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AB-1360 Hope California: Secured Residential Treatment Pilot Program. (2023-2024)

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Assembly Bill No. 1360

CHAPTER 685

An act to amend Sections 4019 and 11105 of, and to add and repeal Section 1203.44 of, the Penal Code, relating to drug treatment.

[Approved by Governor October 10, 2023. Filed with Secretary of State October 10, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1360, McCarty. Hope California: Secured Residential Treatment Pilot Program.

Existing law authorizes a court to grant pretrial diversion to a defendant in specified cases, including when the defendant is suffering from a mental disorder, specified controlled substances crimes, and when the defendant was, or currently is, a member of the United States military.

This bill would, until July 1, 2029, authorize the Counties of Sacramento and Yolo to offer secured residential treatment pilot programs, known as Hope California, for individuals suffering from substance use disorders (SUDs) who have been convicted of qualifying drug-motivated felony crimes, as specified. The bill would require the program to meet certain conditions relating to, among other things, a risk, needs, and biopsychosocial assessment, a comprehensive curriculum, a determination by a judge of the length of treatment, data collection, licensing and monitoring of the facility by the State Department of Health Care Services, and reporting to the department and the Legislature.

The bill would require the judge to offer the defendant voluntary participation in the pilot programs, as an alternative to a jail or prison sentence otherwise imposed, if the defendant's crime was caused, in whole or in part, by the defendant's SUD, the crime was not a sex crime, serious or violent felony, nonviolent drug possession, domestic violence, or driving under the influence, and the judge makes their determination based on the recommendations of the treatment providers, on a finding by the county health and human services agency that the defendant's participation would be appropriate, and on a specified report prepared with input from interested parties. Under the bill, the defendant would be eligible to receive credits for participation in the program, as specified.

The bill would set forth a procedure for the transfer of a participant out of the secured residential treatment program based on the recommendations of the treatment providers or program administrators or based on the participant's request, as specified.

If the participant successfully completes the court-ordered drug treatment, as determined by treatment providers pursuant to the pilot program, the bill would require the court to set aside the conviction and to dismiss the accusation or information against the defendant and would authorize the court to set aside the conviction and to dismiss the accusation or information of any previous drug possession or drug use crimes on the participant's record.

Existing law requires the Department of Justice to maintain state summary criminal history information, as defined, and to furnish this information to various state and local government officers, officials, and other prescribed entities, if needed in the course of

their duties. Existing law requires the Department of Justice, as part of the state summary criminal history information, to disseminate every conviction rendered against an applicant unless the conviction falls within an exception.

This bill would exempt from dissemination a conviction that has been set aside pursuant to the above provisions.

Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services, including mental health and substance use disorder services, pursuant to a schedule of benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law, with certain exceptions based in part on the type and location of the service, provides for the suspension of Medi-Cal benefits to an inmate of a public institution.

This bill would, to the extent permitted under federal and state law, make treatment provided to a participant during the program reimbursable under the Medi-Cal program, if the participant is a Medi-Cal beneficiary and the treatment is a covered benefit under the Medi-Cal program. If treatment services are not reimbursable under the Medi-Cal program or through the participant's personal health care coverage, the bill would authorize funds allocated to the state from the 2021 Multistate Opioid Settlement Agreement, subject to an appropriation by the Legislature, to be used to reimburse those treatment services to the extent consistent with the terms of the settlement agreement and the court's final judgment, as specified.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Counties of Sacramento and Yolo.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

