


## MEMORANDUM

<b>DATE</b>	April 10, 2017
<b>TO</b>	Board of Psychology
<b>FROM</b>	 Konnor Leitzell Central Services Student Assistant
<b>SUBJECT</b>	Agenda Item #4(b)(1)(B)(36) – SB 241 (Monning) Medical Records: Access

### **Background:**

This bill would change the basis of the fee that a health care provider is authorized to charge for production of patient records, including specified costs for labor, supplies, postage, and preparing an explanation or summary of the patient record. This bill would also limit the fee to no more than \$0.25 per page for paper copies and \$0.50 for copies made from microfilm. Additionally, the bill would require the health care provider to provide the patient or patient's personal representative with a copy of the records in the form or format requested if the records are readily producible in that form or format, or in a format agreed to by the health care provider and the patient or patient's personal representative.

**Location:** Senate Committee on Judiciary

**Status:** 03/29/2017 Passed Senate Committee on Health, re-referred to Senate Committee on Judiciary

**Votes:** 03/29/2017 Senate Committee on Health (7-0-2)

### **Action Requested:**

No action is required at this time. Staff will continue to watch SB 241 (Monning) to monitor changes to licensee requirements relating to patient records and potential enforcement related concerns regarding future consumer complaints related to these provisions.

Attachment A: SB 241 (Monning) Text

**Introduced by Senator Monning**February 6, 2017

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An act to amend Section 123110 of the Health and Safety Code, and to amend Section 5328 of the Welfare and Institutions Code, relating to medical records.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 241, as introduced, Monning. Medical records: access.

Existing law governs a patient's access to his or her health records. Existing law requires a health care provider to provide a patient or his or her representative with all or any part of the patient's medical records that the patient has a right to inspect, subject to the payment of clerical costs incurred in locating and making the records available, following a written request from the patient. If the patient or patient's representative presents proof to the provider that the records are needed to support an appeal regarding eligibility for a public benefit program, as defined, the health care provider must provide one copy of the relevant portion of the patient's record at no charge under specified circumstances. Existing law makes a violation of these provisions by specified health care providers an infraction.

This bill would change the basis of the fee that a health care provider is authorized to charge from clerical costs to specified costs for labor, supplies, postage, and preparing an explanation or summary of the patient record. The bill would require the health care provider to provide the patient or patient's personal representative with a copy of the records in a paper or electronic copy, in the form or format requested if the records are readily producible in that form or format.

Existing law provides that information and records obtained in the course of providing mental health and developmental services are

confidential, but allows disclosure of communications under specified circumstances.

This bill would allow disclosure to a business associate or for health care operations purposes, as specified.

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

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

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

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

1 SECTION 1. Section 123110 of the Health and Safety Code  
2 is amended to read:  
3 123110. (a) Notwithstanding Section 5328 of the Welfare and  
4 Institutions Code, and except as provided in Sections 123115 and  
5 123120, any adult patient of a health care provider, any minor  
6 patient authorized by law to consent to medical treatment, and any  
7 patient *personal* representative shall be entitled to inspect patient  
8 records upon presenting to the health care provider a written request  
9 for those records and upon payment of reasonable clerical costs  
10 incurred in locating and making the records available. *costs as*  
11 *specified in subdivision (k)*. However, a patient who is a minor  
12 shall be entitled to inspect patient records pertaining only to health  
13 care of a type for which the minor is lawfully authorized to consent.  
14 A health care provider shall permit this inspection during business  
15 hours within five working days after receipt of the written request.  
16 The inspection shall be conducted by the patient or patient's  
17 *personal* representative requesting the inspection, who may be  
18 accompanied by one other person of his or her choosing.  
19 (b) (1) Additionally, any patient or patient's *personal*  
20 representative shall be entitled to ~~copies a paper or electronic copy~~  
21 of all or any portion of the patient records that he or she has a right  
22 to inspect, upon presenting a ~~written request to the health care~~  
23 provider specifying the records to be copied, together with a fee  
24 to defray the cost of copying, ~~that shall not exceed twenty-five~~  
25 ~~cents (\$0.25) per page or fifty cents (\$0.50) per page for records~~  
26 ~~that are copied from microfilm and any additional reasonable~~

1 clerical costs incurred in making the records available. *costs of*  
2 *producing the copy or summary, as specified in subdivision (k).*  
3 The health care provider shall ensure that the copies are transmitted  
4 within 15 days after receiving the written request.

