

AMENDED IN SENATE JULY 11, 2019

AMENDED IN SENATE JUNE 26, 2019

AMENDED IN ASSEMBLY MAY 16, 2019

AMENDED IN ASSEMBLY MARCH 27, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1076

Introduced by Assembly Member Ting
(Coauthors: Assembly Members Chiu and Mark Stone)
(Coauthor: Senator Wiener)

February 21, 2019

An act to amend Sections 480 and 480.2 of the Business and Professions Code, and to amend Section 11105 of, and to add Sections 851.93 and 1203.425 to, the Penal Code, relating to criminal records.

LEGISLATIVE COUNSEL’S DIGEST

AB 1076, as amended, Ting. Criminal records: automatic relief.

Existing law authorizes a person who was arrested and has successfully completed a prefiling diversion program, a person who has successfully completed a specified drug diversion program, a person who has successfully completed a specified deferred entry of judgment program, and a person who has suffered an arrest that did not result in a conviction, under certain conditions, to petition the court to seal the person’s arrest record. Under existing law, if a defendant successfully completes certain diversion programs, the arrest for the crime for which the defendant was diverted is deemed to have never occurred.

Existing law authorizes a defendant to petition to withdraw the defendant’s plea of guilty or nolo contendere and enter a plea of not

guilty, if the defendant has fulfilled the conditions of probation, or if other specified circumstances are met, and the defendant is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense. If relief is granted, existing law requires the court to dismiss the accusation or information against the defendant and release the defendant from all penalties and disabilities resulting from the offense, with exceptions. Existing law also authorizes a defendant to file a similar petition if the defendant was convicted of a misdemeanor and not granted probation, was convicted of an infraction, or completed a sentence for certain felonies, and the defendant met specified conditions.

This bill would, commencing January 1, 2021, require the Department of Justice, on a weekly basis, to review the records in the statewide criminal justice databases and to identify persons who are eligible for relief by having their arrest records, or their criminal conviction records, withheld from disclosure, as specified. The bill would require the department to grant relief to an eligible person, without requiring a petition or motion. The bill would not limit petitions, motions, or orders for relief, as required or authorized by any other law.

The bill would require an update to the state summary criminal history information to document the relief granted. The bill would require the department, on a weekly basis, to electronically submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which relief was granted. The bill would prohibit the court from disclosing information concerning an arrest or conviction granted relief, with exceptions.

The

For convictions entered on or after January 1, 2018, the bill would authorize the prosecuting attorney or probation department, no later than 90 calendar days before the date of a person's eligibility for relief, to file a motion to prohibit the department from granting automatic relief for criminal conviction records as described above. If the court grants that motion, the bill would prohibit the department from granting relief, but the person would continue to be eligible for relief through other existing procedures, including petitions to the court.

The bill would require the Department of Justice to annually publish statistics regarding relief granted pursuant to the provisions of this bill, as specified.

The bill would require a court, at the time of sentencing, to advise each defendant of their right to conviction relief pursuant to the provisions of this bill, as specified.

The bill would make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 480 of the Business and Professions Code,
2 as amended by Section 3 of Chapter 995 of the Statutes of 2018,
3 is amended to read:

4 480. (a) A board may deny a license regulated by this code
5 on the grounds that the applicant has one of the following:

6 (1) Been convicted of a crime. A conviction within the meaning
7 of this section means a plea or verdict of guilty or a conviction
8 following a plea of nolo contendere. Any action that a board is
9 permitted to take following the establishment of a conviction may
10 be taken when the time for appeal has elapsed, or the judgment of
11 conviction has been affirmed on appeal, or when an order granting
12 probation is made suspending the imposition of sentence,
13 irrespective of a subsequent order under the provisions of Section
14 1203.4, 1203.4a, ~~or 1203.41~~ 1203.41, or 1203.425 of the Penal
15 Code.

16 (2) Done any act involving dishonesty, fraud, or deceit with the
17 intent to substantially benefit ~~himself or herself~~ themselves or
18 another, or substantially injure another.

19 (3) (A) Done any act that if done by a licentiate of the business
20 or profession in question, would be grounds for suspension or
21 revocation of license.

22 (B) The board may deny a license pursuant to this subdivision
23 only if the crime or act is substantially related to the qualifications,
24 functions, or duties of the business or profession for which
25 application is made.

