

Assembly Bill No. 1571

CHAPTER 806

An act to amend Section 607f of the Civil Code, and to amend Section 11105 of the Penal Code, relating to humane officers.

[Approved by Governor October 12, 1995. Filed with Secretary of State October 13, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1571, Caldera. Humane societies.

Existing law provides for, and regulates, humane societies incorporated for the prevention of cruelty to animals. These provisions provide for the appointment of members of those societies as humane officers and authorizes those persons to have specified powers, including the power to arrest and the power to carry weapons.

This bill would provide, on and after July 1, 1996, that no entity, other than a humane society or society for the prevention of cruelty to animals, shall be eligible to apply for an appointment of any individual as a level 1 or level 2 humane officer, the duty of which shall be the enforcement of the laws for the prevention of cruelty to animals, and that only a person who meets specified requirements may be appointed as, or perform the duties of, a humane officer. The bill would also provide that any person appointed as a humane officer prior to July 1, 1996, may continue to serve as a humane officer until the expiration of the term of appointment only if the appointing agency maintains records documenting that both the appointing agency and the humane officer meet specified requirements.

This bill would prescribe qualifications for both the appointing society and the appointed individual in order to lawfully appoint a humane officer. The bill would provide for a level 1 humane officer and a level 2 humane officer who may exercise the powers of a peace officer at all places within the state in order to prevent the perpetration of any act of cruelty upon any animal, and who may use necessary force, make arrests, and serve search warrants, as specified. A level 1 humane officer would be authorized, upon satisfactory completion of specified training, including the basic training for a level I reserve officer by the Commission on Peace Officer Standards and Training, to carry firearms, as specified, and a level 2 humane officer would not be authorized to carry firearms.

Additionally, this bill would make it a misdemeanor for any humane society, society for the prevention of cruelty to animals, or person to knowingly provide a court with false or forged documentation for the appointment of a humane officer. The bill

would impose a state-mandated local program by creating a new crime.

This bill would provide that persons appointed as a humane officer are not peace officers but may exercise the powers of arrest of a peace officer during the course and within the scope of their employment, if they successfully complete a course in the exercise of those powers.

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.

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

SECTION 1. Section 607f of the Civil Code is amended to read:

607f. (a) (1) (A) (i) On and after July 1, 1996, no entity, other than a humane society or society for the prevention of cruelty to animals, shall be eligible to apply for an appointment of any individual as a level 1 or level 2 humane officer, the duty of which shall be the enforcement of the laws for the prevention of cruelty to animals.

(ii) On and after July 1, 1996, only a person who meets the requirements of this section may be appointed as, or perform the duties of, a humane officer.

(iii) Any person appointed as a humane officer prior to July 1, 1996, may continue to serve as a humane officer until the expiration of the term of appointment only if the appointing agency maintains records pursuant to subparagraph (C) documenting that both the appointing agency and the humane officer meet the requirements of this section.

(B) Each humane society or society for the prevention of cruelty to animals that makes application to the court for the appointment of an individual to act as a level 1 or level 2 humane officer for the humane society or society for the prevention of cruelty to animals shall provide with the application documentation that demonstrates that the person has satisfactorily completed the training requirements set forth in subdivision (i).

(C) Each humane society or society for the prevention of cruelty to animals for which an individual is acting as a level 1 or level 2 humane officer shall maintain complete and accurate records documenting that the individual has successfully completed all requirements established in this section and shall make those records available, upon request, to the superior court, the Attorney General, or any entity duly authorized to review that information, including the State Humane Association of California. The records shall include the full name and address of each level 1 or level 2 humane officer.



(2) Any corporation incorporated for the purpose of the prevention of cruelty to animals that possesses insurance of at least one million dollars (\$1,000,000) for liability for bodily injury or property damage may, six months after the date of its incorporation and by resolution of its board of directors or trustees duly entered on its minutes, appoint any number of persons, who shall be citizens of the State of California, as humane officers, provided that the individuals to be appointed have met the training guidelines set forth in subdivision (i).

(3) Each appointment of a humane officer shall be by separate resolution. The resolution shall state the full name and address of the appointing agency, the full name of the person so appointed, and the fact that he or she is a citizen of the State of California, and shall also designate the number of the badge to be allotted to the officer.

(b) The humane society or society for the prevention of cruelty to animals shall recommend any appointee to the judge of the superior court in and for the county or city and county in which the humane society is incorporated, and shall deliver to the judge a copy of the resolution appointing the person, duly certified to be correct by the president and secretary of the corporation and attested by its seal, together with the fingerprints of the appointee taken on standard 8- \times 8-inch cards, proof of the society's proper incorporation in compliance with Part 9 (commencing with Section 10400) of Division 2 of the Corporations Code, a copy of the society's liability for bodily injury or property damage insurance policy in the amount of at least one million dollars (\$1,000,000), and documentation establishing that the appointee has satisfactorily completed the training requirements set forth in this section.

