

**Licensing Timeframes Update:  
Short-term and Long-term Solutions  
to the Application Backlogs  
(S. Cheung)**





**What does the application review  
process look like?**





# Application Review Process

- Applicant-driven process
- First-come, first-served basis
  - All applications, supporting materials, responses to application deficiencies
  - Review by date received
- Processing times can vary
  - Number of application received
  - Quality of applications





# Application Processing Timeframes

The Board is currently processing applications received on the following dates as of August 5, 2022.

Type of Application/Request	Date Received
<b>Psychologist</b>	
Application EPPP Eligibility/Out-of-State Applicants	5/26/2022
CPLEE Request	6/6/2022
Request for Initial Licensure	6/3/2022
Supporting Documents/Correspondence	6/3/2022
<b>Psychological Associate</b>	
Application	5/27/2022
Notification to Add/Change Primary Supervisor(s)	6/27/2022
Supporting Documents/Correspondence	6/20/2022



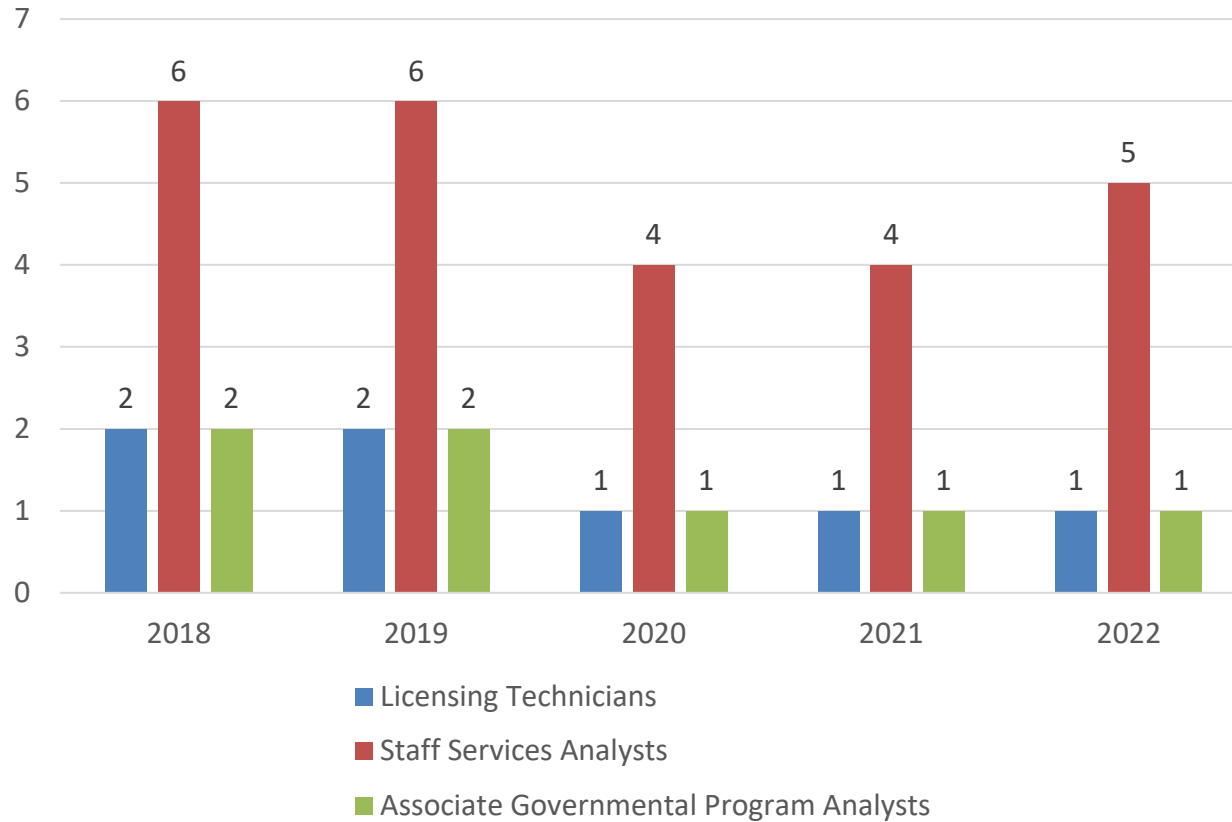


**How many licensing staff are there?**



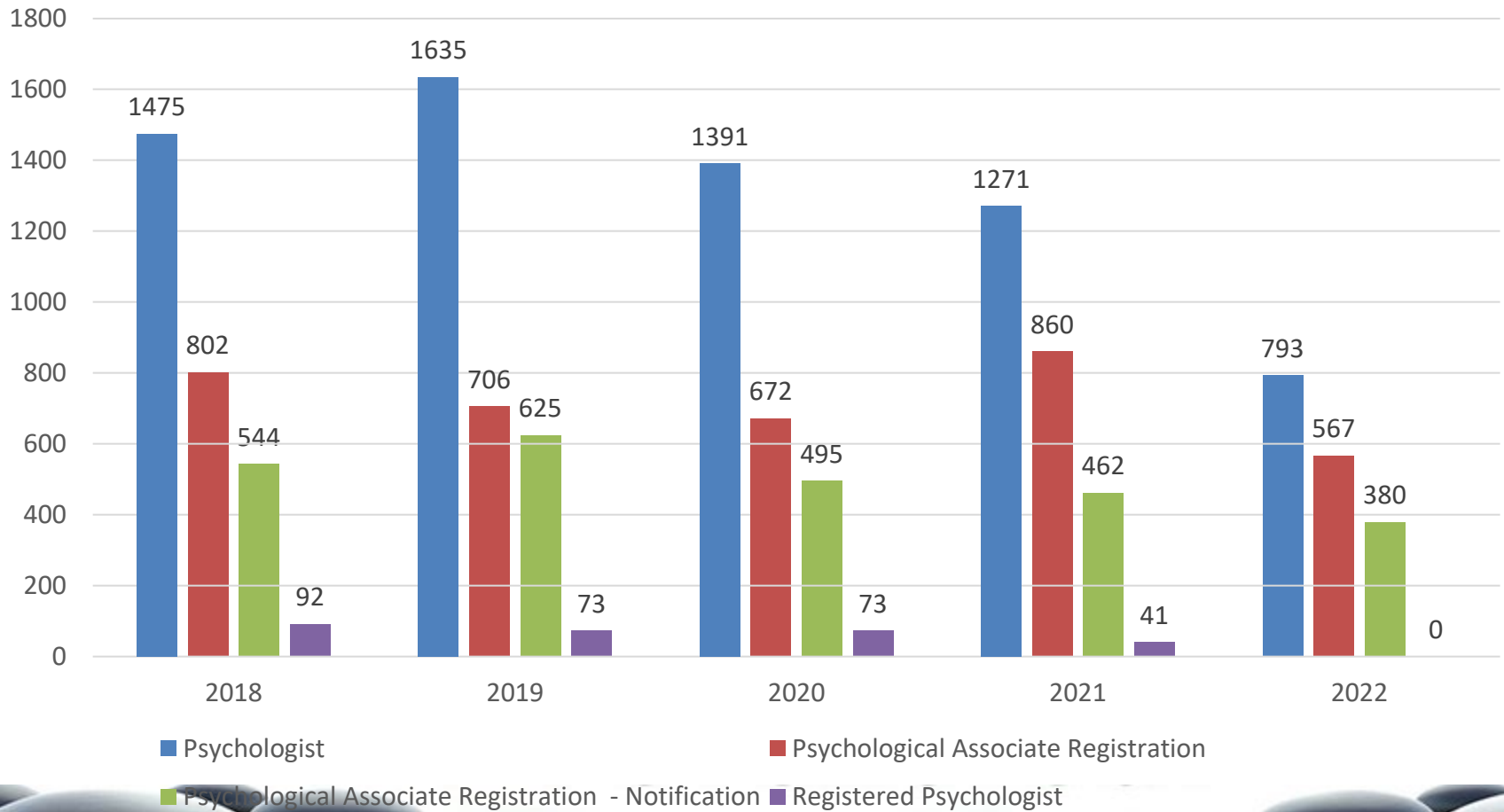


# Number of Licensing Staff 2018-2022





# Volume of Applications Received 2018-2022





# **Steps Taken to Address the Lengthened Processing Timeframes**







# Long-term Permanent Solutions

- Pathways to Licensure
  - Statute
    - Business and Professions Code:
      - §§ 27, 2909, 2909.5, 2910, 2911, 2913, 2914, 2915, 2915.5, 2915.7, 2940, 2941, 2942, 2944, 2946, 2960
    - Evidence Code:
      - §1010





# Long-term Permanent Solutions

- Pathways to Licensure
  - Regulations
    - California Code of Regulations:
      - §§ 1380.3, 1381, 1381.1, 1381.2, 1381.4, 1381.5, 1382, 1382.3, 1382.4, 1382.5, 1386, 1387, 1387.10, 1387.1, 1387.2, 1387.3, 1387.4, 1387.5, 1387.6, 1388, 1388.6, 1389, 1389.1, 1391, 1391.1, 1391.3, 1391.4, 1391.5, 1391.6, 1391.8, 1391.11, 1391.12





# Long-term Permanent Solutions

- Budget Change Proposal (BCP)
  - The process that allows Board to seek additional resources in terms of positions
    - Prerequisites:
      - Address Structural imbalance
      - Achieve solvency and obtain additional funding
    - Method:
      - Fee change
        - » Regulatory and legislative fee change proposals