- (a) A significant percentage of people arrested and charged with crimes suffer from substance use disorders (SUDs).
- (b) For many individuals suffering from SUDs, residential and professionally conducted evidence-based treatment programs are the best, or at times only, option for getting this population well.
- (c) Our efforts in California in treating those who suffer from SUDs, some of whom are suffering from mental health issues or are homeless, have been unsuccessful. Although there have been efforts to treat this population, to date, there has been limited success.
- (d) In addition, the cost of incarcerating persons involved in substance-related crimes has increased considerably over the past two decades in the United States.
- (e) Substance offenders are the fastest increasing section of inmates in the state prison system across the United States. In 1983, 12 adults entered prison on a drug offense for every 100,000 adults in the population. By 1998, this rate had increased more than sevenfold to 88 per 100,000 adults. Between 1980 and 2002, the number of persons in state prisons for substance offenses increased from 19,000 to 265,000.
- (f) The Office of National Drug Control Policy estimated that drug abuse costs were \$180 billion in 2002. Drug-related crimes cost \$107 billion, and \$15.8 billion was spent on drug abuse treatment. Economic costs of untreated substance abuse and annual total societal cost of substance abuse in the United States was approximately \$510.8 billion in 1999.
- (g) This increase in costs has affected the economic system considerably and should drive society to focus on preventing the escalation of substance-related crimes.
- (h) For those who suffer from SUDs and who commit drug-motivated crimes, as an alternative to a jail or prison sentence, they could consent to be diverted to a secured residential treatment facility, where they would receive evidence-based treatment to get them well and give them the opportunity to become healthy, fulfilled, and contributing members of society. One goal of this pilot program is to reduce recidivism.
- (i) If the pilot program is established, eligible individuals who could consent to this alternative to sentencing in jail or prison would generally be individuals who suffer from an SUD that is determined to be the driving force behind the crime, and whereby the crime is not a simple drug possession offense, and the individual, but for this voluntary program, would be sentenced to jail or prison as a result of the crime.

SEC. 2. Section 1203.44 is added to the Penal Code, to read:

1203.44. (a) The Counties of Sacramento and Yolo may offer a voluntary secured residential treatment pilot program, known as "Hope California," consistent with this section for individuals suffering from substance use disorders (SUDs) who have been

convicted of drug-motivated felony crimes that qualify pursuant to the criteria and conditions described in subdivisions (b) and (c). If offered, the pilot programs shall align with the resolutions adopted by the counties in recognition of the goal of ensuring that people with behavioral health conditions receive treatment out of custody wherever possible. The counties may offer the pilot program to eligible individuals if the program meets all of the following conditions:

(1) The program facility is licensed by the State Department of Health Care Services as an alcoholism or drug abuse recovery or treatment facility pursuant to Chapter 7.5 (commencing with Section 11834.01) of Part 2 of Division 10.5 of the Health and Safety Code.

(2) (A) The program facility is a clinical setting managed and staffed by the county's health and human services agency (HHSA) with oversight provided by the county's probation department.

(B) The program facility shall not be a jail, prison, or other correctional setting.

(C) The program facility shall be secured but shall not include a lockdown setting.

(3) The individual, upon a judge pronouncing a sentence to be served in a county jail or state prison, shall choose and consent to participate in the voluntary program in lieu of incarceration.

(4) The program is limited to one facility site per county.

(5) The State Department of Health Care Services monitors the program facility to ensure the health, safety, and well-being of program participants.

(6) The State Department of Health Care Services has authority to access the program facility to investigate complaints by program participants and to ensure the facility complies with applicable statutes and regulations.

(7) The program facility ensures that participants have visitation rights, including through the use of a telephone.

(8) The county develops and staffs the program in partnership with relevant community-based organizations and drug treatment service providers to provide support services, including, but not limited to, employment skill assessments, money management, technology education, tutoring, career planning, developing resumes and cover letters, and searching and applying for employment.

(9) HHSA ensures that a risk, needs, and biopsychosocial assessment, utilizing the Multidimensional Assessment of the American Society of Addiction Medicine (ASAM), as part of the ASAM Criteria, be performed for each individual identified as a candidate for the program.

(10) The participant's treatment, in terms of length and intensity, within the program is based on the findings of the risk, needs, and biopsychosocial assessment and the recommendations of treatment providers that may include an addiction medicine physician.