26 (b) Notwithstanding any other provision of this code, a person
27 shall not be denied a license solely on the basis that ~~he or she has~~
28 ~~they have~~ been convicted of a felony if ~~he or she has~~ ~~they have~~
29 obtained a certificate of rehabilitation under Chapter 3.5
30 (commencing with Section 4852.01) of Title 6 of Part 3 of the
31 Penal Code or that ~~he or she has~~ ~~they have~~ been convicted of a

1 misdemeanor if ~~he or she has~~ *they have* met all applicable
2 requirements of the criteria of rehabilitation developed by the board
3 to evaluate the rehabilitation of a person when considering the
4 denial of a license under subdivision (a) of Section 482.

5 (c) Notwithstanding any other provisions of this code, a person
6 shall not be denied a license solely on the basis of a conviction
7 that has been dismissed pursuant to Section 1203.4, 1203.4a, ~~or~~
8 ~~1203.41~~ 1203.41, or 1203.425 of the Penal Code. An applicant
9 who has a conviction that has been dismissed pursuant to Section
10 1203.4, 1203.4a, ~~or 1203.41~~ 1203.41, or 1203.425 of the Penal
11 Code shall provide proof of the dismissal.

12 (d) A board may deny a license regulated by this code on the
13 ground that the applicant knowingly made a false statement of fact
14 that is required to be revealed in the application for the license.

15 (e) This section shall become inoperative on July 1, 2020, and,
16 as of January 1, 2021, is repealed.

17 *SEC. 2. Section 480 of the Business and Professions Code, as*
18 *added by Section 4 of Chapter 995 of the Statutes of 2018, is*
19 *amended to read:*

20 480. (a) Notwithstanding any other provision of this code, a
21 board may deny a license regulated by this code on the grounds
22 that the applicant has been convicted of a crime or has been subject
23 to formal discipline only if either of the following conditions are
24 met:

25 (1) The applicant has been convicted of a crime within the
26 preceding seven years from the date of application that is
27 substantially related to the qualifications, functions, or duties of
28 the business or profession for which the application is made,
29 regardless of whether the applicant was incarcerated for that crime,
30 or the applicant has been convicted of a crime that is substantially
31 related to the qualifications, functions, or duties of the business or
32 profession for which the application is made and for which the
33 applicant is presently incarcerated or for which the applicant was
34 released from incarceration within the preceding seven years from
35 the date of application. However, the preceding seven-year
36 limitation shall not apply in either of the following situations:

37 (A) The applicant was convicted of a serious felony, as defined
38 in Section 1192.7 of the Penal Code or a crime for which
39 registration is required pursuant to paragraph (2) or (3) of
40 subdivision (d) of Section 290 of the Penal Code.

(B) The applicant was convicted of a financial crime currently classified as a felony that is directly and adversely related to the fiduciary qualifications, functions, or duties of the business or profession for which the application is made, pursuant to regulations adopted by the board, and for which the applicant is seeking licensure under any of the following:

- (i) Chapter 1 (commencing with Section 5000) of Division 3.
- (ii) Chapter 6 (commencing with Section 6500) of Division 3.
- (iii) Chapter 9 (commencing with Section 7000) of Division 3.
- (iv) Chapter 11.3 (commencing with Section 7512) of Division 3.
- (v) Licensure as a funeral director or cemetery manager under Chapter 12 (commencing with Section 7600) of Division 3.
- (vi) Division 4 (commencing with Section 10000).

(2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, ~~or 1203.42~~ 1203.42, ~~or 1203.425~~ of the Penal Code or a comparable dismissal or expungement.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis that ~~he or she~~ *the person* has been convicted of a crime, or on the basis of acts underlying a conviction for a crime, if ~~he or she~~ *that person* has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a state or federal executive, or has made a showing of rehabilitation pursuant to Section 482.

(c) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, ~~or 1203.42~~ 1203.42, ~~or 1203.425~~ of the Penal Code, or a comparable dismissal

1 or expungement. An applicant who has a conviction that has been
2 dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, ~~or 1203.42~~
3 *1203.42, or 1203.425* of the Penal Code shall provide proof of the
4 dismissal if it is not reflected on the report furnished by the
5 Department of Justice.