5 (2) *The health care provider shall provide the patient or*  
6 *patient's personal representative with a copy of the record in the*  
7 *form and format requested if it is readily producible in the*  
8 *requested form and format, or, if not, in a readable paper copy*  
9 *form or other form and format as agreed to by the health care*  
10 *provider and the patient or patient's personal representative. If*  
11 *the requested patient records are maintained electronically and*  
12 *if the patient or patient's personal representative requests an*  
13 *electronic copy of those records, the health care provider shall*  
14 *provide them in the electronic form and format requested if they*  
15 *are readily producible in that form and format, or, if not, in a*  
16 *readable electronic form and format as agreed to by the health*  
17 *care provider and the patient or patient's personal representative.*

18 (c) Copies of X-rays or tracings derived from  
19 electrocardiography, electroencephalography, or electromyography  
20 need not be provided to the patient or patient's *personal*  
21 representative under this section, if the original X-rays or tracings  
22 are transmitted to another health care provider upon written request  
23 of the patient or patient's *personal* representative and within 15  
24 days after receipt of the request. The request shall specify the name  
25 and address of the health care provider to whom the records are  
26 to be delivered. All reasonable costs, not exceeding actual costs,  
27 incurred by a health care provider in providing copies pursuant to  
28 this subdivision may be charged to the patient or representative  
29 requesting the copies.

30 (d) (1) Notwithstanding any provision of this section, and  
31 except as provided in Sections 123115 and 123120, any patient or  
32 former patient or the patient's *personal* representative shall be  
33 entitled to a copy, at no charge, of the relevant portion of the  
34 patient's records, upon presenting to the provider a written request,  
35 and proof that the records are needed to support an appeal regarding  
36 eligibility for a public benefit program. These programs shall be  
37 the Medi-Cal program, social security disability insurance benefits,  
38 and Supplemental Security Income/State Supplementary Program  
39 for the Aged, Blind and Disabled (SSI/SSP) benefits. For purposes  
40 of this subdivision, "relevant portion of the patient's records"

1 means those records regarding services rendered to the patient  
2 during the time period beginning with the date of the patient's  
3 initial application for public benefits up to and including the date  
4 that a final determination is made by the public benefits program  
5 with which the patient's application is pending.

6 (2) Although a patient shall not be limited to a single request,  
7 the patient or patient's *personal* representative shall be entitled to  
8 no more than one copy of any relevant portion of his or her record  
9 free of charge.

10 (3) This subdivision shall not apply to any patient who is  
11 represented by a private attorney who is paying for the costs related  
12 to the patient's appeal, pending the outcome of that appeal. For  
13 purposes of this subdivision, "private attorney" means any attorney  
14 not employed by a nonprofit legal services entity.

15 (e) If the patient's appeal regarding eligibility for a public  
16 benefit program specified in subdivision (d) is successful, the  
17 hospital or other health care provider may bill the patient, at the  
18 rates specified in subdivisions (b) and (c), for the copies of the  
19 medical records previously provided free of charge.

20 (f) If a patient or his or her *personal* representative requests a  
21 record pursuant to subdivision (d), the health care provider shall  
22 ensure that the copies are transmitted within 30 days after receiving  
23 the written request.

24 (g) This section shall not be construed to preclude a health care  
25 provider from requiring reasonable verification of identity prior  
26 to permitting inspection or copying of patient records, provided  
27 this requirement is not used oppressively or discriminatorily to  
28 frustrate or delay compliance with this section. Nothing in this  
29 chapter shall be deemed to supersede any rights that a patient or  
30 *personal* representative might otherwise have or exercise under  
31 Section 1158 of the Evidence Code or any other provision of law.  
32 Nothing in this chapter shall require a health care provider to retain  
33 records longer than required by applicable statutes or administrative  
34 regulations.