# Long-term Permanent Solutions

- Fee Change

- Regulatory fee change relating to initial applications

- Effective on 7/1/2022:

- Increased fee to the maximum amount as authorized in statute through the regulatory process

- Psychologist fees:

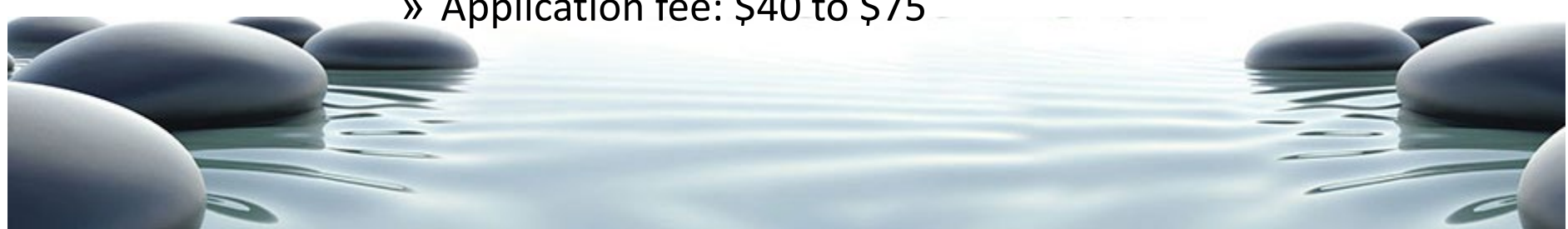
- » Application fee: \$40 to \$50

- » CPLEE fee: \$129 to \$235.20

- » Initial License fee: \$400 to \$500

- Psychological Associate fees:

- » Application fee: \$40 to \$75





# Long-term Permanent Solutions

- Fee Change
  - Legislation
    - Seek statutory authority to establish a higher new minimum and maximum amount
  - Increase fee through Regulatory process
    - Align fees to the new higher minimum amount as authorized in statute through the regulatory process
- Back to the BCP Process to request additional resources





# Long-term Permanent Solutions

- Redirect an Office Technician position to the Licensing Unit
  - Assist with administrative support of the unit
    - Enhance the acknowledgement of receipt process
      - Verify receipt of required documents
      - Notify if deficient of any documents
    - Modernize application record keeping
      - Electronic record





# Long-term Permanent Solutions

- Evaluate and improve business processes
  - Worked with the Organizational Improvement Office
    - Mapped business processes
    - Next Steps:
      - Review processes for paperlite
      - Implement recommendations





# Long-term Permanent Solutions

- Evaluate and improve business processes
  - Enlighten Licensing Project
    - Coordinated by the Department of Consumer Affairs
    - Introduce new ideas and implement best practices for critical licensing activities
      - More effective and efficient
    - Improvement opportunities to be explored:
      - Eliminating paper applications from the Board website
      - Return Applications with no fee
      - Automatic deficiency letters







# Long-term Permanent Solutions

- Evaluate and improve business process
  - Potential changes in BreEZe
    - Make additional applications available online through BreEZe
    - Configure system to send automatic letters electronically





# Short-term Temporary Solutions

- Additional temporary help for licensing duties
  - Retired Annuitant
    - Worked full time in April 2022 assisting with the processing of applications
    - Secured additional cost-savings to extend the temporary help provided by the Retired Annuitant
    - Add additional Retired Annuitant in future
  - Special Projects Coordinator
    - Trained to assist with processing of psychological associate notifications





# Short-term Temporary Solutions

- Licensing Unit Townhall
  - Brain-stormed creative solutions to optimize the process
    - Form refinements
    - Electronic signatures
    - Legislative change – Pre-licensure Coursework
    - Acknowledgement of receipts
    - Create electronic record of application materials
    - Fingerprint “hardcard” process
    - Resources needed for incoming inquiries