6 (d) Notwithstanding any other provision of this code, a board
7 shall not deny a license on the basis of an arrest that resulted in a
8 disposition other than a conviction, including an arrest that resulted
9 in an infraction, citation, or a juvenile adjudication.

10 (e) A board may deny a license regulated by this code on the
11 ground that the applicant knowingly made a false statement of fact
12 that is required to be revealed in the application for the license. A
13 board shall not deny a license based solely on an applicant's failure
14 to disclose a fact that would not have been cause for denial of the
15 license had it been disclosed.

16 (f) A board shall follow the following procedures in requesting
17 or acting on an applicant's criminal history information:

18 (1) A board issuing a license pursuant to Chapter 3 (commencing
19 with Section 5500), Chapter 3.5 (commencing with Section 5615),
20 Chapter 10 (commencing with Section 7301), Chapter 20
21 (commencing with Section 9800), or Chapter 20.3 (commencing
22 with Section 9880), of Division 3, or Chapter 3 (commencing with
23 Section 19000) or Chapter 3.1 (commencing with Section 19225)
24 of Division 8 may require applicants for licensure under those
25 chapters to disclose criminal conviction history on an application
26 for licensure.

27 (2) Except as provided in paragraph (1), a board shall not require
28 an applicant for licensure to disclose any information or
29 documentation regarding the applicant's criminal history. However,
30 a board may request mitigating information from an applicant
31 regarding the applicant's criminal history for purposes of
32 determining substantial relation or demonstrating evidence of
33 rehabilitation, provided that the applicant is informed that
34 disclosure is voluntary and that the applicant's decision not to
35 disclose any information shall not be a factor in a board's decision
36 to grant or deny an application for licensure.

37 (3) If a board decides to deny an application for licensure based
38 solely or in part on the applicant's conviction history, the board
39 shall notify the applicant in writing of all of the following:

40 (A) The denial or disqualification of licensure.

1 (B) Any existing procedure the board has for the applicant to
2 challenge the decision or to request reconsideration.

3 (C) That the applicant has the right to appeal the board's
4 decision.

5 (D) The processes for the applicant to request a copy of ~~his or~~
6 ~~her~~ *the applicant's* complete conviction history and question the
7 accuracy or completeness of the record pursuant to Sections 11122
8 to 11127 of the Penal Code.

9 (g) (1) For a minimum of three years, each board under this
10 code shall retain application forms and other documents submitted
11 by an applicant, any notice provided to an applicant, all other
12 communications received from and provided to an applicant, and
13 criminal history reports of an applicant.

14 (2) Each board under this code shall retain the number of
15 applications received for each license and the number of
16 applications requiring inquiries regarding criminal history. In
17 addition, each licensing authority shall retain all of the following
18 information:

19 (A) The number of applicants with a criminal record who
20 received notice of denial or disqualification of licensure.

21 (B) The number of applicants with a criminal record who
22 provided evidence of mitigation or rehabilitation.

23 (C) The number of applicants with a criminal record who
24 appealed any denial or disqualification of licensure.

25 (D) The final disposition and demographic information,
26 consisting of voluntarily provided information on race or gender,
27 of any applicant described in subparagraph (A), (B), or (C).

28 (3) (A) Each board under this code shall annually make
29 available to the public through the board's ~~Internet Web site~~
30 *internet website* and through a report submitted to the appropriate
31 policy committees of the Legislature deidentified information
32 collected pursuant to this subdivision. Each board shall ensure
33 confidentiality of the individual applicants.

34 (B) A report pursuant to subparagraph (A) shall be submitted
35 in compliance with Section 9795 of the Government Code.

36 (h) "Conviction" as used in this section shall have the same
37 meaning as defined in Section 7.5.

38 (i) This section does not in any way modify or otherwise affect
39 the existing authority of the following entities in regard to
40 licensure:

1 (1) The State Athletic Commission.

2 (2) The Bureau for Private Postsecondary Education.

3 (3) The California Horse Racing Board.

4 (j) This section shall become operative on July 1, 2020.

5 *SEC. 3. Section 480.2 of the Business and Professions Code*
6 *is amended to read:*

7 480.2. (a) The Bureau for Private Postsecondary Education,
8 the State Athletic Commission, and the California Horse Racing
9 Board may deny a license regulated by it on the grounds that the
10 applicant has one of the following:

11 (1) Been convicted of a crime.