35 (h) This chapter shall not be construed to render a health care  
36 provider liable for the quality of his or her records or the copies  
37 provided in excess of existing law and regulations with respect to  
38 the quality of medical records. A health care provider shall not be  
39 liable to the patient or any other person for any consequences that  
40 result from disclosure of patient records as required by this chapter.

1 A health care provider shall not discriminate against classes or  
2 categories of providers in the transmittal of X-rays or other patient  
3 records, or copies of these X-rays or records, to other providers as  
4 authorized by this section.

5 Every health care provider shall adopt policies and establish  
6 procedures for the uniform transmittal of X-rays and other patient  
7 records that effectively prevent the discrimination described in  
8 this subdivision. A health care provider may establish reasonable  
9 conditions, including a reasonable deposit fee, to ensure the return  
10 of original X-rays transmitted to another health care provider,  
11 provided the conditions do not discriminate on the basis of, or in  
12 a manner related to, the license of the provider to which the X-rays  
13 are transmitted.

14 (i) Any health care provider described in paragraphs (4) to (10),  
15 inclusive, of subdivision (a) of Section 123105 who willfully  
16 violates this chapter is guilty of unprofessional conduct. Any health  
17 care provider described in paragraphs (1) to (3), inclusive, of  
18 subdivision (a) of Section 123105 that willfully violates this chapter  
19 is guilty of an infraction punishable by a fine of not more than one  
20 hundred dollars (\$100). The state agency, board, or commission  
21 that issued the health care provider's professional or institutional  
22 license shall consider a violation as grounds for disciplinary action  
23 with respect to the licensure, including suspension or revocation  
24 of the license or certificate.

25 (j) This section shall be construed as prohibiting a health care  
26 provider from withholding patient records or summaries of patient  
27 records because of an unpaid bill for health care services. Any  
28 health care provider who willfully withholds patient records or  
29 summaries of patient records because of an unpaid bill for health  
30 care services shall be subject to the sanctions specified in  
31 subdivision (i).

32 (k) (1) *Except as provided in subdivision (d), a health care*  
33 *provider may impose a reasonable, cost-based fee for providing*  
34 *a paper or electronic copy or summary of patient records, provided*  
35 *the fee includes only the cost of the following:*

36 (A) *Labor for copying the patient records requested by the*  
37 *patient or patient's personal representative, whether in paper or*  
38 *electronic form.*

1 (B) Supplies for creating the paper copy or electronic media if  
2 the patient or patient's personal representative requests that the  
3 electronic copy be provided on portable media.

4 (C) Postage, if the patient or patient's personal representative  
5 has requested the copy, or the summary or explanation, be mailed.

6 (D) Preparing an explanation or summary of the patient record,  
7 if agreed to by the patient or patient's personal representative.

8 (2) The fee from a health care provider shall not exceed  
9 twenty-five cents (\$0.25) per page for paper copies or fifty cents  
10 (\$0.50) per page for records that are copied from microfilm.

11 SEC. 2. Section 5328 of the Welfare and Institutions Code is  
12 amended to read:

13 5328. All information and records obtained in the course of  
14 providing services under Division 4 (commencing with Section  
15 4000), Division 4.1 (commencing with Section 4400), Division  
16 4.5 (commencing with Section 4500), Division 5 (commencing  
17 with Section 5000), Division 6 (commencing with Section 6000),  
18 or Division 7 (commencing with Section 7100), to either voluntary  
19 or involuntary recipients of services shall be confidential.  
20 Information and records obtained in the course of providing similar  
21 services to either voluntary or involuntary recipients prior to 1969  
22 shall also be confidential. Information and records shall be  
23 disclosed only in any of the following cases:

24 (a) In communications between qualified professional persons  
25 in the provision of services or appropriate referrals, or in the course  
26 of conservatorship proceedings. The consent of the patient, or his  
27 or her guardian or conservator, shall be obtained before information  
28 or records may be disclosed by a professional person employed  
29 by a facility to a professional person not employed by the facility  
30 who does not have the medical or psychological responsibility for  
31 the patient's care.