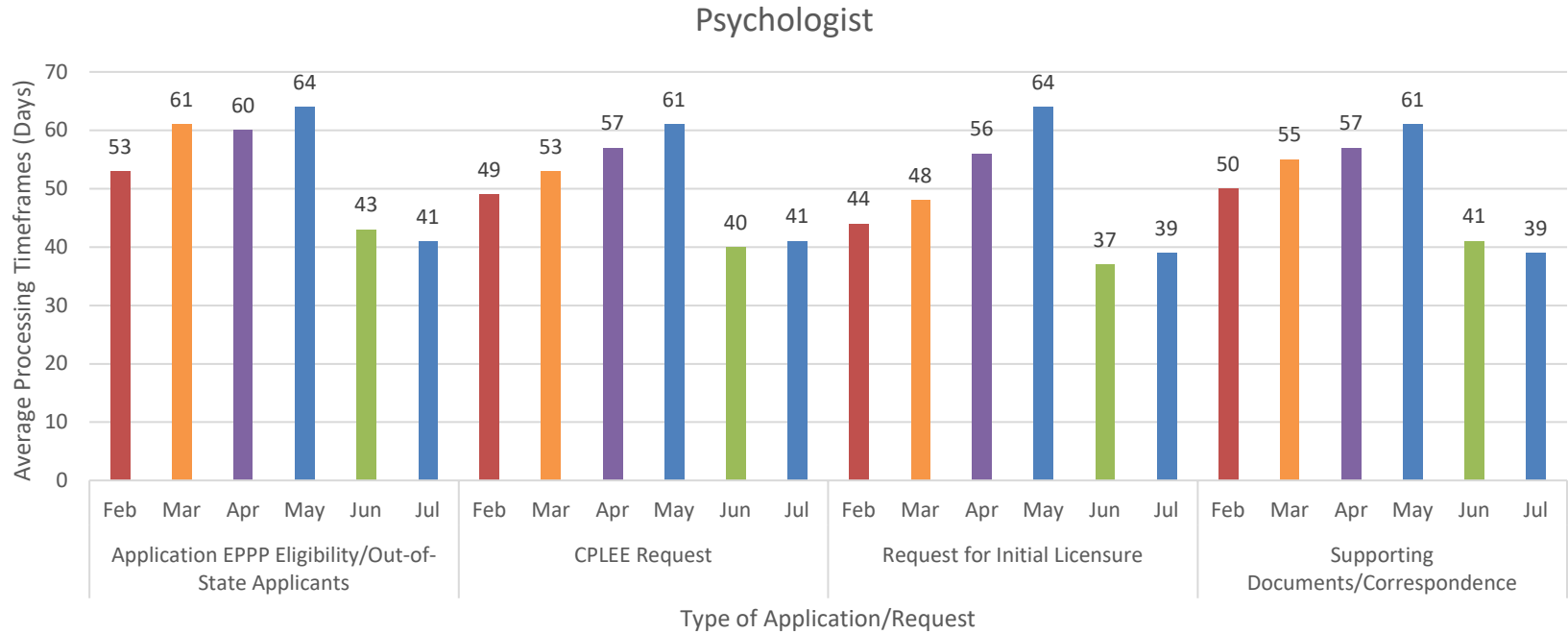


**How are the processing times?**





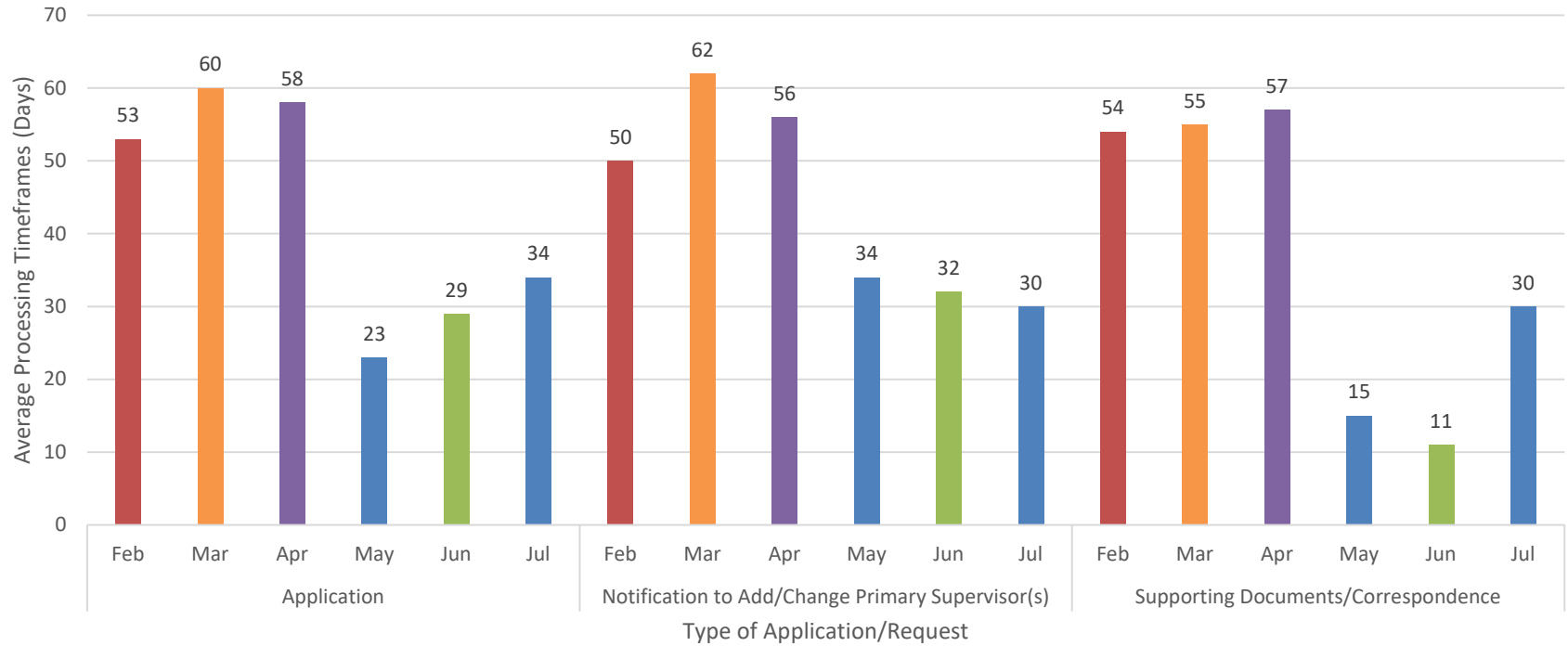
# Processing Times





# Processing Times

## Psychological Associate





**Thank you**



## BOARD OF PSYCHOLOGY

### Overview of Enforcement Activity

LICENSES	18/19	19/20	20/21	21/22	22/23
Psychologist	21,329	18,763	22,058	22,289	22,313
Psychological Associates	1,361	1,344	1,348	1,450	1596
<b>COMPLAINTS</b>					
Complaints Received <sup>1</sup>	1,093	1,092	1,130	742	82
Arrest Reports Received	40	43	32	34	2
Investigations Opened <sup>2</sup>	862	829	788	761	48
<b>ENFORCEMENT OUTCOMES</b>					
<b>Total Citations Issued</b>	<b>47</b>	<b>35</b>	<b>37</b>	<b>31</b>	<b>0</b>
<b>Total Cases Referred to AG</b>	<b>56</b>	<b>75</b>	<b>60</b>	<b>52</b>	<b>3</b>
Accusations	31	47	32	29	3
Statement of Issues	4	10	1	4	0
Petition to Revoke Probation	3	2	2	0	0
Petitions for Penalty Relief	5	4	8	4	0
Petition for Reinstatement	5	3	3	3	0
<b>Total Filings</b>	<b>48</b>	<b>66</b>	<b>46</b>	<b>28</b>	<b>3</b>
Accusations Withdrawn/Dismissed	7	1	3	3	0
Statement of Issues Withdrawn	0	3	2	0	0
<b>Total Filings Withdrawn/Dismissed</b>	<b>7</b>	<b>4</b>	<b>5</b>	<b>3</b>	<b>0</b>
Revocations	1	9	1	4	0
Probation	11	16	14	12	0
Surrender	9	12	12	7	4
Reprovals	1	2	6	7	0
Interim Orders	1	2	0	1	0
Statement of Issues-License Denied	0	0	1	1	0
<b>Total Disciplinary Decisions</b>	<b>23</b>	<b>41</b>	<b>34</b>	<b>32</b>	<b>4</b>
Petitions for Penalty Relief Denied	7	3	2	3	0
Petitions for Penalty Relief Granted	3	2	0	1	0
Petition for Reinstatement Granted	1	0	0	0	0
Petition for Reinstatement Denied	1	1	0	3	0
<b>Total Other Decisions</b>	<b>12</b>	<b>6</b>	<b>2</b>	<b>7</b>	<b>0</b>
<b>VIOLATION TYPES</b>					
Gross Negligence/Incompetence	20	28	29	24	4
Repeated Negligent Acts	13	15	25	17	2
Self-Abuse of Drugs or Alcohol	3	1	12	7	0
Dishonest/Corrupt/Fraudulent Act	6	10	6	7	1
Mental Illness	2	1	0	2	0
Aiding Unlicensed Practice	0	0	1	3	0
General Unprofessional Conduct	8	25	26	25	2
Probation Violation	12	6	7	5	0
Sexual Misconduct	3	4	7	8	0
Conviction of a Crime	8	7	10	8	0
Discipline by Another State Board	0	0	2	2	0
Misrepresentation of License Status	0	3	1	3	0

\*\*Enforcement data pulled on August 1, 2022

<sup>1</sup> Complaints Received-refers to all complaints submitted to the Board even if the complaint does not fall within the Board's jurisdiction or if multiple complaints are filed regarding a single incident.

<sup>2</sup> Investigations Opened-refers to complaints where a desk investigation is initiated.



## MEMORANDUM

<b>DATE</b>	August 15, 2022
<b>TO</b>	Board of Psychology
<b>FROM</b>	Suzy Costa Darrow Legislative and Regulatory Analyst
<b>SUBJECT</b>	Agenda Item # 13(a)(2)(B) – SB 731 (Durazo) Criminal records: relief

### **Background:**

This bill, as amended June 23, 2022, would expand automatic arrest record and conviction relief to additional specified felony offenses, effective July 1, 2023, and subject to an appropriation in the annual Budget Act. It would expand discretionary expungement relief to include felonies in which the defendant was sentenced to state prison. It would expand automatic conviction relief to include felonies committed after January 1, 2005, where the defendant was not granted probation and did not complete probation without revocation. This bill would exclude serious and violent felonies, and felonies requiring sex offender registration.

Specifically, it would make an arrest eligible for relief for a felony if there is no indication that the criminal proceeding has been initiated at least three years after the arrest. This bill would provide criminal conviction relief if the arrest was for a jail or prison felony with a sentence of eight or more years when no criminal proceedings have happened six years after the arrest. It would apply Penal Code section 1203.41 to all felonies, not just jail felonies, and require a parole officer to notify the prosecuting attorney when a petition is filed if the defendant was on mandatory supervision.

On 3/19/2021, the Legislative and Regulatory Affairs Committee agreed with the staff recommendation to **Oppose** SB 731 (Durazo).

On 4/2/2021, the Board approved the Legislative and Regulatory Affairs Committee recommendation to **Oppose** SB 731 (Durazo).

On 4/5/2021, the author amended the bill to remove the requirement that Department of Justice (DOJ) archive criminal records after two calendar years have passed since the date relief was granted.

On 5/20/2021, amendments were accepted in the Senate Appropriations Committee. These amendments exclude serious, violent, and sex felonies from automatic relief; delay automatic relief for four years where there is a supervision violation or a new felony conviction; strike the restriction on the access to cleared records; and limit retroactivity to January 1, 2005.

On 6/23/2021, amendments were accepted in the Assembly Public Safety Committee. These amendments state that relief granted pursuant to section 1203.41 do not release a defendant from the terms and conditions of any unexpired criminal protective orders that have been issued by the court. Protective orders shall remain in effect until expiration or until the court modifies or terminated the order.

On 4/7/2022, Assembly Member Reyes placed this bill on the Inactive File, meaning this bill is unlikely to move this legislative session.

On 6/23/2022, this bill was removed from the Inactive File and amended on the Assembly Floor.

On 6/30/2022, this bill passed off the Assembly Floor, and because of the significant amendments, it will need to go back to the Senate Floor for Concurrence.

On 8/12/2022, Board staff conducted a thorough review of the bill and determined that with these new amendments, the Board should remain opposed, but for slightly different reasons. When the bill was first reviewed in April 2021, it had language about archiving criminal records and it amended Penal Code section 11105, which affected the Board's authority to request these records. Board staff also recently concluded that this version of the bill expands on AB 1076 (Ting – Chapter 578, Statutes of 2019), which the Board also opposed.

Specifically, AB 1076 added Penal Code sections 851.93 and 1203.425, which required DOJ to create the process for automatic criminal relief. Business and Professions Code section 480(c) specifies that the Board cannot deny an application for licensure if there is a relieved conviction listed. SB 731 amends Penal Code sections 851.93 and 1203.425 to expand felony convictions that meet the criteria for automatic relief.

Board staff continues to recommend an **Oppose** position on SB 731 because it would add more felonies that are eligible for automatic relief, while the Board is already unable to act based on criminal conviction relief.

**Location:** Senate Concurrence

**Status:** 8/15/22 – Senate Concurrence

**Action Requested:**

This is for informational purposes only, and no action on this bill is requested.

Attachment A: Board Letter of Opposition

Attachment B: Senate Floor Analysis

Attachment C: SB 731 (Durazo) Bill Text

## FLOOR ALERT

### RE: SB 731 (Durazo) – Criminal Records: Relief – OPPOSE

At its April 2, 2021 meeting, the Board of Psychology (Board) adopted an **OPPOSE** position on SB 731 (Durazo). This bill would significantly impair the Board's ability to access critical arrest and conviction information regarding its licensees, petitioners, and applicants, and would significantly undermine the Board's ability to carry out its mission of consumer protection.

Specifically, SB 731 (Durazo) would implement a system to prospectively and retroactively seal criminal and arrest records and would require the Department of Justice, beginning on January 1, 2022, to archive all criminal records. These archived criminal records would not be included in any state or federal summary criminal history provided by the department, except if compliance with applicable federal law requires the inclusion.

The Board's primary concern with the provisions of SB 731 is that it would diminish the Board's ability to adequately protect the health and safety of California consumers of psychological services by removing the Board's ability to review and evaluate a current licensee's arrest and conviction information for the purposes of approving an application for licensure.

For these reasons, the Board asks for a **"NO" vote on SB 731 (Durazo)** when it is heard on the Assembly Floor.

