of an application by a criminal
35 justice agency or organization as defined in Section 13101, and
36 the information is to be used for criminal justice employment,
37 licensing, or certification purposes.

38 (2) Notwithstanding any other law, whenever state summary
39 criminal history information is initially furnished pursuant to

1 paragraph (1), the Department of Justice shall disseminate the
2 following information:

3 (A) Every conviction rendered against the applicant.

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

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

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

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

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

25 (m) (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 1522,
29 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
30 a statute that incorporates the criteria of any of those sections or
31 this subdivision by reference, and the information is to be used for
32 employment, licensing, or certification purposes.

33 (2) Notwithstanding any other law, whenever state summary
34 criminal history information is initially furnished pursuant to
35 paragraph (1), the Department of Justice shall disseminate the
36 following information:

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

1 (B) Every arrest for an offense for which the applicant is
2 presently awaiting trial, whether the applicant is incarcerated or
3 has been released on bail or on their own recognizance pending
4 trial.

5 (C) Every arrest for an offense for which the State Department
6 of Social Services is required by paragraph (1) of subdivision (a)
7 of Section 1522 of the Health and Safety Code to determine if an
8 applicant has been arrested. However, if the records of the
9 Department of Justice do not contain a disposition for an arrest,
10 the Department of Justice shall first make a genuine effort to
11 determine the disposition of the arrest.

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

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

15 (3) Notwithstanding the requirements of the sections referenced
16 in paragraph (1) of this subdivision, the Department of Justice
17 shall not disseminate information about an arrest subsequently
18 deemed a detention or an arrest that resulted in the successful
19 completion of a diversion program, exoneration, or a grant of relief
20 pursuant to Section 851.91.

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

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

28 (B) Section 11105.3 or 11105.4.

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

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

33 (2) With the exception of applications submitted by
34 transportation companies authorized pursuant to Section 11105.3,
35 and notwithstanding any other law, whenever state summary
36 criminal history information is initially furnished pursuant to
37 paragraph (1), the Department of Justice shall disseminate the
38 following information:

39 (A) Every conviction, except a conviction for which relief has
40 been granted pursuant to Section 1203.49, rendered against the

1 applicant for a violation or attempted violation of an offense
2 specified in subdivision (a) of Section 15660 of the Welfare and
3 Institutions Code. However, with the exception of those offenses
4 for which registration is required pursuant to Section 290, the
5 Department of Justice shall not disseminate information pursuant
6 to this subdivision unless the conviction occurred within 10 years
7 of the date of the agency's request for information or the conviction
8 is over 10 years old but the subject of the request was incarcerated
9 within 10 years of the agency's request for information.

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

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

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

18 (o) (1) This subdivision shall apply whenever state or federal
19 summary criminal history information is furnished by the
20 Department of Justice as the result of an application by an
21 authorized agency or organization pursuant to Section 379 or 1300
22 of the Financial Code or a statute that incorporates the criteria of
23 either of those sections or this subdivision by reference, and the
24 information is to be used for employment, licensing, or certification
25 purposes.

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

30 (A) Every conviction rendered against the applicant for a
31 violation or attempted violation of an offense specified in Section
32 1300 of the Financial Code, except a conviction for which relief
33 has been granted pursuant to Section 1203.49.

34 (B) Every arrest for a violation or attempted violation of an
35 offense specified in Section 1300 of the Financial Code for which
36 the applicant is presently awaiting trial, whether the applicant is
37 incarcerated or has been released on bail or on their own
38 recognizance pending trial.

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

1 (p) (1) This subdivision shall apply whenever state or federal
2 criminal history information is furnished by the Department of
3 Justice as the result of an application by an agency, organization,
4 or individual not defined in subdivision (k), (l), (m), (n), or (o), or
5 by a transportation company authorized pursuant to Section
6 11105.3, or a statute that incorporates the criteria of that section
7 or this subdivision by reference, and the information is to be used
8 for employment, licensing, or certification purposes.