32 (b) When the patient, with the approval of the physician and  
33 surgeon, licensed psychologist, social worker with a master's  
34 degree in social work, licensed marriage and family therapist, or  
35 licensed professional clinical counselor, who is in charge of the  
36 patient, designates persons to whom information or records may  
37 be released, except that nothing in this article shall be construed  
38 to compel a physician and surgeon, licensed psychologist, social  
39 worker with a master's degree in social work, licensed marriage  
40 and family therapist, licensed professional clinical counselor, nurse,

1 attorney, or other professional person to reveal information that  
 2 has been given to him or her in confidence by members of a  
 3 patient's family. Nothing in this subdivision shall be construed to  
 4 authorize a licensed marriage and family therapist or licensed  
 5 professional clinical counselor to provide services or to be in charge  
 6 of a patient's care beyond his or her lawful scope of practice.

7 (c) To the extent necessary for a recipient to make a claim, or  
 8 for a claim to be made on behalf of a recipient for aid, insurance,  
 9 or medical assistance to which he or she may be entitled.

10 (d) If the recipient of services is a minor, ward, dependent, or  
 11 conservatee, and his or her parent, guardian, guardian ad litem,  
 12 conservator, or authorized representative designates, in writing,  
 13 persons to whom records or information may be disclosed, except  
 14 that nothing in this article shall be construed to compel a physician  
 15 and surgeon, licensed psychologist, social worker with a master's  
 16 degree in social work, licensed marriage and family therapist,  
 17 licensed professional clinical counselor, nurse, attorney, or other  
 18 professional person to reveal information that has been given to  
 19 him or her in confidence by members of a patient's family.

20 (e) For research, provided that the Director of Health Care  
 21 Services, the Director of State Hospitals, the Director of Social  
 22 Services, or the Director of Developmental Services designates  
 23 by regulation, rules for the conduct of research and requires the  
 24 research to be first reviewed by the appropriate institutional review  
 25 board or boards. The rules shall include, but need not be limited  
 26 to, the requirement that all researchers shall sign an oath of  
 27 confidentiality as follows:

28  
 29  
 30 \_\_\_\_\_  
 31 Date

32 As a condition of doing research concerning persons who have  
 33 received services from \_\_\_\_ (fill in the facility, agency or person),  
 34 I, \_\_\_\_, agree to obtain the prior informed consent of such persons  
 35 who have received services to the maximum degree possible as  
 36 determined by the appropriate institutional review board or boards  
 37 for protection of human subjects reviewing my research, and I  
 38 further agree not to divulge any information obtained in the course  
 39 of such research to unauthorized persons, and not to publish or  
 40 otherwise make public any information regarding persons who



1 have received services such that the person who received services  
2 is identifiable.

3 I recognize that the unauthorized release of confidential  
4 information may make me subject to a civil action under provisions  
5 of the Welfare and Institutions Code.

6  
7 (f) To the courts, as necessary to the administration of justice.

8 (g) To governmental law enforcement agencies as needed for  
9 the protection of federal and state elective constitutional officers  
10 and their families.

11 (h) To the Senate Committee on Rules or the Assembly  
12 Committee on Rules for the purposes of legislative investigation  
13 authorized by the committee.

14 (i) If the recipient of services who applies for life or disability  
15 insurance designates in writing the insurer to which records or  
16 information may be disclosed.

17 (j) To the attorney for the patient in any and all proceedings  
18 upon presentation of a release of information signed by the patient,  
19 except that when the patient is unable to sign the release, the staff  
20 of the facility, upon satisfying itself of the identity of the attorney,  
21 and of the fact that the attorney does represent the interests of the  
22 patient, may release all information and records relating to the  
23 patient except that nothing in this article shall be construed to  
24 compel a physician and surgeon, licensed psychologist, social  
25 worker with a master's degree in social work, licensed marriage  
26 and family therapist, licensed professional clinical counselor, nurse,  
27 attorney, or other professional person to reveal information that  
28 has been given to him or her in confidence by members of a  
29 patient's family.