12 (2) Done any act involving dishonesty, fraud, or deceit with the
13 intent to substantially benefit ~~himself or herself~~ *themselves* or
14 another, or substantially injure another.

15 (3) (A) Done any act that if done by a licentiate of the business
16 or profession in question, would be grounds for suspension or
17 revocation of license.

18 (B) The Bureau for Private Postsecondary Education, the State
19 Athletic Commission, and the California Horse Racing Board may
20 deny a license pursuant to this subdivision only if the crime or act
21 is substantially related to the qualifications, functions, or duties of
22 the business or profession for which application is made.

23 (b) Notwithstanding any other provision of this code, a person
24 shall not be denied a license solely on the basis that ~~he or she~~ *the*
25 *person* has been convicted of a felony if ~~he or she~~ *that person* has
26 obtained a certificate of rehabilitation under Chapter 3.5
27 (commencing with Section 4852.01) of Title 6 of Part 3 of the
28 Penal Code or that ~~he or she~~ *the person* has been convicted of a
29 misdemeanor if ~~he or she~~ *the person* has met all applicable
30 requirements of the criteria of rehabilitation developed by the
31 Bureau for Private Postsecondary Education, the State Athletic
32 Commission, and the California Horse Racing Board to evaluate
33 the rehabilitation of a person when considering the denial of a
34 license under paragraph (1) of subdivision (f).

35 (c) Notwithstanding any other provisions of this code, a person
36 shall not be denied a license by the Bureau for Private
37 Postsecondary Education, the State Athletic Commission, or the
38 California Horse Racing Board solely on the basis of a conviction
39 that has been dismissed pursuant to Section 1203.4, 1203.4a, ~~or~~
40 ~~1203.41~~ *1203.41, or 1203.425* of the Penal Code. An applicant

1 who has a conviction that has been dismissed pursuant to Section
2 1203.4, 1203.4a, ~~or 1203.41~~ 1203.41, or 1203.425 of the Penal
3 Code shall provide proof of the dismissal.

4 (d) The Bureau for Private Postsecondary Education, the State
5 Athletic Commission, and the California Horse Racing Board may
6 deny a license regulated by it on the ground that the applicant
7 knowingly made a false statement of fact that is required to be
8 revealed in the application for the license.

9 (e) The Bureau for Private Postsecondary Education, the State
10 Athletic Commission, and the California Horse Racing Board shall
11 develop criteria to aid it, when considering the denial, suspension
12 or revocation of a license, to determine whether a crime or act is
13 substantially related to the qualifications, functions, or duties of
14 the business or profession it regulates.

15 (f) (1) The Bureau for Private Postsecondary Education, the
16 State Athletic Commission, and the California Horse Racing Board
17 shall develop criteria to evaluate the rehabilitation of a person
18 either when:

19 (A) Considering the denial of a license under this section.

20 (B) Considering suspension or revocation of a license under
21 Section 490.

22 (2) The Bureau for Private Postsecondary Education, the State
23 Athletic Commission, and the California Horse Racing Board shall
24 take into account all competent evidence of rehabilitation furnished
25 by the applicant or licensee.

26 (g) Except as otherwise provided by law, following a hearing
27 requested by an applicant pursuant to subdivision (b) of Section
28 485, the Bureau for Private Postsecondary Education, the State
29 Athletic Commission, and the California Horse Racing Board may
30 take any of the following actions:

31 (1) Grant the license effective upon completion of all licensing
32 requirements by the applicant.

33 (2) Grant the license effective upon completion of all licensing
34 requirements by the applicant, immediately revoke the license,
35 stay the revocation, and impose probationary conditions on the
36 license, which may include suspension.

37 (3) Deny the license.

38 (4) Take other action in relation to denying or granting the
39 license as the Bureau for Private Postsecondary Education, the

1 State Athletic Commission, or the California Horse Racing Board,
2 in its discretion, may deem proper.

3 (h) Notwithstanding any other law, in a proceeding conducted
4 by the Bureau for Private Postsecondary Education, the State
5 Athletic Commission, or the California Horse Racing Board to
6 deny an application for a license or to suspend or revoke a license
7 or otherwise take disciplinary action against a person who holds
8 a license, upon the ground that the applicant or the licensee has
9 been convicted of a crime substantially related to the qualifications,
10 functions, and duties of the licensee in question, the record of
11 conviction of the crime shall be conclusive evidence of the fact
12 that the conviction occurred, but only of that fact, and the Bureau
13 for Private Postsecondary Education, the State Athletic
14 Commission, and the California Horse Racing Board may inquire
15 into the circumstances surrounding the commission of the crime
16 in order to fix the degree of discipline or to determine if the
17 conviction is substantially related to the qualifications, functions,
18 and duties of the licensee in question.