(11) The program adopts the Treatment Criteria of ASAM. The program may take into consideration evolving best practices in the SUD treatment community.

(12) The program has a comprehensive written curriculum that informs the operations of the program and outlines the treatment and intervention modalities.

(13) The program provides an individualized, medically assisted treatment plan for each resident, including, but not limited to, medically assisted treatment options and counseling based on the recommendations of a substance use disorder specialist, which may include a medical doctor or doctor of osteopathy specializing in addiction medicine.

(14) A judge determines the length of the treatment program after being informed by, and based on, the risk, needs, and biopsychosocial assessment and recommendations of treatment providers. After leaving the secured residential treatment facility, the participant continues outpatient treatment for a period of time and may also be referred to a "step-down" residential treatment facility, subject to the time limit described in paragraph (2) of subdivision (c).

(15) A judge shall also determine that the program will be carried out in lieu of a jail or prison sentence after making a finding that the defendant's decision to choose the alternative treatment program is knowing, intelligent, and voluntary.

(16) The program provides, for each participant successfully leaving the program, a comprehensive continuum of care plan that includes recommendations for outpatient care, counseling, housing recommendations, and other vital components of successful recovery.

(17) To the extent permitted under federal and state law, treatment provided to a participant during the program is reimbursable under the Medi-Cal program, if the participant is a Medi-Cal beneficiary and the treatment is a covered benefit under the Medi-Cal program. If treatment services provided to a participant during the program are not reimbursable under the Medi-Cal program or through the participant's personal health care coverage, funds allocated to the state from the 2021 Multistate Opioid Settlement Agreement, subject to an appropriation by the Legislature, may be used to reimburse those treatment services to the extent consistent with the terms of the Settlement Agreement and the Final Judgment (People v. McKinsey & Co. (Alameda County Superior Court, No. RG21087649, Feb. 4, 2021)).

(18) (A) An outcomes assessment of the secured residential treatment pilot program is completed by an independent evaluator and submitted to the Assembly Committee on Health, the Assembly Committee on Public Safety, the Senate Committee on Health, the Senate Committee on Public Safety, and the Legislature by October 1, 2028.

(B) The outcomes assessment shall include pilot program data, including overall data and data by county, and shall include, but not be limited to, all of the following:

- (i) A summary of the pertinent data collected under paragraphs (19) and (20) over the course of the pilot program.
- (ii) The clinical efficacy of the secured residential treatment pilot program based on the data collected under paragraphs (19) and (20).
- (iii) The effects of the secured residential treatment pilot program on participant recidivism and sustainable recovery.
- (iv) A recommendation for the continuation and expansion of the secured residential treatment pilot project model beyond the pilot program.

(C) The outcomes assessment shall not be performed or managed by the State Department of Health Care Services but may be performed by a postsecondary institution.

(D) The independent evaluator may be provided with criminal offender record information, if necessary for the completion of the outcomes assessment, as provided in Section 13202.

(19) The county collects and monitors all of the following data for participants in the program:

- (A) The participant's demographic information, including age, gender, race, ethnicity, marital status, familial status, and employment status.
- (B) The participant's criminal history.
- (C) The participant's risk level, as determined by the risk, needs, and biopsychosocial assessment.
- (D) The treatment provided to the participant during the program, and if the participant completed that treatment.
- (E) The participant's outcome at the time of program completion, six months after completion, and one year after completion, including subsequent arrests and convictions.

(20) The county reports all of the following information annually to the State Department of Health Care Services and, in compliance with Section 9795 of the Government Code, to the Legislature, excluding any personally identifiable information of participants:

- (A) The risk, needs, and biopsychosocial assessment tool used for the program.
- (B) The curriculum used by each program.
- (C) The number of participants with a program length other than one year and the alternative program lengths used.
- (D) Individual data on the number of participants participating in the program.
- (E) Individual data for the items described in paragraph (19).
- (F) A one- and three-year evaluation of the number of subsequent arrests and convictions of the participants.