30 (k) Upon written agreement by a person previously confined in  
31 or otherwise treated by a facility, the professional person in charge  
32 of the facility or his or her designee may release any information,  
33 except information that has been given in confidence by members  
34 of the person's family, requested by a probation officer charged  
35 with the evaluation of the person after his or her conviction of a  
36 crime if the professional person in charge of the facility determines  
37 that the information is relevant to the evaluation. The agreement  
38 shall only be operative until sentence is passed on the crime of  
39 which the person was convicted. The confidential information  
40 released pursuant to this subdivision shall be transmitted to the

1 court separately from the probation report and shall not be placed  
2 in the probation report. The confidential information shall remain  
3 confidential except for purposes of sentencing. After sentencing,  
4 the confidential information shall be sealed.

5 (l) (1) Between persons who are trained and qualified to serve  
6 on multidisciplinary personnel teams pursuant to subdivision (d)  
7 of Section 18951. The information and records sought to be  
8 disclosed shall be relevant to the provision of child welfare services  
9 or the investigation, prevention, identification, management, or  
10 treatment of child abuse or neglect pursuant to Chapter 11  
11 (commencing with Section 18950) of Part 6 of Division 9.  
12 Information obtained pursuant to this subdivision shall not be used  
13 in any criminal or delinquency proceeding. Nothing in this  
14 subdivision shall prohibit evidence identical to that contained  
15 within the records from being admissible in a criminal or  
16 delinquency proceeding, if the evidence is derived solely from  
17 means other than this subdivision, as permitted by law.

18 (2) As used in this subdivision, "child welfare services" means  
19 those services that are directed at preventing child abuse or neglect.

20 (m) To county patients' rights advocates who have been given  
21 knowing voluntary authorization by a client or a guardian ad litem.  
22 The client or guardian ad litem, whoever entered into the  
23 agreement, may revoke the authorization at any time, either in  
24 writing or by oral declaration to an approved advocate.

25 (n) To a committee established in compliance with Section  
26 14725.

27 (o) In providing information as described in Section 7325.5.  
28 Nothing in this subdivision shall permit the release of any  
29 information other than that described in Section 7325.5.

30 (p) To the county behavioral health director or the director's  
31 designee, or to a law enforcement officer, or to the person  
32 designated by a law enforcement agency, pursuant to Sections  
33 5152.1 and 5250.1.

34 (q) If the patient gives his or her consent, information  
35 specifically pertaining to the existence of genetically handicapping  
36 conditions, as defined in Section 125135 of the Health and Safety  
37 Code, may be released to qualified professional persons for  
38 purposes of genetic counseling for blood relatives upon request of  
39 the blood relative. For purposes of this subdivision, "qualified  
40 professional persons" means those persons with the qualifications

1 necessary to carry out the genetic counseling duties under this  
2 subdivision as determined by the genetic disease unit established  
3 in the State Department of Health Care Services under Section  
4 125000 of the Health and Safety Code. If the patient does not  
5 respond or cannot respond to a request for permission to release  
6 information pursuant to this subdivision after reasonable attempts  
7 have been made over a two-week period to get a response, the  
8 information may be released upon request of the blood relative.

9 (r) When the patient, in the opinion of his or her psychotherapist,  
10 presents a serious danger of violence to a reasonably foreseeable  
11 victim or victims, then any of the information or records specified  
12 in this section may be released to that person or persons and to  
13 law enforcement agencies and county child welfare agencies as  
14 the psychotherapist determines is needed for the protection of that  
15 person or persons. For purposes of this subdivision,  
16 "psychotherapist" means anyone so defined within Section 1010  
17 of the Evidence Code.

18 (s) (1) To the designated officer of an emergency response  
19 employee, and from that designated officer to an emergency  
20 response employee regarding possible exposure to HIV or AIDS,  
21 but only to the extent necessary to comply with provisions of the  
22 federal Ryan White Comprehensive AIDS Resources Emergency  
23 Act of 1990 (Public Law 101-381; 42 U.S.C. Sec. 201).