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

13 (A) Every conviction rendered against the applicant, except a
14 conviction for which relief has been granted pursuant to Section
15 1203.4, 1203.4a, 1203.41, 1203.42, 1203.425, 1203.44, or 1203.49.
16 The Commission on Teacher Credentialing, school districts, county
17 offices of education, charter schools, private schools, state special
18 schools for the blind and deaf, or any other entity required to have
19 a background check because of a contract with a school district,
20 county office of education, charter school, private school, or state
21 special school for the blind and deaf, shall receive every conviction
22 rendered against an applicant, retroactive to January 1, 2020,
23 regardless of relief granted pursuant to Section 1203.4, 1203.4a,
24 1203.41, 1203.42, 1203.425, or 1203.49.

25 (B) Notwithstanding subparagraph (A) or any other law,
26 information for a conviction for a controlled substance offense
27 listed in Section 11350 or 11377, or former Section 11500 or
28 11500.5, of the Health and Safety Code that is more than five years
29 old, for which relief is granted pursuant to Section 1203.4, 1203.4a,
30 1203.41, 1203.42, 1203.425, or 1203.49, shall not be disseminated.

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

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

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

38 (q) All agencies, organizations, or individuals defined in
39 subdivisions (k), (l), (m), (n), (o), and (p) may contract with the
40 Department of Justice for subsequent notification pursuant to

1 Section 11105.2. This subdivision shall not supersede sections that
2 mandate an agency, organization, or individual to contract with
3 the Department of Justice for subsequent notification pursuant to
4 Section 11105.2.

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

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

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

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

35 (2) If requested, the Department of Justice shall transmit
36 fingerprint images and related information received pursuant to
37 this section to the Federal Bureau of Investigation for the purpose
38 of obtaining a federal criminal history information check. The
39 Department of Justice shall review the information returned from
40 the Federal Bureau of Investigation, and compile and disseminate

1 a response or a fitness determination, as appropriate, to the agency
2 or entity identified in the referencing statute.

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

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

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

14 SEC. 3. Section 13300 of the Penal Code is amended to read:

15 13300. (a) As used in this section:

16 (1) "Local summary criminal history information" means the
17 master record of information compiled by any local criminal justice
18 agency pursuant to Chapter 2 (commencing with Section 13100)
19 of Title 3 of Part 4 pertaining to the identification and criminal
20 history of any person, such as name, date of birth, physical
21 description, dates of arrests, arresting agencies and booking
22 numbers, charges, dispositions, and similar data about the person.

23 (2) "Local summary criminal history information" does not
24 refer to records and data compiled by criminal justice agencies
25 other than that local agency, nor does it refer to records of
26 complaints to or investigations conducted by, or records of
27 intelligence information or security procedures of, the local agency.

28 (3) "Local agency" means a local criminal justice agency.

29 (b) A local agency shall furnish local summary criminal history
30 information to any of the following, when needed in the course of
31 their duties, provided that when information is furnished to assist
32 an agency, officer, or official of state or local government, a public
33 utility, or any entity, in fulfilling employment, certification, or
34 licensing duties, Chapter 1321 of the Statutes of 1974 and Section
35 432.7 of the Labor Code shall apply:

36 (1) The courts of the state.