If you have any questions or concerns, please feel free to contact Suzy Costa, Legislative and Regulatory Analyst at (916) 574-8112.

cc: Senator Durazo

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UNFINISHED BUSINESS

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Bill No: SB 731  
Author: Durazo (D) and Bradford (D), et al.  
Amended: 6/23/22  
Vote: 21

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SENATE PUBLIC SAFETY COMMITTEE: 4-1, 4/13/21  
AYES: Bradford, Kamlager, Skinner, Wiener  
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/20/21  
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski  
NOES: Bates, Jones

SENATE FLOOR: 30-7, 6/2/21  
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd,  
Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Kamlager, Laird, Leyva,  
Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern,  
Umberg, Wieckowski, Wiener  
NOES: Bates, Borgeas, Dahle, Grove, Jones, Ochoa Bogh, Wilk  
NO VOTE RECORDED: Hurtado, Melendez, Nielsen

ASSEMBLY FLOOR: 35-28, 9/10/21 (FAIL) - See last page for vote

ASSEMBLY FLOOR: 46-22, 6/29/22 - See last page for vote

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**SUBJECT:** Criminal records: relief

**SOURCE:** California for Safety and Justice

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**DIGEST:** This bill permits additional relief by way of withdrawing a plea and deleting arrest records for the purpose of most criminal background checks.

*Assembly Amendments:*

- 1) Provide that relief granted by this bill does not release a defendant from unexpired criminal protective orders.
- 2) Clarify that these provisions do not limit people from seeking relief under any other provisions.
- 3) Provide that a person denied relief continues to be eligible to relief in other provisions.
- 4) Clarify that the provision stating that the order does not relieve them from an obligation to disclose the conviction to any direct question contained in an application for public office or licensure by a state or federal agency to also include applications or licensure by a federally recognized tribe.
- 5) Clarify that Department of Social Services can take action based on records that have been granted relief.
- 6) Change the effective date to July 1, 2023.
- 7) Remove California Department of Corrections and Parole from procedures related to both the petition based relief and automated relief.
- 8) Limit the expanded availability of this relief, excluding someone who would benefit from the changes in the bill (*ie* was sentenced to prison for a felony) in cases where that felony resulted in a requirement to register as a sex offender.
- 9) Require the Department of Justice to provide background information to school districts, county offices of education, charter schools, private schools, state special schools for the blind and deaf, or any other entity required to have a background check because of a contract with any of those entities.
- 10) State that conviction record relief does not affect the authority to receive, or take adverse action based on, criminal history information for purposes of teacher credentialing or employment in public education.

**ANALYSIS:**

Existing law:

- 1) Provides that on a monthly basis the Department of Justice (DOJ) shall review the records in the statewide criminal databases and shall identify persons with records of arrest that are eligible for arrest record relief, with no requirement

that the person file a motion seeking relief. A person is eligible for relief if the arrest occurred on or after January 1, 2021, and meets any of the following conditions:

- a) The arrest was for a misdemeanor and the charge dismissed.
  - b) The arrest was for a misdemeanor and no criminal proceedings have been initiated one year from the date of the arrest.
  - c) If the arrest was for a jail felony, punishable by eight or more years and no proceedings have been initiated three years after the date of the arrest, and no conviction occurred, or the arrestee was acquitted of the charges.
  - d) If the person successfully completed a specified diversion program.
- 2) Subjects the relief granted to the following conditions:
- a) It does not relieve a person of an obligation to disclose an arrest in an application for employment as a peace officer.
  - b) It does not limit the ability of a criminal justice agency to access the arrest information.
  - c) It does not limit the ability of a district attorney to prosecute for the offense if it is within the statute of limitations.
  - d) It does not impact a person's authorization to own or possess a firearm
  - e) It does not impact any prohibition on holding public office.
  - f) It does not impact licensing for foster homes and similar facilities.
  - g) It does not limit other motions for relief. (Penal Code Section 851.93)
- 3) Provides that if a person is sentenced to a jail felony, the court, in its discretion, in the interest of judgement may allow a person to withdraw their guilty plea and enter a plea of not guilty and the court shall set aside the verdict and dismiss the accusations or information against the defendant when specified conditions are met. The relief shall be not be granted unless the prosecuting attorney has been given 15 days' notice of the petition for relief. (Penal Code Section 1203.41)
- 4) Provides that commencing July 1, 2022, and subject to a Budget appropriation, on a monthly basis, the DOJ shall review records in the statewide criminal justice databases and shall identify person with convictions that meet specified criterial and are eligible for automatic conviction relief. A person is eligible for relief if they meet all of the following conditions:
- a) The person is not required to register as a Sex Offender.
  - b) The person does not have an active record for local, state, or federal supervision in the Supervised Release file.

- c) Based on the information available, it does not appear the person is currently serving a sentence for an offense and there is no indication of pending criminal charges.
  - d) There is no indication that the conviction resulted in a sentence of incarceration in state prison.
  - e) The conviction occurred on or after January 1, 2021, and the defendant either was sentenced to probation and appears to have completed their term of probation without revocation or, the defendant was convicted of an infraction or misdemeanor, was not granted probation, and at least one calendar year has passed since the date of judgement. (Penal Code Section 1203.425(a)(1))
- 5) Provides that automatic conviction record relief is subject to the following conditions:
- a) It does not relieve a person of the obligation to disclose a conviction when applying to be a peace officer.
  - b) It does not relieve a person of the obligation to disclose the conviction in response to a direct question contained in a questionnaire for public office or for contracting with the California State Lottery Commission
  - c) It does not affect a person's authorization to own, possess, etc. a firearm.
  - d) It does not affect a prohibition from holding public office that would otherwise apply as a result of the conviction.
  - e) It does not affect the authority to receive, or take action based on, criminal history information including the authority to receive certified court records.
  - f) It does not make eligible a person otherwise ineligible to provide in-home supportive services.
  - g) It may still act as a prior for future arrests and convictions. (Penal Code Section 1203.425(a)(3))

This bill:

- 1) Makes an arrest for a felony and there is no indication that the criminal proceeding has been initiated at least three years after the arrest eligible for relief and amends existing law to provide that if the arrest was for a jail or prison felony with a sentence of eight or more years shall be eligible for relief when no criminal proceedings have happened six years after the arrest.
- 2) Makes Penal Code Section 1203.41 apply to all felonies not just jail felonies and provides that if the defendant was on mandatory supervision, the parole officer shall notify the prosecuting attorney when a petition is filed.

- 3) Deletes the prohibition on granting relief if the person was incarcerated in the state prison.
- 4) Provides, in addition, that relief granted does not release the defendant from the terms and conditions of any unexpired criminal protective orders.
- 5) Adds an additional criteria for relief providing for relief if the conviction occurred on or after January 1, 2005, the defendant was convicted of a felony other than one for which the defendant completed probation without revocation, and based on the disposition date and the sentence specified in DOJ's records, appears to have completed all terms of incarceration, probation, mandatory supervision, postrelease supervision, and parole and a period of four years has elapsed since the date on which the defendant completed probation or supervision for that conviction during which the person was not convicted of a new felony. This does not apply to a serious or violent felony as defined in the Penal Code or an offense for which a person must register as a sex offender.
- 6) Provides that existing conviction relief does not limit the ability of an entity to get the information for the purposes of teacher credentialing.
- 7) Contains an effective date of July 1, 2023.

## **Comments**

According to the author:

Nationally, an estimated 70 million people (nearly one in three adults, and 8 million people in California alone) have a past arrest or conviction on their record.<sup>1</sup> The vast majority of people with convictions have long finished their sentence in prison, jail, parole or probation and exited the 'deepest end' of the justice system.

Despite the data on recidivism, California still maintains these records until the person reaches 100 years of age. Due to the widespread usage of background checks in today's society, the availability of these records activate thousands of barriers for one quarter of the state's population resulting in chronic housing insecurities, long-term unemployment, and widespread lack of civic participation. These collateral consequences disproportionately affect Black and Latino communities and have become one of the leading drivers of multi-generational poverty.



**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee:

- 1) One-time costs (Fingerprint Fees Account) of \$946,000 to the DOJ to update existing technological infrastructure designed to identify an expanded universe of arrest and conviction records for relief. Costs to implement the initial review of arrests and convictions occurring on or after January 1, 2021, was approximately \$3 million. This bill increases costs to DOJ for expanded review of arrests and convictions.
- 2) Costs (General Fund (GF)) of approximately \$189,000 annually to the Department of Social Services (DSS) in federal reimbursements for In-Home Supportive Services (IHSS) providers that receive relief for crimes not considered exempt by the federal government. Additional costs, possibly in the millions of dollars annually, to DSS in Title IV-E compliances issues and subsequent loss in funding that would shift to the GF. Possible additional costs of approximately \$25 million annually because of a decline in the federal discount rate calculation.
- 3) Cost pressures (Trial Court Trust Fund) in the hundreds of thousands of dollars annually for courts to hear additional felony expungement motions pursuant to Penal Code Section 1203.41. One hour of court time costs approximately \$1,000. If courts are required to hear 20 additional motions for felony expungement statewide requiring an average of 12 hours of court time each, the cost to the courts would be \$240,000. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund and staff workload may create a need for increased funding for courts from the GF to perform existing duties. This is particularly true, given that courts have delayed hundreds of trials and civil motions during the COVID-19 pandemic resulting in a serious backlog that must be resolved. The Budget Act of 2021 allocates \$118.3 million from the GF to backfill continued reduction in fine and fee revenue for trial court operations and \$72 million in ongoing GF revenue for trial courts to continue addressing the backlog of cases caused by the pandemic.