(b) (1) Eligible drug-motivated crimes shall include any felony crime other than the following:

- (A) Sex crimes listed in subdivision (c) of Section 290.
- (B) A "serious felony" as defined in subdivision (c) of Section 1192.7 or in Section 1192.8.

(C) A "violent felony" as defined in subdivision (c) of Section 667.5.

(D) "Domestic violence" as defined in the Domestic Violence Prevention Act (Division 10 (commencing with Section 6200) of the Family Code).

(E) Driving under the influence in violation of Section 191.5 of this code or Section 23152, 23153, 23550, or 23550.5 of the Vehicle Code.

(2) Notwithstanding paragraph (1), a "nonviolent drug possession offense" specified in subdivision (a) of Section 1210 may not be diverted pursuant to this program.

(c) (1) At the time of sentencing or pronouncement of judgment in which sentencing is imposed, the judge shall offer the defendant voluntary participation in the pilot program, as an alternative to a jail or prison sentence that the judge would otherwise impose, consistent with the other provisions of this section and if all of the following conditions are met:

(A) The defendant's crime was caused in whole or in part by the defendant's SUD.

(B) The defendant's crime meets the criteria described in subdivision (b).

(C) The judge makes their determination based on the recommendations of the treatment providers who conducted the assessment, on a finding by HHSA that the defendant's participation in the program would be appropriate, and on the report described in subdivision (d).

(2) The amount of time in the secured residential treatment facility shall be determined by the recommendations of the treatment providers who conducted the assessment. The amount of time, combined with any outpatient treatment or "step-down" residential treatment pursuant to the program, shall not exceed the term of imprisonment to which the defendant would otherwise be sentenced, not including any additional term of imprisonment for enhancements, for the drug-motivated crime. The court shall not place the defendant on probation for the underlying offense. The defendant shall be eligible to receive credits pursuant to Section 4019.

(3) During the period that an individual is participating in the pilot program, the individual shall be on supervision with the probation department.

(d) To assist the court in making the determination as to whether to offer the defendant placement in the secured residential treatment program pursuant to subdivision (c), a report shall be prepared with input from any of the interested parties, including the district attorney, the attorney for the participant, the probation department, HHSA, and any contracted drug treatment program provider.

(e) If, at any time during the individual's participation in the program, it is determined by the treatment providers or program administrators that continued participation in the program would not be in the best interests of the individual, other participants, or the program itself, the treatment providers or program administrators may recommend to the court that the individual's participation be terminated and that the individual be transferred out of the secured residential treatment program.

(f) If the court, based on the recommendations of the treatment providers or program administrators, determines that the participant should be transferred out of the secured residential treatment phase of the program prior to the end of the original order, the court shall make that subsequent order, and the participant shall complete the remainder of the original sentence imposed prior to their consent to enter the program.

(g) If, at any time during the individual's participation in the program, the individual determines that they no longer wish to participate in the program, the individual may make a request to the court for termination of their participation and be transferred out of the secured residential treatment program to complete the remainder of their originally imposed sentence after accounting for any credits to which the individual is entitled pursuant to Section 4019.

(h) If the treatment providers make a recommendation to the court that the participant should be released prior to the end of the original order based on the treatment providers' assessment that the participant no longer needs to be in the secured residential treatment program, the court shall make that subsequent order, and paragraph (16) of subdivision (a) shall apply.

(i) If the participant successfully completes the court-ordered drug treatment pursuant to this program, the conviction shall be set aside, and the court shall dismiss the accusation or information against the participant. The court shall also have discretion to set aside the conviction and to dismiss the accusation or information of any previous drug possession or drug use crimes on the participant's record, including those offenses listed in Sections 11350, 11364, 11377, and 11550 of the Health and Safety Code. A participant's successful completion of treatment shall be defined and determined by the treatment providers and not by the court, district attorney's office, or probation department and does not require the participant to complete the duration of the treatment originally ordered by the court.