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

- 1 (3) District attorneys of the state.
- 2 (4) Prosecuting city attorneys of any city within the state.
- 3 (5) City attorneys pursuing civil gang injunctions pursuant to
4 Section 186.22a, drug abatement actions pursuant to Section 3479
5 or 3480 of the Civil Code or Section 11571 of the Health and
6 Safety Code, or *a city attorney or county counsel pursuing gun*
7 *violence restraining orders pursuant to Division 3.2 (commencing*
8 *with Section 18100) of Title 2 of Part 6.*
- 9 (6) Probation officers of the state.
- 10 (7) Parole officers of the state.
- 11 (8) A public defender or attorney of record when representing
12 a person in proceedings upon a petition for a certificate of
13 rehabilitation and pardon pursuant to Section 4852.08.
- 14 (9) A public defender or attorney of record when representing
15 a person in a criminal case, or a parole, mandatory supervision, or
16 postrelease community supervision revocation or revocation
17 extension hearing, and when authorized access by statutory or
18 decisional law.
- 19 (10) Any agency, officer, or official of the state when the local
20 summary criminal history information is required to implement a
21 statute, regulation, or ordinance that expressly refers to specific
22 criminal conduct applicable to the subject person of the local
23 summary criminal history information, and contains requirements
24 or exclusions, or both, expressly based upon the specified criminal
25 conduct.
- 26 (11) Any city, county, city and county, or district, or any officer
27 or official thereof, when access is needed in order to assist the
28 agency, officer, or official in fulfilling employment, certification,
29 or licensing duties, and when the access is specifically authorized
30 by the city council, board of supervisors, or governing board of
31 the city, county, or district when the local summary criminal history
32 information is required to implement a statute, regulation, or
33 ordinance that expressly refers to specific criminal conduct
34 applicable to the subject person of the local summary criminal
35 history information, and contains requirements or exclusions, or
36 both, expressly based upon the specified criminal conduct.
- 37 (12) The subject of the local summary criminal history
38 information.
- 39 (13) Any person or entity when access is expressly authorized
40 by statute when the local summary criminal history information

1 is required to implement a statute, regulation, or ordinance that
2 expressly refers to specific criminal conduct applicable to the
3 subject person of the local summary criminal history information,
4 and contains requirements or exclusions, or both, expressly based
5 upon the specified criminal conduct.

6 (14) Any managing or supervising correctional officer of a
7 county jail or other county correctional facility.

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

17 (16) County child welfare agency personnel who have been
18 delegated the authority of county probation officers to access state
19 summary criminal information pursuant to Section 272 of the
20 Welfare and Institutions Code for the purposes specified in Section
21 16504.5 of the Welfare and Institutions Code.

22 (17) A humane officer appointed pursuant to Section 14502 of
23 the Corporations Code, for the purposes of performing the officer's
24 duties. A local agency may charge a reasonable fee sufficient to
25 cover the costs of providing information pursuant to this paragraph.

26 (c) The local agency may furnish local summary criminal history
27 information, upon a showing of a compelling need, to any of the
28 following, provided that when information is furnished to assist
29 an agency, officer, or official of state or local government, a public
30 utility, or any entity, in fulfilling employment, certification, or
31 licensing duties, Chapter 1321 of the Statutes of 1974 and Section
32 432.7 of the Labor Code shall apply:

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

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

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

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

7 (5) To public officers, other than peace officers, of the United
8 States, other states, or possessions or territories of the United
9 States, provided that access to records similar to local summary
10 criminal history information is expressly authorized by a statute
11 of the United States, other states, or possessions or territories of
12 the United States when this information is needed for the
13 performance of their official duties.

14 (6) To any person when disclosure is requested by a probation,
15 parole, or peace officer with the consent of the subject of the local
16 summary criminal history information and for purposes of
17 furthering the rehabilitation of the subject.

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

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

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

25 (10) Any public utility, as defined in Section 216 of the Public
26 Utilities Code, when access is needed to assist in employing
27 persons who will be seeking entrance to private residences in the
28 course of their employment. The information provided shall be
29 limited to the record of convictions and any arrest for which the
30 person is released on bail or on the person’s own recognizance
31 pending trial.

32 If the local agency supplies the information pursuant to this
33 paragraph, it shall furnish a copy of the information to the person
34 to whom the information relates.

35 Any information obtained from the local summary criminal
36 history is confidential and the receiving public utility shall not
37 disclose its contents, other than for the purpose for which it was
38 acquired. The local summary criminal history information in the
39 possession of the public utility and all copies made from it shall
40 be destroyed 30 days after employment is denied or granted,

1 including any appeal periods, except for those cases where an
2 employee or applicant is out on bail or on the person's own
3 recognizance pending trial, in which case the state summary
4 criminal history information and all copies shall be destroyed 30
5 days after the case is resolved, including any appeal periods.

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

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

13 Seeking entrance to private residences in the course of
14 employment shall be deemed a "compelling need" as required to
15 be shown in this subdivision.