19 (i) Notwithstanding Section 7.5, a conviction within the meaning
20 of this section means a plea or verdict of guilty or a conviction
21 following a plea of nolo contendere. Any action that the Bureau
22 for Private Postsecondary Education, the State Athletic
23 Commission, or the California Horse Racing Board is permitted
24 to take following the establishment of a conviction may be taken
25 when the time for appeal has elapsed, the judgment of conviction
26 has been affirmed on appeal, or when an order granting probation
27 is made suspending the imposition of sentence, irrespective of a
28 subsequent order under the provisions of Section 1203.4, 1203.4a,
29 ~~or 1203.41~~ 1203.41, or 1203.425 of the Penal Code.

30 (j) This section shall become operative on July 1, 2020.

31 **SECTION 1.**

32 *SEC. 4.* Section 851.93 is added to the Penal Code, to read:

33 851.93. (a) (1) On a weekly basis, the Department of Justice
34 shall review the records in the statewide criminal justice databases,
35 and based on information in the state summary criminal history
36 repository, shall identify persons with records of arrest that meet
37 the criteria set forth in paragraph (2) and are eligible for arrest
38 record relief.

1 (2) A person is eligible for relief pursuant to this section, if the
2 arrest occurred on or after January 1, 1973, and meets any of the
3 following conditions:

4 (A) The arrest was for a misdemeanor offense and the charge
5 was dismissed.

6 (B) The arrest was for a misdemeanor offense, *there is no*
7 *indication that criminal proceedings have been initiated*, at least
8 one calendar year has elapsed since the date of the arrest, and no
9 conviction occurred, or the arrestee was acquitted of any charges
10 that arose, from that arrest.

11 (C) The arrest was for an offense that is punishable by
12 imprisonment pursuant to paragraph (1) or (2) of subdivision (h)
13 of Section 1170, *there is no indication that criminal proceedings*
14 *have been initiated*, at least three calendar years have elapsed since
15 the date of the arrest, and no conviction occurred, or the arrestee
16 was acquitted of any charges ~~arising from~~, *arising, from* that arrest.

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

19 (i) A prefiling diversion program, as defined in Section 851.87,
20 administered by a prosecuting attorney in lieu of filing an
21 accusatory pleading.

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

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

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

27 (v) Any diversion program described in Chapter 2.8
28 (commencing with Section 1001.20), Chapter 2.8A (commencing
29 with Section 1001.35), Chapter 2.81 (commencing with Section
30 1001.40), Chapter 2.9 (commencing with Section 1001.50), Chapter
31 2.9A (commencing with Section 1001.60), Chapter 2.9B
32 (commencing with Section 1001.70), Chapter 2.9C (commencing
33 with Section 1001.80), Chapter 2.9D (commencing with Section
34 1001.81), or Chapter 2.92 (commencing with Section 1001.85),
35 of Title 6.

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

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

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

12 (c) On a weekly basis, the department shall electronically submit
13 a notice to the superior court having jurisdiction over the criminal
14 case, informing the court of all cases for which a complaint was
15 filed in that jurisdiction and for which relief was granted pursuant
16 to this section. Commencing on February 1, 2021, for any record
17 retained by the court pursuant to Section 68152 of the Government
18 Code, *except as provided in subdivision (d)*, the court shall not
19 disclose information concerning an arrest that is granted relief
20 pursuant to this section to any person or entity, in any format,
21 except to the person whose arrest was granted relief or a criminal
22 justice agency, as defined in Section 851.92.

23 (d) Relief granted pursuant to this section is subject to the
24 following conditions:

25 (1) Arrest relief does not relieve a person of the obligation to
26 disclose an arrest in response to a direct question contained in a
27 questionnaire or application for employment as a peace officer, as
28 defined in Section 830.