24 (2) For purposes of this subdivision, "designated officer" and  
25 "emergency response employee" have the same meaning as these  
26 terms are used in the federal Ryan White Comprehensive AIDS  
27 Resources Emergency Act of 1990 (Public Law 101-381; 42 U.S.C.  
28 Sec. 201).

29 (3) The designated officer shall be subject to the confidentiality  
30 requirements specified in Section 120980, and may be personally  
31 liable for unauthorized release of any identifying information about  
32 the HIV results. Further, the designated officer shall inform the  
33 exposed emergency response employee that the employee is also  
34 subject to the confidentiality requirements specified in Section  
35 120980, and may be personally liable for unauthorized release of  
36 any identifying information about the HIV test results.

37 (t) (1) To a law enforcement officer who personally lodges with  
38 a facility, as defined in paragraph (2), a warrant of arrest or an  
39 abstract of such a warrant showing that the person sought is wanted  
40 for a serious felony, as defined in Section 1192.7 of the Penal

1 Code, or a violent felony, as defined in Section 667.5 of the Penal  
2 Code. The information sought and released shall be limited to  
3 whether or not the person named in the arrest warrant is presently  
4 confined in the facility. This paragraph shall be implemented with  
5 minimum disruption to health facility operations and patients, in  
6 accordance with Section 5212. If the law enforcement officer is  
7 informed that the person named in the warrant is confined in the  
8 facility, the officer may not enter the facility to arrest the person  
9 without obtaining a valid search warrant or the permission of staff  
10 of the facility.

11 (2) For purposes of paragraph (1), a facility means all of the  
12 following:

13 (A) A state hospital, as defined in Section 4001.

14 (B) A general acute care hospital, as defined in subdivision (a)  
15 of Section 1250 of the Health and Safety Code, solely with regard  
16 to information pertaining to a person with mental illness subject  
17 to this section.

18 (C) An acute psychiatric hospital, as defined in subdivision (b)  
19 of Section 1250 of the Health and Safety Code.

20 (D) A psychiatric health facility, as described in Section 1250.2  
21 of the Health and Safety Code.

22 (E) A mental health rehabilitation center, as described in Section  
23 5675.

24 (F) A skilled nursing facility with a special treatment program  
25 for individuals with mental illness, as described in Sections 51335  
26 and 72445 to 72475, inclusive, of Title 22 of the California Code  
27 of Regulations.

28 (u) Between persons who are trained and qualified to serve on  
29 multidisciplinary personnel teams pursuant to Section 15610.55,  
30 15753.5, or 15761. The information and records sought to be  
31 disclosed shall be relevant to the prevention, identification,  
32 management, or treatment of an abused elder or dependent adult  
33 pursuant to Chapter 13 (commencing with Section 15750) of Part  
34 3 of Division 9.

35 (v) The amendment of subdivision (d) enacted at the 1970  
36 Regular Session of the Legislature does not constitute a change  
37 in, but is declaratory of, the preexisting law.

38 (w) This section shall not be limited by Section 5150.05 or 5332.

1 (x) (1) When an employee is served with a notice of adverse  
2 action, as defined in Section 19570 of the Government Code, the  
3 following information and records may be released:

4 (A) All information and records that the appointing authority  
5 relied upon in issuing the notice of adverse action.

6 (B) All other information and records that are relevant to the  
7 adverse action, or that would constitute relevant evidence as  
8 defined in Section 210 of the Evidence Code.

9 (C) The information described in subparagraphs (A) and (B)  
10 may be released only if both of the following conditions are met:

11 (i) The appointing authority has provided written notice to the  
12 consumer and the consumer's legal representative or, if the  
13 consumer has no legal representative or if the legal representative  
14 is a state agency, to the clients' rights advocate, and the consumer,  
15 the consumer's legal representative, or the clients' rights advocate  
16 has not objected in writing to the appointing authority within five  
17 business days of receipt of the notice, or the appointing authority,  
18 upon review of the objection has determined that the circumstances  
19 on which the adverse action is based are egregious or threaten the  
20 health, safety, or life of the consumer or other consumers and  
21 without the information the adverse action could not be taken.