**SUPPORT:** (Verified 6/29/22)

California for Safety and Justice (source)

A New Way of Life Re-Entry Project

All of Us or None Los Angeles

All of Us or None Riverside

Alliance of Californians for Community Empowerment Action

American Civil Liberties Union/Northern California/Southern California/San Diego and Imperial Counties  
Anti-Recidivism Coalition  
Arts for Healing and Justice Network  
Asian Americans Advancing Justice - California  
Asian Solidarity Collective  
Bend the Arc: Jewish Action  
Black Los Angeles Young Democrats  
Blameless and Forever Free Ministries  
Building Opportunities for Self-Sufficiency  
California Attorneys for Criminal Justice  
California Calls  
California Catholic Conference  
California Immigrant Policy Center  
California Labor Federation, AFL-CIO  
California Public Defenders Association  
California Religious Action Center of Reform Judaism  
California State Council of Laborers  
Californians Coalition for Women Prisoners  
Californians United for a Responsible Budget  
Cat Clark Consulting Services LLC  
Center of Hope LA  
Chrysalis Center  
Code for America  
Communities United for Restorative Youth Justice  
Community Advocates for Just and Moral Governance  
Community Legal Services in East Palo Alto  
Community Works  
County of Los Angeles Board of Supervisors  
Courage California  
Cure California  
Defy Ventures  
Dignity and Power Now  
Drug Policy Alliance  
Ella Baker Center for Human Right  
Faith in Action Bay Area  
Faith in Action East Bay  
Family Reunification Equity & Empowerment  
Felony Murder Elimination Project  
Forward Impact DbA Represent Justice

Fresno Barrios Unidos  
Friends Committee on Legislation of California  
Homeboy Industries  
Initiate Justice  
Inland Empire Fair Chance Coalition  
Inland Equity Partnership  
Kehilla Community Synagogue  
LA Voice  
Last Prisoner Project  
Law Enforcement Action Partnership  
Legal Aid at Work  
Legal Services for Prisoners with Children  
Livefree California  
Los Angeles County Democratic Party  
Los Angeles Regional Reentry Partnership  
Michelson Center for Public Policy  
National Association of Social Workers, California Chapter  
People Objective LLC  
Phenomenal Angels of the Community  
Pico California  
Pillars of the Community  
Re:Store Justice  
Riverside Community College District  
Root & Rebound  
Rubicon Programs  
San Bernardino Free Them All  
San Francisco Public Defender  
Santa Cruz Barrios Unidos Inc.  
Shields for Families  
Showing Up for Racial Justice Bay Area  
Showing Up for Racial Justice North County  
Showing Up for Racial Justice San Diego  
Smart Justice California  
Social & Environmental Justice Committee of the Universalist Unitarian Church of  
Riverside  
Social Justice Research Partnership  
Starting Over, Inc.  
Team Justice  
The Dream Corps  
The Experience Christian Ministries

The Reverence Project  
Think Dignity  
Time for Change Foundation  
Timelist Group  
Transitions Clinic Network  
Uncommon Law  
Underground Grit  
Underground Scholars Initiative at UC Riverside  
Underground Scholars Initiative Berkeley  
Underground Scholars Initiative, University of California Davis  
UNITE-LA, Inc.  
We the People - San Diego  
Young Women's Freedom Center

**OPPOSITION:** (Verified 6/29/22)

Alliance for Constitutional Sex Offense Laws  
California Association of Licensed Investigators  
California Board of Psychology  
California District Attorneys Association  
California Statewide Law Enforcement Association  
Dental Hygiene Board of California  
Peace Officers Research Association of California  
Physician Assistant Board  
Veterinary Medical Board

**ARGUMENTS IN SUPPORT:** Californians for Safety and Justice, the sponsor of this bill, states:

Nationally, an estimated 70 million people—nearly one in three adults, and 8 million people in California alone— have a past arrest or conviction on their record. California maintains an individual’s criminal records until that person reaches 100 years of age. As a result of the widespread usage of background checks in today's society, the permanence of these records present thousands of barriers resulting in widespread constraints on civic participation.

Examples of these barriers are felt by families seeking to live outside of impoverished areas, individuals that want careers in education or healthcare, others who want to coach, homeowners that want to joint heir HOA board, couples that want to adopt, or grandchildren that want to care for their elderly grandparent. Old criminal records go beyond economics and into denial of human decency, family responsibility, and basic citizenship.

Lack of access to employment and housing are primary factors driving recidivism, criminal records are serious barriers to successful reentry and come at a cost of \$20 billion annually to California's economy. Nationally, it has been estimated that the U.S. loses roughly \$372.3 billion per year in terms of gross domestic product due to employment losses among people living with convictions.

SB 731 proposes a structured, automated approach to sunsetting criminal records. Automated sealing of all arrest records that do not result in conviction, and phased relief for convictions records, expand record sealing to all sentences following completion of terms of incarceration, post-release supervision, and an additional period of time - provided the person has completed their sentence without any new felony convictions and has no new charges pending. For the reasons listed above, Californians for Safety and Justice is proud to co-sponsor SB 731.

**ARGUMENTS IN OPPOSITION:** Peace Officers Research Association of California opposes this bill stating:

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

PORAC believes that by expanding the relief of penalties for all felonies, we are placing our communities at risk. Oftentimes, felony crimes are violent and leave behind innocent victims whose lives will never be the same. By allowing violent criminals back on the street, with their record dismissed, they will have less deterrent to commit another crime. Thus, leaving more victims in their wake. If the author is willing to amend the bill to exclude violent criminals, we would be inclined to remove our opposition.

ASSEMBLY FLOOR: 46-22, 6/29/22

AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Carrillo, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson,

Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Mayes, McCarty, McKinnor, Medina, Mullin, Nazarian, O'Donnell, Quirk, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon  
NOES: Bigelow, Choi, Cooley, Cooper, Megan Dahle, Davies, Flora, Fong, Gallagher, Irwin, Kiley, Lackey, Mathis, Muratsuchi, Nguyen, Patterson, Petrie-Norris, Salas, Seyarto, Smith, Valladares, Voepel  
NO VOTE RECORDED: Calderon, Cervantes, Chen, Cunningham, Low, Maienschein, Quirk-Silva, Ramos, Rodriguez, Blanca Rubio, Villapudua, Waldron

ASSEMBLY FLOOR: 35-28, 9/10/21 (FAIL)

AYES: Bauer-Kahan, Bennett, Berman, Bloom, Mia Bonta, Bryan, Carrillo, Chau, Chiu, Friedman, Gabriel, Cristina Garcia, Gipson, Gray, Holden, Jones-Sawyer, Kalra, Lee, Levine, Mayes, McCarty, Medina, Mullin, Nazarian, Quirk, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Ward, Wicks, Wood, Rendon  
NOES: Bigelow, Cervantes, Chen, Cooley, Cooper, Cunningham, Megan Dahle, Davies, Flora, Fong, Frazier, Gallagher, Irwin, Kiley, Lackey, Mathis, Muratsuchi, Nguyen, O'Donnell, Patterson, Petrie-Norris, Rodriguez, Salas, Seyarto, Smith, Valladares, Voepel, Waldron  
NO VOTE RECORDED: Aguiar-Curry, Arambula, Boerner Horvath, Burke, Calderon, Choi, Daly, Eduardo Garcia, Lorena Gonzalez, Grayson, Low, Maienschein, Quirk-Silva, Ramos, Blanca Rubio, Villapudua, Akilah Weber

Prepared by: Mary Kennedy / PUB. S. /  
7/28/22 10:40:21

\*\*\*\* END \*\*\*\*

**SB 731 (Durazo) – As Amended 6/23/22**

**SECTION 1.**

*Section 44242.5 of the Education Code is amended to read:*

**44242.5.**

(a) Each allegation of an act or omission by an applicant for, or holder of, a credential for which ~~he or she~~ *the applicant* may be subject to an adverse action shall be presented to the Committee of Credentials.

(b) The committee has jurisdiction to commence an initial review upon receipt of any of the following:

(1) (A) Official records of the Department of Justice, of a law enforcement agency, of a state or federal court, and of any other agency of this state or another state.

(B) For purposes of subparagraph (A), “agency of this state” has the same meaning as that of “state agency” as set forth in Section 11000 of the Government Code.

(2) An affidavit or declaration signed by a person ~~or persons~~ with personal knowledge of the acts alleged to constitute misconduct.

(3) (A) A statement from an employer notifying the commission that, as a result of an allegation of misconduct, or while an allegation of misconduct is pending, a credentialholder has been dismissed, nonreelected, suspended for more than 10 days, or placed pursuant to a final adverse employment action on unpaid administrative leave for more than 10 days, or has resigned or otherwise left employment.

(B) The employer shall provide the notice described in subparagraph (A) to the commission not later than 30 days after the dismissal, nonreelection, suspension, placement on unpaid administrative leave, resignation, or departure from employment of the employee.

(C) For purposes of subparagraphs (A) and (B), a change in status due solely to unsatisfactory performance pursuant to paragraph (4) of subdivision (a) of Section 44932 or a reduction in force pursuant to Sections 44955 to 44958, inclusive, is not a result of an allegation of misconduct.

(4) A notice from an employer that a complaint was filed with the school district alleging sexual misconduct by a credentialholder. Results of an investigation by the committee based on this paragraph shall not be considered for action by the committee unless there is evidence presented to the committee in the form of a written or oral declaration under penalty of perjury that confirms the personal knowledge of the declarant regarding the acts alleged to constitute misconduct.