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

34 (3) Relief granted pursuant to this section does not affect a
35 person's authorization to own, possess, or have in the person's
36 custody or control any firearm, or the person's susceptibility to
37 conviction under Chapter 2 (commencing with Section 29800) of
38 Division 9 of Title 4 of Part 6, if the arrest would otherwise affect
39 this authorization or susceptibility.

1 (4) Relief granted pursuant to this section does not affect any
2 prohibition from holding public office that would otherwise apply
3 under law as a result of the arrest.

4 (5) *Relief granted pursuant to this section does not affect the*
5 *authority to receive, or take adverse action based on, criminal*
6 *history information, including the authority to receive certified*
7 *court records received or evaluated pursuant to Section 1522,*
8 *1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or*
9 *pursuant to any statutory or regulatory provisions that incorporate*
10 *the criteria of those sections.*

11 (e) This section shall not limit petitions, motions, or orders for
12 arrest record relief, as required or authorized by any other law,
13 including, but not limited to, Sections 851.87, 851.90, 851.91,
14 1000.4, and 1001.9.

15 (f) The department shall annually publish statistics for each
16 county regarding the total number of arrests granted relief pursuant
17 to this section and the percentage of arrests for which the state
18 summary criminal history information does not include a
19 disposition, on the OpenJustice Web portal, as defined in Section
20 13010.

21 (g) This section shall be operative commencing January 1, 2021.
22 ~~SEC. 2:~~

23 ~~SEC. 5.~~ Section 1203.425 is added to the Penal Code,
24 immediately following Section 1203.42, to read:

25 1203.425. (a) (1) On a weekly basis, the Department of Justice
26 shall review the records in the statewide criminal justice databases,
27 and based on information in the state summary criminal history
28 repository and the Supervised Release File, shall identify persons
29 with convictions that meet the criteria set forth in paragraph (2)
30 and are eligible for automatic conviction record relief.

31 (2) A person is eligible for automatic conviction relief pursuant
32 to this section if they meet all of the following conditions:

33 (A) The person is not required to register pursuant to the Sex
34 Offender Registration Act.

35 (B) The person does not have an active record for local, state,
36 or federal supervision in the Supervised Release File.

37 (C) The person is not currently serving a sentence for any
38 offense and does not have any pending criminal charges.

1 (D) Except as otherwise provided in clause (iii) of subparagraph
2 (E), there is no indication that the conviction resulted in a sentence
3 of incarceration in the state prison.

4 (E) The conviction occurred on or after January 1, 1973, and
5 meets one of the following criteria:

6 (i) The defendant was sentenced to probation and, based upon
7 the disposition date and the term of probation specified in the
8 department's records, appears to have completed their term of
9 probation without revocation.

10 (ii) The defendant was convicted of an infraction or
11 misdemeanor, was not granted probation, has completed their
12 sentence, and, based upon the disposition date in the department's
13 record, at least one calendar year has elapsed since the date of
14 judgment.

15 (iii) The defendant was sentenced for a crime ~~which~~ *that* is, or
16 on or before January 1, 2012, would have been, eligible for
17 sentencing pursuant to subdivision (h) of Section 1170, and, based
18 upon the disposition date and the sentence specified in the
19 department's records, it appears that two years have elapsed
20 following the defendant's completion of the sentence.

21 (b) (1) Except as specified in subdivision ~~(g)~~, (h), the
22 department shall grant relief, including dismissal of a conviction,
23 to a person identified pursuant to subdivision (a), without requiring
24 a petition or motion by a party for that relief if the relevant
25 information is present in the department's records.

26 (2) The state summary criminal history information shall
27 include, directly next to or below the entry or entries regarding the
28 person's criminal record, a note stating "relief granted," listing the
29 date that the department granted relief and this section. This note
30 shall be included in all statewide criminal databases with a record
31 of the conviction.

32 (3) Except as otherwise provided in subdivision (d) and in
33 Section 13555 of the Vehicle Code, a person granted conviction
34 relief pursuant to this section shall be released from all penalties
35 and disabilities resulting from the offense of which the person has
36 been convicted.

