

California Penal Code 11105.3

11105.3.

(a) Notwithstanding any other law, a human resource agency or an employer may request from the Department of Justice records of all convictions or any arrest pending adjudication involving the offenses specified in subdivision (h) of a person who applies for a license, employment, or volunteer position, in which he or she would have supervisory or disciplinary power over a minor or any person under his or her care. The department shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant.

(b) Any request for records under subdivision (a) shall include the applicant's fingerprints, which may be taken by the requester, and any other data specified by the department. The request shall be on a form approved by the department, and the department may charge a fee to be paid by the employer, human resource agency, or applicant for the actual cost of processing the request. However, no fee shall be charged a nonprofit organization. The department shall destroy an application within six months after the requested information is sent to the employer and applicant.

(c) (1) Where a request pursuant to this section reveals that a prospective employee or volunteer has been convicted of an offense specified in paragraph (1) of subdivision (h), and where the agency or employer hires the prospective employee or volunteer, the agency or employer shall notify the parents or guardians of any minor who will be supervised or disciplined by the employee or volunteer. The notice shall be given to the parents or guardians with whom the child resides, and shall be given at least 10 days prior to the day that the employee or volunteer begins his or her duties or tasks. Notwithstanding any other provision of law, any person who conveys or receives information in good faith conformity with this section is exempt from prosecution under Section 11142 or 11143 for that conveying or receiving of information. Notwithstanding subdivision (d), the notification requirements of this subdivision shall apply as an additional requirement of any other provision of law requiring criminal record access or dissemination of criminal history information. (2) The notification requirement pursuant to paragraph (1) shall not apply to a misdemeanor conviction for violating Section 261.5 or to a conviction for violating Section 262 or 273.5. Nothing in this paragraph shall preclude an employer from requesting records of convictions for violating Section 261.5, 262, or 273.5 from the Department of Justice pursuant to this section.

(d) Nothing in this section supersedes any law requiring criminal record access or dissemination of criminal history information. In any conflict with another statute, dissemination of criminal history information shall be pursuant to the mandatory statute. This subdivision applies to, but is not limited to, requirements pursuant to Article I (commencing with Section 1500) of Chapter 3 of, and Chapter 3.2 (commencing with Section 1569) and Chapter 3.4 (commencing with Section 1596.70) of, Division 2 of, and Section 1522 of, the Health and Safety Code, and Sections 8712, 8811 and 8908 of the Family Code.

(e) The department may adopt regulations to implement the provisions of this section as necessary.