(j) The court shall ensure that the rights of any victim pursuant to Section 28 of Article I of the California Constitution (Marsy's Law) are honored before setting aside the conviction and dismissing the accusation or information.

(k) This section shall remain in effect only until July 1, 2029, and as of that date is repealed unless a later enacted statute that is enacted before July 1, 2029, deletes or extends that date.

SEC. 3. Section 4019 of the Penal Code, as amended by Section 3 of Chapter 756 of the Statutes of 2022, is amended to read:

4019. (a) This section applies in all of the following cases:

(1) When a prisoner is confined in or committed to a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp, including all days of custody from the date of arrest to the date when the sentence commences, under a judgment of imprisonment or of a fine and imprisonment until the fine is paid in a criminal action or proceeding.

(2) When a prisoner is confined in or committed to a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp as a condition of probation after suspension of imposition of a sentence or suspension of execution of sentence in a criminal action or proceeding.

(3) When a prisoner is confined in or committed to a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp for a definite period of time for contempt pursuant to a proceeding other than a criminal action or proceeding.

(4) When a prisoner is confined in a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp following arrest and prior to the imposition of sentence for a felony conviction.

(5) When a prisoner is confined in a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp as part of custodial sanction imposed following a violation of postrelease community supervision or parole.

(6) When a prisoner is confined in a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp as a result of a sentence imposed pursuant to subdivision (h) of Section 1170.

(7) When a prisoner participates in a program pursuant to Section 1203.016 or Section 4024.2. Except for prisoners who have already been deemed eligible to receive credits for participation in a program pursuant to Section 1203.016 prior to January 1, 2015, this paragraph shall apply prospectively.

(8) When a prisoner is confined in or committed to a state hospital or other mental health treatment facility, or to a county jail treatment facility in proceedings pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2.

(9) When a prisoner participates in a treatment program pursuant to Section 1203.44.

(b) Subject to subdivision (d), for each four-day period in which a prisoner is confined in or committed to a facility as specified in this section, one day shall be deducted from the prisoner's period of confinement unless it appears by the record that the prisoner has refused to satisfactorily perform labor as assigned by the sheriff, chief of police, or superintendent of an industrial farm or road camp.

(c) For each four-day period in which a prisoner is confined in or committed to a facility as specified in this section, one day shall be deducted from the prisoner's period of confinement unless it appears by the record that the prisoner has not satisfactorily complied with the reasonable rules and regulations established by the sheriff, chief of police, or superintendent of an industrial farm or road camp.

(d) This section does not require the sheriff, chief of police, or superintendent of an industrial farm or road camp to assign labor to a prisoner if it appears from the record that the prisoner has refused to satisfactorily perform labor as assigned or that the prisoner has not satisfactorily complied with the reasonable rules and regulations of the sheriff, chief of police, or superintendent of an industrial farm or road camp.

(e) A deduction shall not be made under this section unless the person is committed for a period of four days or longer.

(f) It is the intent of the Legislature that if all days are earned under this section, a term of four days will be deemed to have been served for every two days spent in actual custody.

(g) The changes in this section as enacted by the act that added this subdivision shall apply to prisoners who are confined to a county jail, city jail, industrial farm, or road camp for a crime committed on or after the effective date of that act.

(h) The changes to this section enacted by the act that added this subdivision shall apply prospectively and shall apply to prisoners who are confined to a county jail, city jail, industrial farm, or road camp for a crime committed on or after October 1, 2011. Any days earned by a prisoner prior to October 1, 2011, shall be calculated at the rate required by the prior law.

(i) (1) This section shall not apply, and no credits may be earned, for periods of flash incarceration imposed pursuant to Section 3000.08 or 3454.

(2) Credits earned pursuant to this section for a period of flash incarceration pursuant to Section 1203.35 shall, if the person's probation or mandatory supervision is revoked, count towards the term to be served.