37 (c) On a weekly basis, the department shall electronically submit
38 a notice to the superior court having jurisdiction over the criminal
39 case, informing the court of all cases for which a complaint was
40 filed in that jurisdiction and for which relief was granted pursuant

1 to this section. Commencing on February 1, 2021, for any record
2 retained by the court pursuant to Section 68152 of the Government
3 Code, *except as provided in subdivision (d)*, the court shall not
4 disclose information concerning a conviction granted relief
5 pursuant to this section or ~~Sections~~ *Section* 1203.4, 1203.4a,
6 1203.41, ~~and~~ or 1203.42, to any person or entity, in any format,
7 except to the person whose conviction was granted relief or a
8 criminal justice agency, as defined in Section 851.92.

9 (d) Relief granted pursuant to this section is subject to the
10 following conditions:

11 (1) Relief granted pursuant to this section does not relieve a
12 person of the obligation to disclose a criminal conviction in
13 response to a direct question contained in a questionnaire or
14 application for employment as a peace officer, as defined in Section
15 830.

16 (2) Relief granted pursuant to this section does not relieve a
17 person of the obligation to disclose the conviction in response to
18 any direct question contained in any questionnaire or application
19 for public office, or for contracting with the California State Lottery
20 Commission.

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

26 (4) Relief granted pursuant to this section does not limit the
27 jurisdiction of the court over any subsequently filed motion to
28 amend the record, petition or motion for postconviction relief, or
29 collateral attack on a conviction for which relief has been granted
30 pursuant to this section.

31 (5) Relief granted pursuant to this section does not affect a
32 person's authorization to own, possess, or have in the person's
33 custody or control any firearm, or the person's susceptibility to
34 conviction under Chapter 2 (commencing with Section 29800) of
35 Division 9 of Title 4 of Part 6, if the criminal conviction would
36 otherwise affect this authorization or susceptibility.

37 (6) Relief granted pursuant to this section does not affect any
38 prohibition from holding public office that would otherwise apply
39 under law as a result of the criminal conviction.

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

(8) Relief granted pursuant to this section does not make eligible a person who is otherwise ineligible to provide, or receive payment for providing, in-home supportive services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, or pursuant to Section 14132.95, 14132.952, or 14132.956 of the Welfare and Institutions Code.

~~(7)~~

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

(e) This section shall not limit petitions, motions, or orders for relief in a criminal case, as required or authorized by any other law, including, but not limited to, Sections 1203.4, 1203.4a, 1203.41, and 1203.42.

(f) The department shall annually publish statistics for each county regarding the total number of convictions granted relief pursuant to this section and the total number of convictions prohibited from automatic relief pursuant to subdivision (h), on the OpenJustice Web portal, as defined in Section 13010.

(g) Subdivisions (a) to ~~(g)~~, (f), inclusive, shall be operative commencing January 1, 2021.

(h) For convictions entered on or after January 1, 2018, the prosecuting attorney or probation department may, no later than 90 calendar days before the date of a person's eligibility for relief pursuant to this section, file a motion to prohibit the department from granting automatic relief pursuant to this section. The court shall give notice to the defendant and conduct a hearing on the motion within 45 days after the motion is filed. If the court grants that motion, the court shall report that outcome to the department, and the department shall not grant relief pursuant to this section. The person may continue to be eligible for relief pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42, and if the court

1 subsequently grants such a motion, the court shall report that
2 outcome to the department and the department shall grant relief
3 pursuant to the applicable section.

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

8 ~~SEC. 3.~~

9 *SEC. 6.* Section 11105 of the Penal Code is amended to read:

10 11105. (a) (1) The Department of Justice shall maintain state
11 summary criminal history information.

12 (2) As used in this section:

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

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

26 (b) The Attorney General shall furnish state summary criminal
27 history information to the following, if needed in the course of
28 their duties, 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 other entity, in fulfilling employment, certification,
31 or licensing duties, Chapter 1321 of the Statutes of 1974 and
32 Section 432.7 of the Labor Code shall apply:

33 (1) The courts of the state.

34 (2) Peace officers of the state, as defined in Section 830.1,
35 subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section
36 830.3, subdivision (a) of Section 830.31, and subdivisions (a) and
37 (b) of Section 830.5.

38 (3) District attorneys of the state.

39 (4) Prosecuting city attorneys or city prosecutors of a city within
40 the state.

1 (5) City attorneys pursuing civil gang injunctions pursuant to
2 Section 186.22a, or drug abatement actions pursuant to Section
3 3479 or 3480 of the Civil Code, or Section 11571 of the Health
4 and Safety Code.