16 (11) Any city, county, city and county, or district, or any officer
17 or official thereof, if a written request is made to a local law
18 enforcement agency and the information is needed to assist in the
19 screening of a prospective concessionaire, and any affiliate or
20 associate thereof, as these terms are defined in subdivision (k) of
21 Section 432.7 of the Labor Code, for the purposes of consenting
22 to, or approving of, the prospective concessionaire's application
23 for, or acquisition of, any beneficial interest in a concession, lease,
24 or other property interest.

25 Any local government's request for local summary criminal
26 history information for purposes of screening a prospective
27 concessionaire and their affiliates or associates before approving
28 or denying an application for, or acquisition of, any beneficial
29 interest in a concession, lease, or other property interest is deemed
30 a "compelling need" as required by this subdivision. However,
31 only local summary criminal history information pertaining to
32 criminal convictions may be obtained pursuant to this paragraph.

33 Any information obtained from the local summary criminal
34 history is confidential and the receiving local government shall
35 not disclose its contents, other than for the purpose for which it
36 was acquired. The local summary criminal history information in
37 the possession of the local government and all copies made from
38 it shall be destroyed not more than 30 days after the local
39 government's final decision to grant or deny consent to, or approval
40 of, the prospective concessionaire's application for, or acquisition

1 of, a beneficial interest in a concession, lease, or other property
2 interest. Nothing in this section shall be construed as imposing
3 any duty upon a local government, or any officer or official thereof,
4 to request local summary criminal history information on any
5 current or prospective concessionaire or their affiliates or
6 associates.

7 (12) A public agency described in subdivision (b) of Section
8 15975 of the Government Code, for the purpose of oversight and
9 enforcement policies with respect to its contracted providers.

10 (d) Whenever an authorized request for local summary criminal
11 history information pertains to a person whose fingerprints are on
12 file with the local agency and the local agency has no criminal
13 history of that person, and the information is to be used for
14 employment, licensing, or certification purposes, the fingerprint
15 card accompanying the request for information, if any, may be
16 stamped “no criminal record” and returned to the person or entity
17 making the request.

18 (e) A local agency taking fingerprints of a person who is an
19 applicant for licensing, employment, or certification may charge
20 a fee to cover the cost of taking the fingerprints and processing
21 the required documents.

22 (f) Whenever local summary criminal history information
23 furnished pursuant to this section is to be used for employment,
24 licensing, or certification purposes, the local agency shall charge
25 the person or entity making the request a fee that it determines to
26 be sufficient to reimburse the local agency for the cost of furnishing
27 the information, provided that no fee shall be charged to any public
28 law enforcement agency for local summary criminal history
29 information furnished to assist it in employing, licensing, or
30 certifying a person who is applying for employment with the
31 agency as a peace officer or criminal investigator. Any state agency
32 required to pay a fee to the local agency for information received
33 under this section may charge the applicant a fee sufficient to
34 reimburse the agency for the expense.

35 (g) Whenever there is a conflict, the processing of criminal
36 fingerprints shall take priority over the processing of applicant
37 fingerprints.

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

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

6 (j) Notwithstanding any other law, a public prosecutor may, in
7 response to a written request made pursuant to Article 1
8 (commencing with Section 7922.500) and Article 2 (commencing
9 with Section 7922.525) of Chapter 1 of Part 3 of Division 10 of
10 Title 1 of the Government Code, provide information from a local
11 summary criminal history, if release of the information would
12 enhance public safety, the interest of justice, or the public's
13 understanding of the justice system and the person making the
14 request declares that the request is made for a scholarly or
15 journalistic purpose. If a person in a declaration required by this
16 subdivision willfully states as true any material fact that person
17 knows to be false, the person shall be subject to a civil penalty not
18 exceeding ten thousand dollars (\$10,000). The requestor shall be
19 informed in writing of this penalty. An action to impose a civil
20 penalty under this subdivision may be brought by any public
21 prosecutor and shall be enforced as a civil judgment.

22 (k) Notwithstanding any other law, the Department of Justice
23 or any state or local law enforcement agency may require the
24 submission of fingerprints for the purpose of conducting summary
25 criminal history information record checks that are authorized by
26 law.

