
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: AB 1331 **Hearing Date:** July 9, 2019
Author: Bonta
Version: June 20, 2019
Urgency: No **Fiscal:** Yes
Consultant: JK

Subject: *Criminal Justice Data*

HISTORY

Source: San Francisco District Attorney George Gascon

Prior Legislation: AB 953 (Weber), Ch. 466, Stats. 2015
AB 1470 (Negrete McLeod), 2005, failed passage in Senate Public Safety

Support: Building Opportunities for Self-Sufficiency; Californians for Safety and Justice; Communities in Schools; Ella Baker for Human Rights; Homeboy Industries; Inland Congregations United for Change; A New Way of Life; One Justice; Pillars of the Communities; Project Kinship; Safe Return Project; Smart Justice

Opposition: California Law Enforcement Association of Records Supervisors; California Police Chiefs Association; Judicial Council

Assembly Floor Vote: 49 - 24

PURPOSE

The purpose of this bill is to require law enforcement entities to report specific data points regarding every person arrested to the Department of Justice (DOJ).

Existing law requires law enforcement agencies to report every arrest to DOJ, and shall include in the report personally identifying information and arrest data, as specified, and fingerprints, except as otherwise provided by law or as prescribed by the Department of Justice. (Pen. Code, § 13150.)

Existing law requires a superior court to send to DOJ a disposition report regarding every case it disposes of resulting from an arrest that was reported to DOJ. (Pen. Code, § 13151.)

Existing law requires a report to DOJ regarding each arrest for the commission of a public offense while in custody in any local detention facility, or any state prison, for inclusion in that person's state summary criminal history record. The report shall include the public offense committed and a reference indicating that the offense occurred while the person was in custody in a local detention facility or state prison. (Pen. Code, § 13154.)

Existing law requires a criminal justice agency entitled to such information supplies fingerprints, or a fingerprint identification number, or such other personal identifiers as DOJ deems appropriate, to DOJ, such agency shall, upon request, be provided with the criminal history of such person, or the needed portion thereof, within 72 hours of receipt by DOJ. (Pen. Code, § 13176.)

Existing law defines “local summary criminal history information” means the master record of information compiled by any local criminal justice agency pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, dates of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person. Requires a local law enforcement agency to share local summary criminal history information with state agencies and other authorized entities, as specified. (Pen. Code, § 13300.)

Existing law makes it a misdemeanor for an employee of a local criminal justice agency to knowingly furnish a record or information obtained from a record to a person who is not authorized by law to receive the record or information. (Pen. Code, § 13302.)

Existing law provides that it is not a violation of the law to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed; provides that it is also permissible to disseminate information obtained from a record for the purpose of assisting in the apprehension of a person wanted in connection with the commission of a crime; provides that it is permissible 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 when the inclusion of the information in the public record is authorized by a court, statute, or decisional law. (Pen. Code, § 13305.)

Existing law permits every public agency or bona fide research body immediately concerned with the prevention or control of crime, the quality of criminal justice, or the custody or correction of offenders access to criminal offender record information as is required for the performance of its duties, provided that any material identifying individuals is not transferred, revealed, or used for other than research or statistical activities and reports or publications derived therefrom do not identify specific individuals, and provided that such agency or body pays the cost of the processing of such data as determined by the Attorney General. (Pen. Code, § 13202.)

This bill requires for each arrest made, the reporting agency shall report to the DOJ, concerning each arrest, the applicable identification and arrest data and fingerprints, except as otherwise provided by law or as prescribed by the DOJ. This section shall remain in effect only until January 1, 2021, and as of that date is repealed.

This bill requires for each arrest made, the reporting agency to report electronically, on a weekly basis, to the DOJ, the following information:

- 1) The following information about the person:
 - a) Name, aliases, and monikers

- b) Race
 - c) Sex
 - d) Date of Birth
 - e) Place of birth, by either state or country
 - f) Height
 - g) Weight
 - h) Hair color
 - i) Eye color
 - j) CII number
 - k) FBI number
 - l) Social Security number
 - m) California operator's license number
 - n) Fingerprint classification number, in both the Henry and NCIC systems
 - o) Address
 - p) Arresting agency
 - q) Booking number
 - r) Date of arrest
 - s) Offenses charged, in the form of both statutes violated and descriptions of the offense
 - t) Police disposition, whether they were released, cited and released, turned over to another entity, or a complaint was filed
- 2) For each felony or misdemeanor arrest, the incident reporting number.
 - 3) For each misdemeanor or infraction citation, the citation number.
 - 4) The date each charge was referred to a prosecutor, if applicable.