(5) A notice from a school district, employer, public agency, or testing administrator of a violation of Section 44420, 44421.1, 44421.5, or 44439.

(6) (A) An affirmative response on an application submitted to the commission as to any conviction, adverse action on, or denial of, a license, or pending investigation into a criminal allegation or pending investigation of a noncriminal allegation of misconduct by a governmental licensing entity.

(B) Failure to disclose any matter set forth in subparagraph (A).

(c) An initial review commences on the date that the written notice is mailed to the applicant or credentialholder that ~~his or her~~ *their* fitness to hold a credential is under review. Upon commencement of a formal review pursuant to Section 44244, the committee shall investigate all alleged misconduct and the circumstances in mitigation and aggravation. The investigation shall include, but not be limited to, all of the following:

(1) Investigation of the fitness and competence of the applicant or credentialholder to perform the duties authorized by the credential for which ~~he or she has~~ *they have* applied or that ~~he or she presently holds~~ *they presently hold*.

(2) Preparation of a summary of the applicable law, a summary of the facts, contested and uncontested, and a summary of any circumstances in aggravation or mitigation of the allegation.

(3) Determination of probable cause for an adverse action on the credential. If the allegation is for unprofessional or immoral conduct, the committee, in any formal review conducted pursuant to Section 44244 to determine probable cause, shall permit the employer of the credentialholder to be present while testimony is taken. If the allegation of unprofessional or immoral conduct involves sexual abuse, the employer shall be examined in the meeting for any relevant evidence relating to the sexual abuse.

(A) If the committee determines that probable cause for an adverse action does not exist, the committee shall terminate the investigation.

(B) If the committee determines that probable cause for an adverse action on the credential exists, upon receipt of a request from an applicant or a credentialholder pursuant to Section 44244.1, the commission shall initiate an adjudicatory hearing, as prescribed by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, by filing an accusation or statement of issues.

(d) The committee has jurisdiction to commence a formal review pursuant to Section 44244 upon receipt of any of the following:

(1) (A) Official records of a state or federal court that reflect a conviction or plea, including a plea of nolo contendere, to a criminal offense or official records of a state court that adjudge a juvenile to be a dependent of the court pursuant to Section 300 of the Welfare and Institutions Code due to allegations of sexual misconduct or physical abuse by a credentialholder or applicant.

(B) ~~Nothing in subparagraph (A) shall be construed to~~ *Subparagraph (A) does not* relieve the commission from the confidentiality provisions, notice, and due process requirements set forth in Section 827 of the Welfare and Institutions Code.

(2) An affidavit or declaration signed by a person ~~or persons~~ with personal knowledge of the acts alleged to constitute misconduct.

(3) A statement described in paragraph (3) of subdivision (b).

(4) Official records of a governmental licensing entity that reflect an administrative proceeding or investigation, otherwise authorized by law or regulation, ~~which~~ *that* has become final.

(5) A notice described in paragraph (5) of subdivision (b).

(6) A response or failure to disclose, as described in paragraph (6) of subdivision (b).

(e) (1) Upon completion of its investigation, the committee shall report its actions and recommendations to the commission, including its findings as to probable cause, and if probable cause exists, its recommendations as to the appropriate adverse action.

(2) The findings shall be available, upon its request, to the employing or last known employing school district, or, if adverse action is recommended by the committee and the credentialholder has not filed a timely appeal of the recommendation of the committee pursuant to Section 44244.1, upon a request made within five years of the date of the committee's recommendations to a school district providing verification that the credentialholder has applied for employment in the school district. The findings, for all purposes, shall remain confidential and limited to school district personnel in a direct supervisory capacity in relation to the person investigated. *Any A* person who otherwise releases findings received from the committee or



the commission, absent a verified release signed by the person who is the subject of the investigation, shall be guilty of a misdemeanor.

(3) The findings shall not contain any information that reveals the identity of persons other than the person who is the subject of the investigation.

(f) (1) Except as provided in paragraph (2) and, notwithstanding subdivision (b), for purposes of determining whether jurisdiction exists under subdivision (b), the commission, in accordance with Section 44341, may make inquiries and requests for production of information and records only from the Department of Justice, a law enforcement agency, a state or federal court, and a licensing agency of this ~~state~~ *state*, or a licensing agency of another state.

(2) For purposes of determining whether jurisdiction exists, paragraph (1) does not apply to release of personnel records.

*(g) Notwithstanding subdivision (a), convictions for controlled substance offenses listed in Section 11350 or 11377, or former Section 11500 or 11500.5, of the Health and Safety Code that are more than five years old, for which relief is granted pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, 1203.425, or 1203.49 of the Penal Code, shall not be presented to the Committee on Credentials.*

## **SEC. 2.**

*Section 44346 of the Education Code is amended to read:*

### **44346.**

(a) The commission shall deny ~~any an~~ application for the issuance of a credential or for the renewal of a credential made by any applicant who comes within any of the following classes:

(1) Has been determined to be a sexual psychopath under the provisions of ~~former~~ Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code or under similar provisions of law of any other state.

(2) Has been convicted of ~~any a~~ sex offense, as defined in Section 44010.

(3) Has been convicted of a controlled substance offense, as defined in Section 44011.

(4) Has been found to be insane through a criminal proceeding by a federal court or a court in this or any other state.

(b) (1) Notwithstanding paragraphs (2) and (3) of subdivision (a), ~~no a~~ person shall *not* be denied a credential solely on the basis that ~~he or she~~ *the person* has been convicted of a crime specified in paragraphs (2) and (3) of subdivision (a) if the person has obtained a certificate of rehabilitation and pardon pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, and if ~~his or her~~ probation has been terminated and the information or accusation has been dismissed pursuant to Section 1203.4 of the Penal Code.

(2) Notwithstanding any other law, the commission shall deny the application of ~~any an~~ applicant who is required to register as a sex offender pursuant to either of the following:

(A) Section 290 of the Penal Code.

(B) A law of any other state or of the United States when the underlying offense, if committed or attempted in this state, would require registration as a sex offender under Section 290 of the Penal Code.

(c) (1) Notwithstanding paragraph (3) of subdivision (a) or subdivision (b), the commission may issue a credential to a person convicted of a controlled substance ~~offense offense~~, as defined in Section ~~44011~~ *44011*, if the commission determines from the evidence presented that the person has been

rehabilitated for at least five years, or has received a certificate of rehabilitation and pardon pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, or if the accusation or information against the person has been dismissed and ~~he or she~~ *the person* has been released from all disabilities and penalties resulting from the offense pursuant to Section 1203.4 of the Penal Code.

*(2) Notwithstanding paragraph (3) of subdivision (a), a person shall not be denied a credential solely on the basis that they have been convicted of a crime specified in Section 11350 or 11377, or former Section 11500 or 11500.5, of the Health and Safety Code, if that conviction is more than five years old, and for which relief has been granted pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, 1203.425, or 1203.49 of the Penal Code.*

(d) Notwithstanding paragraph (4) of subdivision (a), the commission may issue a credential to a person found to be insane through a criminal proceeding by a federal court or a court in this or any other state if the commission determines from the evidence presented that the person has been rehabilitated for at least five years.

~~SECTION 4.~~ **SEC. 3.**

Section 851.93 of the Penal Code is amended to read:

**851.93.**

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

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

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

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

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

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

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

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

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

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

(v) A diversion program described in Chapter 2.8 (commencing with Section 1001.20), Chapter 2.8A (commencing with Section 1001.35), Chapter 2.81 (commencing with Section 1001.40), Chapter 2.9 (commencing with Section 1001.50), Chapter 2.9A (commencing with Section 1001.60), Chapter 2.9B

(commencing with Section 1001.70), Chapter 2.9C (commencing with Section 1001.80), Chapter 2.9D (commencing with Section 1001.81), or Chapter 2.92 (commencing with Section 1001.85), of Title 6.

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

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

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

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

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

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

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

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

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

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

(6) 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.

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

(f) The department shall annually publish statistics for each county regarding the total number of arrests granted relief pursuant to this section and the percentage of arrests for which the state summary criminal

history information does not include a disposition, on the OpenJustice Web portal, as defined in Section 13010.

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

*(h) This section shall remain in effect only until July 1, 2023, and as of that date is repealed.*

#### **SEC. 4.**

*Section 851.93 is added to the Penal Code, to read:*

#### **851.93.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(6) 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.*

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

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

*(g) This section shall be operative commencing July 1, 2023, subject to an appropriation in the annual Budget Act.*

~~SEC. 3.~~ SEC. 5.

Section 1203.41 of the Penal Code is amended to read:

**1203.41.**

(a) If a defendant is ~~sentenced pursuant to paragraph (5) of subdivision (h) of Section 1170,~~ *convicted of a felony*, the court, in its discretion and in the interests of justice, may order the following relief, subject to the conditions of subdivision (b):

(1) The court may permit the defendant to withdraw ~~his or her~~ *their* plea of guilty or plea of nolo contendere and enter a plea of not guilty, or, if ~~he or she~~ *the defendant* has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty, and, in either case, the court shall ~~thereupon~~ dismiss the accusations or information against the defendant and ~~he or she~~ *the defendant* shall thereafter be released from all penalties and disabilities resulting from the offense of which ~~he or she has~~ *they have* been convicted, except as provided in Section 13555 of the Vehicle Code.