27 (l) Any local criminal justice agency may release, within five
28 years of the arrest, information concerning an arrest or detention
29 of a peace officer or applicant for a position as a peace officer, as
30 defined in Section 830, that did not result in conviction, and for
31 which the person did not complete a postarrest diversion program
32 or a deferred entry of judgment program, to a governmental agency
33 employer of that peace officer or applicant.

34 (m) Any local criminal justice agency may release information
35 concerning an arrest of a peace officer or applicant for a position
36 as a peace officer, as defined in Section 830, that did not result in
37 conviction but for which the person completed a postarrest
38 diversion program or a deferred entry of judgment program, or
39 information concerning a referral to and participation in any
40 postarrest diversion program or a deferred entry of judgment

1 program to a governmental agency employer of that peace officer
2 or applicant.

3 (n) Notwithstanding subdivision (l) or (m), a local criminal
4 justice agency shall not release information under the following
5 circumstances:

6 (1) Information concerning an arrest for which diversion or a
7 deferred entry of judgment program has been ordered without
8 attempting to determine whether diversion or a deferred entry of
9 judgment program has been successfully completed.

10 (2) Information concerning an arrest or detention followed by
11 a dismissal or release without attempting to determine whether the
12 individual was exonerated.

13 (3) Information concerning an arrest without a disposition
14 without attempting to determine whether diversion has been
15 successfully completed or the individual was exonerated.

16 (o) A public prosecutor may provide a public defender's office,
17 an alternate public defender's office, or a licensed attorney of
18 record in a criminal case with a list containing only the names of
19 the peace officer and defendant and the corresponding case number
20 to facilitate and expedite notifying counsel representing criminal
21 defendants whose cases may involve testimony by that peace
22 officer of exculpatory or impeachment evidence involving that
23 peace officer. Any disclosure made pursuant to this subdivision
24 shall only be made upon agreement by the public defender's office,
25 alternate public defender's office, or the licensed attorney of record
26 in a criminal case. Any disclosure pursuant to this subdivision
27 shall not constitute disclosure under any other law, nor shall any
28 privilege or confidentiality be deemed waived by that disclosure.
29 This subdivision shall not be construed to otherwise limit any legal
30 mandate to disclose evidence or information, including, but not
31 limited to, the disclosures required under Chapter 10 (commencing
32 with Section 1054) of Title 6 of Part 2.

33 SEC. 4. Section 18155 of the Penal Code is amended to read:

34 18155. (a) (1) The court, before issuing an ex parte gun
35 violence restraining order, shall examine on oath, the petitioner
36 and any witness the petitioner may produce.

37 (2) In lieu of examining the petitioner and any witness the
38 petitioner may produce, the court may require the petitioner and
39 any witness to submit a written affidavit signed under oath.

1 (b) (1) In determining whether grounds for a gun violence
2 restraining order exist, the court shall consider all evidence of the
3 following:

4 (A) A recent threat of violence or act of violence by the subject
5 of the petition directed toward another individual, group, or
6 location.

7 (B) A recent threat of violence or act of violence by the subject
8 of the petition directed toward themselves.

9 (C) A violation of an emergency protective order issued pursuant
10 to Section 646.91 or Part 3 (commencing with Section 6240) of
11 Division 10 of the Family Code that is in effect at the time the
12 court is considering the petition.

13 (D) A recent violation of an unexpired protective order issued
14 pursuant to Part 4 (commencing with Section 6300) of Division
15 10 of the Family Code, Section 136.2, ~~Section 527.6~~ 527.6, 527.8,
16 or 527.85 of the Code of Civil Procedure, or Section 213.5 or
17 15657.03 of the Welfare and Institutions ~~Code~~ Code, or
18 *comparable firearm-prohibiting protective orders, including*
19 *extreme risk protection orders, issued by out-of-state courts.*

20 (E) A conviction for any offense listed in Section 29805.

21 (F) A pattern of violent acts or violent threats within the past
22 12 months, including, but not limited to, threats of violence or acts
23 of violence by the subject of the petition directed toward
24 themselves or another individual, group, or location.