This bill requires the superior court to report electronically, on a weekly basis, to the department, the following information:

- 1) For each person in a case arising from an arrest reported pursuant to subdivision (a) or for whom fingerprints were taken and submitted to the DOJ by order of the court:
 - a) Name, aliases, and monikers
 - b) Race
 - c) Sex
 - d) Date of birth
 - e) CII number
 - f) Date the complaint against the person was filed
 - g) Original offenses charged in a complaint or citation against the person
 - h) Whether the person was held to answer the complaint
 - i) What the certified plea of the person was
 - j) The disposition of the case against the person, whether the person was not convicted, the case was dismissed, the person was acquitted by a court trial, the person was acquitted by a jury trial, the person was convicted by a court trial, the person was acquitted by a jury trial, or the person pled.
 - k) The date of the disposition of the case against the person
 - l) The offenses for which the person was convicted

- m) The sentence of the person
 - n) Any sentence enhancements the person received
 - o) If the proceedings against the person was suspended and, if so, for what reason
- 2) For each case filing:
- a) The docket number
 - b) Whether the defense attorney was a public defender, court-appointed counsel, or contract attorney
 - c) A disposition of deferred entry of judgement, if applicable, and the date of the disposition
- 3) For each sentence:
- a) The date of sentencing
 - b) The sentence type, length, and condition
 - c) Any time credit for time served, and the length of that credit

The bill states that this section shall become operative on January 1, 2021.

This bill states that every public agency or bona fide research body immediately concerned with the prevention or control of crime, the quality of criminal justice, or the custody or correction of offenders may be provided with such criminal offender record information as is required for the performance of its duties, provided that any material identifying individuals is not transferred, revealed, or used for other than research or statistical activities and reports or publications derived therefrom do not identify specific individuals, and provided that such agency or body pays the cost of the processing of such data as determined by the Attorney General. A person shall not be denied information pursuant to this section solely on the basis of that person's criminal record.

COMMENTS

1. Need for This Bill

According to the Author:

California's criminal history records suffer from pervasive data gaps that undermine their accuracy and reliability, including missing and/or delayed arrest and case dispositions and missing or incomplete sentencing information. These gaps are becoming critical threats to our state's public safety. For example:

- 1) The Bureau of Firearms relies on timely accurate reporting of convictions to support the Armed & Prohibited Persons System (APPS) and ensure that prohibited persons do not possess or acquire guns.
- 2) Pretrial risk assessment tools require timely and accurate information about convictions and incarceration to predict risk and inform pretrial release decisions. Missing information could result in high risk individuals being released and low risk individuals being detained.

- 3) The Department of Justice estimates that 60% of arrest records are missing disposition information. Missing arrest disposition information means that many arrests that have not been filed or resulted in conviction appear as pending cases and remain on criminal records that are disseminated to employers and licensing boards, effectively criminalizing a person who may in fact be innocent.

2. Gaps in Criminal History Records

It is likely that a statewide database system that permits the public to see arrests and adjudication of every case in the state, without personally identifying information, would facilitate a greater understanding of the criminal system generally. It would expand the ability for non-profits and new organizations to analyze statistical and de-identified data to monitor the efficacy of California's legal systems. It would also likely reveal whether there are disparities in enforcement based on various factors including location, race, ethnicity, sex and other characteristics. It may also help the public identify whether there is an over or under enforcement of certain crimes in a particular area. By requiring a unique identifier and scrubbing of a person's personal information from the records, this database should not present any privacy concerns.

Under existing law, research bodies have the ability to access certain types of arrest information. However, this data is limited to what is required to be reported and what this information will be used for. In a recent report by the Public Policy Institute of California, "Recidivism of Felony Offenders in California", authors stated, "If the state hopes to improve public safety, reduce costs, and ensure equity, it will be necessary to facilitate the linking of data to better capture the characteristics of offenders, the correctional sanctions and programmatic interventions they receive, and their reoffending behavior." Research institutes are asking for more information to better understand the criminal justice system and pursue issues in the system directly.

3. Committee Amendments

- 1) Insert at the end of 13202:

"...unless they have been convicted of a felony offense or any other offense that involves moral turpitude, dishonesty, or fraud."

- 2) Insert at the end of 13150 (a):

"...and fingerprints:"

4. Argument in Support

According to Smart Justice California:

AB 1331 addresses data gaps and improves access to criminal justice data by establishing reporting requirements across the system and clarifying existing law regarding access. Comprehensive collection of criminal statistics is essential to advancing public safety, builds the foundation for efficient record clearance efforts, and advances independent research, a core component of effective criminal justice reform.

Significant gaps still exist in the State's criminal history records. These records are critical to day to day operations for local and state law enforcement agencies, and data gaps undermine their efforts to promote public safety. Data limitations, as well as obstacles to accessing this data, also undercut the government's ability to analyze criminal justice policy proposals and interventions. Even as California pushes its criminal justice system to embrace major reforms, legislators and independent researchers are deprived of essential data to predict and evaluate their impact.

5. Argument in Opposition

According to Judicial Council of California:

The Judicial Council regrettably opposes AB 1331 unless funded and amended for the reasons explained below. Beginning January 1, 2021, the bill requires local and state law enforcement agencies and courts to report specified information to the Department of Justice on a weekly basis rather than within 30 days of disposition, as required under current law. Also, as currently written it is unclear whether the bill requires reporting of case information both at filing and disposition.

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