(j) This section shall remain in effect only until January 1, 2028, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2028, deletes or extends that date.

SEC. 4. Section 4019 of the Penal Code, as amended by Section 4 of Chapter 756 of the Statutes of 2022, is amended to read:

4019. (a) This section applies in all of the following cases:

(1) When a prisoner is confined in or committed to a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp, including all days of custody from the date of arrest to the date when the sentence commences, under a judgment of imprisonment or of a fine and imprisonment until the fine is paid in a criminal action or proceeding.

(2) When a prisoner is confined in or committed to a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp as a condition of probation after suspension of imposition of a sentence or suspension of execution of sentence in a criminal action or proceeding.

(3) When a prisoner is confined in or committed to a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp for a definite period of time for contempt pursuant to a proceeding other than a criminal action or proceeding.

(4) When a prisoner is confined in a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp following arrest and prior to the imposition of sentence for a felony conviction.

(5) When a prisoner is confined in a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp as part of custodial sanction imposed following a violation of postrelease community supervision or parole.

(6) When a prisoner is confined in a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp as a result of a sentence imposed pursuant to subdivision (h) of Section 1170.

(7) When a prisoner participates in a program pursuant to Section 1203.016 or Section 4024.2. Except for prisoners who have already been deemed eligible to receive credits for participation in a program pursuant to Section 1203.016 prior to January 1, 2015, this paragraph shall apply prospectively.

(8) When a prisoner is confined in or committed to a state hospital or other mental health treatment facility, or to a county jail treatment facility.

(9) When a prisoner participates in a treatment program pursuant to Section 1203.44.

(b) Subject to subdivision (d), for each four-day period in which a prisoner is confined in or committed to a facility as specified in this section, one day shall be deducted from the prisoner's period of confinement unless it appears by the record that the prisoner has refused to satisfactorily perform labor as assigned by the sheriff, chief of police, or superintendent of an industrial farm or road camp.

(c) For each four-day period in which a prisoner is confined in or committed to a facility as specified in this section, one day shall be deducted from the prisoner's period of confinement unless it appears by the record that the prisoner has not satisfactorily complied with the reasonable rules and regulations established by the sheriff, chief of police, or superintendent of an industrial farm or road camp.

(d) This section does not require the sheriff, chief of police, or superintendent of an industrial farm or road camp to assign labor to a prisoner if it appears from the record that the prisoner has refused to satisfactorily perform labor as assigned or that the prisoner has not satisfactorily complied with the reasonable rules and regulations of the sheriff, chief of police, or superintendent of an industrial farm or road camp.

(e) A deduction shall not be made under this section unless the person is committed for a period of four days or longer.

(f) It is the intent of the Legislature that if all days are earned under this section, a term of four days will be deemed to have been served for every two days spent in actual custody.

(g) The changes in this section as enacted by the act that added this subdivision shall apply to prisoners who are confined to a county jail, city jail, industrial farm, or road camp for a crime committed on or after the effective date of that act.

(h) The changes to this section enacted by the act that added this subdivision shall apply prospectively and shall apply to prisoners who are confined to a county jail, city jail, industrial farm, or road camp for a crime committed on or after October 1, 2011. Any days earned by a prisoner prior to October 1, 2011, shall be calculated at the rate required by the prior law.

(i) This section shall not apply, and no credits may be earned, for periods of flash incarceration imposed pursuant to Section 3000.08 or 3454.

(j) This section shall become operative on January 1, 2028.

SEC. 5. 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 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.

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

(c) The Attorney General may furnish state summary criminal history information and, when specifically authorized by this subdivision, 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 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 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 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 State 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, 1203.44, or 1203.49. The Commission on Teacher 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 state special school 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.

(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.

(D) Sex offender registration status of the applicant.

(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.

SEC. 6. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances that the Counties of Sacramento and Yolo have experienced with regard to difficulties in treating individuals who have been convicted of drug-motivated crimes as a result of their substance use disorders.