25 (2) In determining whether grounds for a gun violence
26 restraining order exist, the court may consider any other evidence
27 of an increased risk for violence, including, but not limited to,
28 evidence of any of the following:

29 (A) The reckless use, display, or brandishing of a firearm by
30 the subject of the petition, including, but not limited to, acts using
31 electronic means of communication, including social media
32 postings or messages, text messages, or email.

33 (B) The history of use, attempted use, or threatened use of
34 physical force by the subject of the petition against another person.

35 (C) A prior arrest of the subject of the petition for a felony
36 offense.

37 (D) A history of a violation by the subject of the petition of an
38 emergency protective order issued pursuant to Section 646.91 or
39 Part 3 (commencing with Section 6240) of Division 10 of the
40 Family Code.

1 (E) A history of a violation by the subject of the petition of a
 2 protective order issued pursuant to Part 4 (commencing with
 3 Section 6300) of Division 10 of the Family Code, Section 136.2,
 4 ~~Section 527.6~~ 527.6, 527.8, or 527.85 of the Code of Civil
 5 Procedure, or Section 213.5 or 15657.03 of the Welfare and
 6 Institutions ~~Code~~. *Code, or comparable firearm-prohibiting*
 7 *protective orders, including extreme risk protection orders, issued*
 8 *by out-of-state courts.*

9 (F) Documentary evidence, including, but not limited to, police
 10 reports and records of convictions, of either recent criminal
 11 offenses by the subject of the petition that involve controlled
 12 substances or alcohol or ongoing abuse of controlled substances
 13 or alcohol by the subject of the petition.

14 (G) Evidence of recent acquisition *or attempted acquisition* of
 15 firearms, ammunition, or other deadly weapons. *While evidence*
 16 *of recent acquisitions is a factor the court may consider, the court*
 17 *may still issue a gun violence restraining order to temporarily*
 18 *prevent legal access to firearms even if the respondent does not*
 19 *own firearms, ammunition, or other deadly weapons at the time*
 20 *that the court is considering issuing a gun violence restraining*
 21 *order.*

22 (H) Evidence of acquisition of body armor, as defined in Section
 23 16288.

24 (I) Evidence of stalking, as defined in Section 646.9.

25 (J) Evidence of cruelty to animals, as defined in Section 597.

26 (K) Evidence of the respondent’s oral or written threats *of*
 27 *violence* toward any person or group because of their actual or
 28 perceived race or ethnicity, nationality, religion, disability, gender,
 29 or sexual orientation, including, but not limited to, threats using
 30 electronic means of communication, including social media
 31 postings or messages, text messages, or email. For the purposes
 32 of this subparagraph, “race or ethnicity,” “nationality,” “religion,”
 33 “disability,” “gender,” and “sexual orientation” are defined as in
 34 Section 422.56.

35 (L) Evidence of the respondent’s knowing defacement, damage,
 36 or destruction of the real or personal property of any other person
 37 for the purpose of intimidating or interfering with the free exercise
 38 or enjoyment of any right or privilege secured to the other person
 39 by the Constitution or laws of this state or the Constitution or laws
 40 of the United States in violation of subdivision (b) of Section 422.6.

1 (M) Evidence of the respondent’s threats of violence to advance
2 a political objective or threats of violence to interfere with any
3 other person’s free exercise or enjoyment of any right or privilege
4 secured to them by the Constitution or laws of this state or the
5 United States, including, but not limited to, threats using electronic
6 means of communication, including social media postings or
7 messages, text messages, or email.

8 (3) For the purposes of this subdivision, “recent” means within
9 the six months prior to the date the petition was filed.

10 (c) If the court determines that the grounds to issue an ex parte
11 gun violence restraining order exist, it shall issue an ex parte gun
12 violence restraining order that prohibits the subject of the petition
13 from having in their custody or control, owning, purchasing,
14 possessing, or receiving, or attempting to purchase or receive a
15 firearm or ammunition, and expires no later than 21 days from the
16 date of the order.

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