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

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

(4) The defendant shall be informed, either orally or in writing, of the provisions of this section and of ~~his or her~~ *their* right, if any, to petition for a certificate of rehabilitation and pardon at the time ~~he or she is~~ *they are* sentenced.

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

*(6) If the defendant seeks relief under this section for a felony that resulted in a sentence to the state prison, the relief available under this section may only be granted if that felony did not result in a requirement to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1.*

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

(1) 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 accusation or information had not been dismissed.

(2) The order shall state, and the defendant shall be informed, that the order does not relieve ~~him or her~~ *them* of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local ~~agency,~~ *agency or by a federally recognized tribe, or* for contracting with the California State Lottery Commission.

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

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

(c) This section applies to any conviction specified in subdivision (a) that occurred before, on, or after January 1, ~~2014~~ 2021.

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

(e) (1) Relief shall not be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section.

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

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

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

*(h) 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. 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.*

#### SEC. 6.

*Section 1203.425 of the Penal Code is amended to read:*

#### **1203.425.**

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



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

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

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

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

(iv) Except as otherwise provided in subclause (III) of clause (v), there is no indication that the conviction resulted in a sentence of incarceration in the state prison.

(v) The conviction occurred on or after January 1, 1973, and meets either of the following criteria:

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

(II) The defendant was convicted of an infraction or misdemeanor, was not granted probation, and, based upon the disposition date and the term specified in the department's records, the defendant appears to have completed their sentence, and at least one calendar year has elapsed since the date of judgment.

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

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

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

(3) (A) Commencing July 1, 2022, and subject to an appropriation in the annual Budget Act, on a monthly basis, the department shall electronically submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which a complaint was filed in that jurisdiction and for which relief was granted pursuant to this section. Commencing on ~~January~~ ~~August~~ 1, ~~2023~~, 2022, for any record retained by the court pursuant to Section 68152 of the Government Code, except as provided in paragraph (4), the court shall not disclose information concerning a conviction granted relief pursuant to this section or Section 1203.4, 1203.4a, 1203.41, or 1203.42, to any person or entity, in any format, except to the person whose conviction was granted relief or a criminal justice agency, as defined in Section 851.92.

(B) If probation is transferred pursuant to Section 1203.9, the department shall electronically submit a notice as provided in subparagraph (A) to both the transferring court and any subsequent receiving court. The electronic notice shall be in a mutually agreed upon format.

(C) If a receiving court reduces a felony to a misdemeanor pursuant to subdivision (b) of Section 17, or dismisses a conviction pursuant to law, including, but not limited to, Section 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, or 1203.49, it shall furnish a disposition report to the department with the original case number and CII number from the transferring court. The department shall electronically submit a notice to the superior court that sentenced the defendant. If probation is transferred multiple times, the department



shall electronically submit a notice to all other involved courts. The electronic notice shall be in a mutually agreed upon format.

(D) If a court receives notification from the department pursuant to subparagraph (B), the court shall update its records to reflect the reduction or dismissal. If a court receives notification that a case was dismissed pursuant to this section or Section 1203.4, 1203.4a, 1203.41, or 1203.42, the court shall update its records to reflect the dismissal and shall not disclose information concerning a conviction granted relief to any person or entity, in any format, except to the person whose conviction was granted relief or a criminal justice agency, as defined in Section 851.92.

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

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

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

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

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

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

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

(G) Relief granted pursuant to this section does not release a person from the terms and conditions of any unexpired criminal protective order that has been issued by the court pursuant to paragraph (1) of subdivision (i) of Section 136.2, subdivision (j) of Section 273.5, subdivision (l) of Section 368, or subdivision (k) of Section 646.9. These protective orders shall remain in full effect until expiration or until any further order by the court modifying or terminating the order, despite the dismissal of the underlying conviction.

(H) 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.

(I) 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.

(J) In a 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.

*(K) (i) 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 Article 1 (commencing with Section 44000) of Chapter 1, Article 3 (commencing with Section 44240) and Article 8 (commencing with Section 44330) of Chapter 2, Article 1 (commencing with Section 44420) of Chapter 3, Article 3 (commencing with Section 44930) of Chapter 4, and Article 1 (commencing with Section 45100) and Article 6 (commencing with Section 45240) of Chapter 5, of Part 25 of Division 3 of Title 2 of the Education Code, or pursuant to any statutory or regulatory provisions that relate to, incorporate, expand upon, or interpret the authority of those provisions.*

*(ii) Notwithstanding clause (i) or any other law, information relating to a conviction for a controlled substance offense listed in Section 11350 or 11377, or former Section 11500 or 11500.5, of the Health and Safety Code that is more than five years old, for which relief is granted pursuant to this section, shall not be disclosed.*

(5) 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 and 1204.4a.

(6) Commencing July 1, 2022, and subject to an appropriation in the annual Budget Act, 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 (b), on the OpenJustice Web portal, as defined in Section 13010.

(b) (1) 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 petition to prohibit the department from granting automatic relief pursuant to this section, based on a showing that granting that relief would pose a substantial threat to the public safety. If probation was transferred pursuant to Section 1203.9, the prosecuting attorney or probation department in either the receiving county or the transferring county shall file the petition in the county of current jurisdiction.

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

(3) At a hearing on the petition pursuant to this subdivision, the defendant, the probation department, the prosecuting attorney, and the arresting agency, through the prosecuting attorney, may present evidence to the court. Notwithstanding Sections 1538.5 and 1539, the hearing may be heard and determined upon declarations, affidavits, police investigative reports, copies of state summary criminal history information and local summary criminal history information, or any other evidence submitted by the parties that is material, reliable, and relevant.

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

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

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

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

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

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

(6) If the court grants a petition pursuant to this subdivision, the court shall furnish a disposition report to the Department of Justice pursuant to Section 13151, stating that relief pursuant to this section was denied, and the department shall not grant relief pursuant to this section. If probation was transferred pursuant to Section 1203.9, the department shall electronically submit a notice to the transferring court, and, if probation was transferred multiple times, to all other involved courts.

(7) A person denied relief pursuant to this section may continue to be eligible for relief pursuant to Section 1203.4 or 1203.4a. If the court subsequently grants relief pursuant to one of those sections, the court shall furnish a disposition report to the Department of Justice pursuant to Section 13151, stating that relief was granted pursuant to the applicable section, and the department shall grant relief pursuant to that section. If probation was transferred pursuant to Section 1203.9, the department shall electronically submit a notice that relief was granted pursuant to the applicable section to the transferring court and, if probation was transferred multiple times, to all other involved courts.

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

*(d) This section shall become inoperative on July 1, 2023, and, as of January 1, 2024, is repealed.*

#### **SEC. 7.**

*Section 1203.425 is added to the Penal Code, to read:*

#### **1203.425.**

*(a) (1) (A) Commencing July 1, 2023, and subject to an appropriation in the annual Budget Act, on a monthly basis, the Department of Justice shall review the records in the statewide criminal justice databases, and based on information in the state summary criminal history repository and the Supervised Release File, shall identify persons with convictions that meet the criteria set forth in subparagraph (B) and are eligible for automatic conviction record relief.*

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

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

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

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

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

*(I) The conviction occurred on or after January 1, 1973, and meets either of the following criteria:*

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

*(ib) The defendant was convicted of an infraction or misdemeanor, was not granted probation, and, based upon the disposition date and the term specified in the department's records, the defendant appears to have completed their sentence, and at least one calendar year has elapsed since the date of judgment.*

*(II) The conviction occurred on or after January 1, 2005, the defendant was convicted of a felony other than one for which the defendant completed probation without revocation, and based upon the disposition date and the sentence specified in the department's records, appears to have completed all terms of incarceration, probation, mandatory supervision, postrelease community supervision, and parole, and a period of four years has elapsed since the date on which the defendant completed probation or supervision for that conviction and during which the defendant was not convicted of a new felony offense. This subclause does not apply to a conviction of a serious felony defined in subdivision (c) of Section 1192.7, a violent felony as defined in Section 667.5, or a felony offense requiring registration pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1.*

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

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

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

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

*(B) If probation is transferred pursuant to Section 1203.9, the department shall electronically submit a notice as provided in subparagraph (A) to both the transferring court and any subsequent receiving court. The electronic notice shall be in a mutually agreed upon format.*

*(C) If a receiving court reduces a felony to a misdemeanor pursuant to subdivision (b) of Section 17, or dismisses a conviction pursuant to law, including, but not limited to, Section 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, or 1203.49, it shall furnish a disposition report to the department with the original case number and CII number from the transferring court. The department shall electronically submit a notice to the superior court that sentenced the defendant. If probation is transferred multiple times, the department shall electronically submit a notice to all other involved courts. The electronic notice shall be in a mutually agreed upon format.*

*(D) If a court receives notification from the department pursuant to subparagraph (B), the court shall update its records to reflect the reduction or dismissal. If a court receives notification that a case was dismissed pursuant to this section or Section 1203.4, 1203.4a, 1203.41, or 1203.42, the court shall update its records to reflect the dismissal and shall not disclose information concerning a conviction granted relief to any person or entity, in any format, except to the person whose conviction was granted relief or a criminal justice agency, as defined in Section 851.92.*

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

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

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

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

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

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

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

*(G) Relief granted pursuant to this section does not release a person from the terms and conditions of any unexpired criminal protective order that has been issued by the court pursuant to paragraph (1) of subdivision (i) of Section 136.2, subdivision (j) of Section 273.5, subdivision (l) of Section 368, or subdivision (k) of Section 646.9. These protective orders shall remain in full effect until expiration or until any further order by the court modifying or terminating the order, despite the dismissal of the underlying conviction.*