22 (ii) The appointing authority, the person against whom the  
23 adverse action has been taken, and the person's representative, if  
24 any, have entered into a stipulation that does all of the following:

25 (I) Prohibits the parties from disclosing or using the information  
26 or records for any purpose other than the proceedings for which  
27 the information or records were requested or provided.

28 (II) Requires the employee and the employee's legal  
29 representative to return to the appointing authority all records  
30 provided to them under this subdivision, including, but not limited  
31 to, all records and documents from any source containing  
32 confidential information protected by this section, and all copies  
33 of those records and documents, within 10 days of the date that  
34 the adverse action becomes final except for the actual records and  
35 documents or copies thereof that are no longer in the possession  
36 of the employee or the employee's legal representative because  
37 they were submitted to the administrative tribunal as a component  
38 of an appeal from the adverse action.

1 (III) Requires the parties to submit the stipulation to the  
2 administrative tribunal with jurisdiction over the adverse action  
3 at the earliest possible opportunity.

4 (2) For the purposes of this subdivision, the State Personnel  
5 Board may, prior to any appeal from adverse action being filed  
6 with it, issue a protective order, upon application by the appointing  
7 authority, for the limited purpose of prohibiting the parties from  
8 disclosing or using information or records for any purpose other  
9 than the proceeding for which the information or records were  
10 requested or provided, and to require the employee or the  
11 employee's legal representative to return to the appointing authority  
12 all records provided to them under this subdivision, including, but  
13 not limited to, all records and documents from any source  
14 containing confidential information protected by this section, and  
15 all copies of those records and documents, within 10 days of the  
16 date that the adverse action becomes final, except for the actual  
17 records and documents or copies thereof that are no longer in the  
18 possession of the employee or the employee's legal representatives  
19 because they were submitted to the administrative tribunal as a  
20 component of an appeal from the adverse action.

21 (3) Individual identifiers, including, but not limited to, names,  
22 social security numbers, and hospital numbers, that are not  
23 necessary for the prosecution or defense of the adverse action,  
24 shall not be disclosed.

25 (4) All records, documents, or other materials containing  
26 confidential information protected by this section that have been  
27 submitted or otherwise disclosed to the administrative agency or  
28 other person as a component of an appeal from an adverse action  
29 shall, upon proper motion by the appointing authority to the  
30 administrative tribunal, be placed under administrative seal and  
31 shall not, thereafter, be subject to disclosure to any person or entity  
32 except upon the issuance of an order of a court of competent  
33 jurisdiction.

34 (5) For purposes of this subdivision, an adverse action becomes  
35 final when the employee fails to answer within the time specified  
36 in Section 19575 of the Government Code, or, after filing an  
37 answer, withdraws the appeal, or, upon exhaustion of the  
38 administrative appeal or of the judicial review remedies as  
39 otherwise provided by law.

1 (y) To the person appointed as the developmental services  
2 decisionmaker for a minor, dependent, or ward pursuant to Section  
3 319, 361, or 726.

4 (z) *To a business associate or for health care operations*  
5 *purposes, in accordance with Part 160 (commencing with Section*  
6 *160.101) and Part 164 (commencing with Section 164.102) of*  
7 *Subchapter C of Subtitle A of Title 45 of the Code of Federal*  
8 *Regulations.*

9 SEC. 3. No reimbursement is required by this act pursuant to  
10 Section 6 of Article XIII B of the California Constitution because  
11 the only costs that may be incurred by a local agency or school  
12 district will be incurred because this act creates a new crime or  
13 infraction, eliminates a crime or infraction, or changes the penalty  
14 for a crime or infraction, within the meaning of Section 17556 of  
15 the Government Code, or changes the definition of a crime within  
16 the meaning of Section 6 of Article XIII B of the California  
17 Constitution.