5 (6) Probation officers of the state.

6 (7) Parole officers of the state.

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

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

17 (10) An agency, officer, or official of the state if the state
18 summary criminal history information is required to implement a
19 statute or regulation that expressly refers to specific criminal
20 conduct applicable to the subject person of the state summary
21 criminal history information, and contains requirements or
22 exclusions, or both, expressly based upon that specified criminal
23 conduct. The agency, officer, or official of the state authorized by
24 this paragraph to receive state summary criminal history
25 information may also transmit fingerprint images and related
26 information to the Department of Justice to be transmitted to the
27 Federal Bureau of Investigation.

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

1 information to the Department of Justice to be transmitted to the
2 Federal Bureau of Investigation.

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

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

13 (14) Health officers of a city, county, city and county, or district
14 when in the performance of their official duties enforcing Section
15 120175 of the Health and Safety Code.

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

18 (16) A humane society, or society for the prevention of cruelty
19 to animals, for the specific purpose of complying with Section
20 14502 of the Corporations Code for the appointment of humane
21 officers.

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

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

1 and fingerprint checks, final placement decisions shall be based
2 only on the records obtained pursuant to the fingerprint check.

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

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

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

29 (22) A court investigator providing investigations or reviews
30 in conservatorships pursuant to Section 1826, 1850, 1851, or
31 2250.6 of the Probate Code.

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

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

37 (25) A public agency described in subdivision (b) of Section
38 15975 of the Government Code, for the purpose of oversight and
39 enforcement policies with respect to its contracted providers.

1 (26) (A) A state entity, or its designee, that receives federal tax
2 information. A state entity or its designee that is authorized by this
3 paragraph to receive state summary criminal history information
4 also may transmit fingerprint images and related information to
5 the Department of Justice to be transmitted to the Federal Bureau
6 of Investigation for the purpose of the state entity or its designee
7 obtaining federal level criminal offender record information from
8 the Department of Justice. This information shall be used only for
9 the purposes set forth in Section 1044 of the Government Code.

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

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

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

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

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

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

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

1 (6) To a person when disclosure is requested by a probation,
2 parole, or peace officer with the consent of the subject of the state
3 summary criminal history information and for purposes of
4 furthering the rehabilitation of the subject.

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

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

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

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

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

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

36 (iv) A violation of this paragraph is a misdemeanor, and shall
37 give the current or prospective employee who is injured by the
38 violation a cause of action against the public utility or cable
39 corporation to recover damages proximately caused by the
40 violations. A public utility's or cable corporation's request for

1 state summary criminal history information for purposes of
2 employing current or prospective employees who may be seeking
3 entrance to private residences or adjacent grounds in the course
4 of their employment shall be deemed a “compelling need” as
5 required to be shown in this subdivision.

6 (v) This section shall not be construed as imposing a duty upon
7 public utilities or cable corporations to request state summary
8 criminal history information on current or prospective employees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (A) Every conviction rendered against the applicant.

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

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

33 (D) Every successful diversion.

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

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

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

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

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

11 (A) Every conviction rendered against the applicant.

12 (B) Every arrest for an offense for which the applicant is
13 presently awaiting trial, whether the applicant is incarcerated or
14 has been released on bail or on ~~his or her~~ *their* own recognizance
15 pending trial.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (B) Section 11105.3 or 11105.4.

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

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

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

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

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

(C) Sex offender registration status of the applicant.

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

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

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

(A) Every conviction rendered against the applicant for a 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 ~~his or her~~ *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) Notwithstanding any other law, whenever state summary
19 criminal history information is initially furnished pursuant to
20 paragraph (1), the Department of Justice shall disseminate the
21 following information:

22 (A) Every conviction rendered against the applicant, except a
23 conviction for which relief has been granted pursuant to Section
24 ~~1203.425~~ 1203.4, 1203.4a, 1203.41, 1203.42, 1203.425, or
25 1203.49.

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

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

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

33 (q) All agencies, organizations, or individuals defined in
34 subdivisions (k), (l), (m), (n), (o), and (p) may contract with the
35 Department of Justice for subsequent notification pursuant to
36 Section 11105.2. This subdivision shall not supersede sections that
37 mandate an agency, organization, or individual to contract with
38 the Department of Justice for subsequent notification pursuant to
39 Section 11105.2.

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

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

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