*(H) 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.*

*(I) 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.*

*(J) In a 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.*

*(K) (i) 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 Article 1 (commencing with Section 44000) of Chapter 1, Article 3 (commencing with Section 44240) and Article 8 (commencing with Section 44330) of Chapter 2, Article 1 (commencing with Section 44420) of Chapter 3, Article 3 (commencing with Section 44930) of Chapter 4, Article 1 (commencing with Section 45100) and Article 6 (commencing with Section 45240) of Chapter 5, of Part 25 of Division 3 of Title 2 of the Education Code, or pursuant to any statutory or regulatory provisions that relate to, incorporate, expand upon or interpret the authority of those provisions.*

*(ii) Notwithstanding clause (i) or any other law, information for a conviction for a controlled substance offense listed in Section 11350 or 11377, or former Section 11500 or 11500.5, of the Health and Safety Code that is more than five years old, for which relief is granted pursuant to this section, shall not be disclosed.*

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

*(5) 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 1016.5, 1203.4, 1203.4a, 1203.4b, 1203.41, 1203.42, 1203.49, and 1473.7. This section shall not limit petitions for a certificate of rehabilitation or pardon pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3.*

*(6) Commencing July 1, 2022, and subject to an appropriation in the annual Budget Act, 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 (b), on the OpenJustice Web portal, as defined in Section 13010.*

*(b) (1) 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 petition to prohibit the department from granting automatic relief pursuant to this section, based on a showing that granting that relief would pose a substantial threat to the public safety. If probation was transferred pursuant to Section 1203.9, the prosecuting attorney or probation department in either the receiving county or the transferring county shall file the petition in the county of current jurisdiction.*

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

*(3) At a hearing on the petition pursuant to this subdivision, the defendant, the probation department, the prosecuting attorney, and the arresting agency, through the prosecuting attorney, may present evidence to the court. Notwithstanding Sections 1538.5 and 1539, the hearing may be heard and determined upon declarations, affidavits, police investigative reports, copies of state summary criminal history information and local summary criminal history information, or any other evidence submitted by the parties that is material, reliable, and relevant.*

*(4) The prosecutor or probation department has the initial burden of proof to show that granting conviction relief would pose a substantial threat to the public safety. In determining whether granting relief would pose a substantial threat to the public safety, the court may consider any relevant factors including, but not limited to, either of the following:*

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

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

*(5) If the court finds that the prosecutor or probation department has satisfied the burden of proof, the burden shifts to the defendant to show that the hardship of not obtaining relief outweighs the threat to the public safety of providing relief. In determining whether the defendant's hardship outweighs the threat to the public safety, the court may consider any relevant factors including, but not limited to, either of the following:*

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

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

*(6) If the court grants a petition pursuant to this subdivision, the court shall furnish a disposition report to the Department of Justice pursuant to Section 13151, stating that relief pursuant to this section was denied,*



*and the department shall not grant relief pursuant to this section. If probation was transferred pursuant to Section 1203.9, the department shall electronically submit a notice to the transferring court, and, if probation was transferred multiple times, to all other involved courts.*

*(7) A person denied relief pursuant to this section may continue to be eligible for relief pursuant to law, including, but not limited to, Section 1203.4, 1203.4a, 1203.4b, or 1203.41. If the court subsequently grants relief pursuant to one of those sections, the court shall furnish a disposition report to the Department of Justice pursuant to Section 13151, stating that relief was granted pursuant to the applicable section, and the department shall grant relief pursuant to that section. If probation was transferred pursuant to Section 1203.9, the department shall electronically submit a notice that relief was granted pursuant to the applicable section to the transferring court and, if probation was transferred multiple times, to all other involved courts.*

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

*(d) This section shall become operative on July 1, 2023.*

#### **SEC. 8.**

*Section 11105 of the Penal Code is amended to read:*

#### **11105.**

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

(2) As used in this section:

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

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

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

(1) The courts of the state.

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

(3) District attorneys of the state.

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

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

(6) Probation officers of the state.

(7) Parole officers of the state.

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

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

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

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

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

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

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

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

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

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

(18) County child welfare agency personnel who have been delegated the authority of county probation officers to access state summary criminal history information pursuant to Section 272 of the Welfare and Institutions Code for the purposes specified in Section 16504.5 of the Welfare and Institutions Code. Information from criminal history records provided pursuant to this subdivision shall not be used for a purpose other than those specified in this section and Section 16504.5 of the Welfare and Institutions Code.



When an agency obtains records both on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check.

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

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

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

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

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

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

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

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

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

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

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

- (2) A peace officer of the state other than those included in subdivision (b).
- (3) An illegal dumping enforcement officer as defined in subdivision (i) of Section 830.7.
- (4) A peace officer of another country.
- (5) Public officers, other than peace officers, of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States if the information is needed for the performance of their official duties.
- (6) A person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.
- (7) The courts of the United States, other states, or territories or possessions of the United States.
- (8) Peace officers of the United States, other states, or territories or possessions of the United States.
- (9) An individual who is the subject of the record requested if needed in conjunction with an application to enter the United States or a foreign nation.
- (10) (A) (i) A public utility, as defined in Section 216 of the Public Utilities Code, or a cable corporation as defined in subparagraph (B), if receipt of criminal history information is needed in order to assist in employing current or prospective employees, contract employees, or subcontract employees who, in the course of their employment, may be seeking entrance to private residences or adjacent grounds. The information provided shall be limited to the record of convictions and arrests for which the person is released on bail or on their own recognizance pending trial.
- (ii) If the Attorney General supplies the data pursuant to this paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.
- (iii) State summary criminal history information is confidential and the receiving public utility or cable corporation shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility or cable corporation and all copies made from it shall be destroyed not more than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on their own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed not more than 30 days after the case is resolved.
- (iv) A violation of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility or cable corporation to recover damages proximately caused by the violations. A public utility's or cable corporation's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences or adjacent grounds in the course of their employment shall be deemed a "compelling need" as required to be shown in this subdivision.
- (v) This section shall not be construed as imposing a duty upon public utilities or cable corporations to request state summary criminal history information on current or prospective employees.
- (B) For purposes of this paragraph, "cable corporation" means a corporation or firm that transmits or provides television, computer, or telephone services by cable, digital, fiber optic, satellite, or comparable technology to subscribers for a fee.
- (C) Requests for ~~federal-level~~ *federal level* criminal history information received by the Department of Justice from entities authorized pursuant to subparagraph (A) shall be forwarded to the Federal Bureau of Investigation by the Department of Justice. ~~Federal-level~~ *Federal level* criminal history information

received or compiled by the Department of Justice may then be disseminated to the entities referenced in subparagraph (A), as authorized by law.

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

(12) A foreign government, if requested by the individual who is the subject of the record requested, if needed in conjunction with the individual's application to adopt a minor child who is a citizen of that foreign nation. Requests for information pursuant to this paragraph shall be in accordance with the process described in Sections 11122 to 11124, inclusive. The response shall be provided to the foreign government or its designee and to the 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 inclusion of the information in the public record is authorized by a court, statute, or decisional law.

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

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

(k) (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 and the information is to be used for peace officer employment or certification purposes. As used in this subdivision, a peace officer is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(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.

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

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

(D) Every successful diversion.

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

(F) Sex offender registration status of the applicant.

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

(l) (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 a criminal justice agency or organization as defined in Section 13101, and the information is to be used for criminal justice 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.

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

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

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

(E) Sex offender registration status of the applicant.

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

(m) (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 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or a

statute that incorporates the criteria of any 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 of an offense rendered against the applicant, except a conviction for which relief has been granted pursuant to Section 1203.49.

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

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

(D) Sex offender registration status of the applicant.

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

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

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

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

(B) Section 11105.3 or 11105.4.

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

(D) A statute that incorporates the criteria of any of the statutory provisions listed in subparagraph (A), (B), or (C), or of this 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 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 1300 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 1300 of the Financial Code, except a conviction for which relief has been granted pursuant to Section 1203.49.

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

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

(p) (1) This subdivision shall apply whenever state or federal criminal history information is furnished by the Department of Justice as the result of an application by an agency, organization, or individual not defined in subdivision (k), (l), (m), (n), or (o), or by a transportation company authorized pursuant to Section 11105.3, or a statute that incorporates the criteria of that section 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, except a conviction for which relief has been granted pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, 1203.425, or 1203.49. The Commission on Teacher ~~Credentialing~~ *Credentialing, school districts, county offices of education, charter schools, private schools, state special schools for the blind and deaf, or any other entity required to have a background check because of a contract with a school district, county office of education, charter school, private school, or the state special schools for the blind and deaf*, shall receive every conviction rendered against an applicant, retroactive to January 1, 2020, regardless of relief granted pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, 1203.425, or 1203.49.

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

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

~~(C)~~ (D) Sex offender registration status of the applicant.

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

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

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

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

(t) 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, organization, or individual defined in subdivisions (k) to (p), inclusive, and the information is to be used for employment, licensing, or certification purposes, the authorized agency, organization, or individual shall expeditiously furnish a copy of the information to the person to whom the information relates if the information is a basis for an adverse employment, licensing, or certification decision. When furnished other than in person, the copy shall be delivered to the last contact information provided by the applicant.

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

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

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

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

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

~~(v) This section shall become operative on January 1, 2023.~~

#### **SEC. 9.**

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