(c) The judge shall send a copy of the resolution, together with the fingerprints of the appointee, to the Department of Justice, which shall thereupon submit to the judge, in writing, a report of the record in its possession, if any, of the appointee. If the Department of Justice has no record of the appointee, it shall so report to the judge in writing.

(d) Upon receipt of the report the judge shall review the matter of the appointee's qualifications and fitness to act as a humane officer and, if he or she reaffirms the appointment, shall so state on a court order confirming the appointment. The appointee shall thereupon file a certified copy of the reviewed court order in the office of the county clerk of the county or city and county and shall, at the same time, take and subscribe the oath of office prescribed for constables or other peace officers.

(e) The county clerk shall thereupon immediately enter in a book to be kept in his or her office and designated "Record of Humane Officers" the name of the officer, the name of the agency appointing him or her, the number of his or her badge, the name of the judge appointing him or her, and the date of the filing. At the time of the



filing the county clerk shall collect from the officer a fee of five dollars (\$5), which shall be in full for all services to be performed by the county clerk under this section.

(f) All appointments of humane officers shall automatically expire if the society disbands or legally dissolves. In addition, all appointments of humane officers shall automatically expire within three years from the date on which the certified copy of the court order was filed with the county clerk. Officers whose appointments are about to expire may only be reappointed after satisfactorily completing the continuing education and training set forth in this section.

(g) (1) The corporation appointing an officer may revoke an appointment at any time by filing in the office of the county clerk in which the appointment of the officer is recorded a copy of the revocation in writing under the letterhead of the corporation and duly certified by its executive officer. Upon the filing the county clerk shall enter the fact of the revocation and the date of the filing thereof opposite the name of the officer in the record of humane officers.

(2) Notwithstanding paragraph (1), a revocation hearing may be initiated by petition from any duly authorized sheriff or local police agency or the State Humane Association of California. The petition shall show cause why an appointment should be revoked and shall be made to the superior court in the jurisdiction of the appointment.

(h) The corporation or local humane society appointing the humane officer shall pay the training expenses of the humane officer attending the training required pursuant to this section.

(i) (1) (A) A level 1 humane officer is not a peace officer, but may exercise the powers of a peace officer at all places within the state in order to prevent the perpetration of any act of cruelty upon any animal and to that end may summon to his or her aid any bystander. A level 1 humane officer may use reasonable force necessary to prevent the perpetration of any act of cruelty upon any animal.

(B) A level 1 humane officer may make arrests for the violation of any penal law of this state relating to or affecting animals in the same manner as any peace officer and may also serve search warrants.

(C) A level 1 humane officer is authorized to carry firearms while exercising the duties of a humane officer, upon satisfactory completion of the training specified in subparagraph (D) and the basic training for a level I reserve officer by the Commission on Peace Officer Standards and Training pursuant to Section 13510.1 of the Penal Code.

(D) A level 1 humane officer shall, prior to appointment, provide evidence satisfactory to the appointing agency that he or she has successfully completed courses of training in the following subjects:

(i) At least 20 hours of a course of training in animal care sponsored or provided by an accredited postsecondary institution or



any other provider approved by the California Veterinary Medical Association, the focus of which shall be the identification of disease, injury, and neglect in domestic animals and livestock.

(ii) At least 40 hours of a course of training in the state humane laws relating to the powers and duties of a humane officer sponsored or provided by an accredited postsecondary institution, law enforcement agency, or the State Humane Association of California.

(E) No person shall be appointed as a level 1 humane officer until they have satisfied the requirements in Sections 1029, 1030, and 1031 of the Government Code. A humane society or society for the prevention of cruelty to animals shall complete a background investigation, using standards defined by the Commission on Peace Officer Standards and Training as guidelines for all level 1 humane officer appointments.

(F) In order to be eligible for reappointment, a level 1 humane officer shall complete ongoing weapons training and range qualifications at least every six months pursuant to subdivision (s) of Section 830.3 of the Penal Code and shall, every three years, complete 40 hours of continuing education and training relating to the powers and duties of a humane officer, which education and training shall be provided by an accredited postsecondary institution, law enforcement agency, or the State Humane Association of California.

(G) (i) Notwithstanding any other provision of this section, a level 1 humane officer may carry firearms only if authorized by, and only under the terms and conditions specified by, his or her appointing agency.

(ii) Notwithstanding any other provision of this section, a level 1 humane officer shall not be authorized to carry firearms unless and until his or her appointing agency has adopted a policy on the use of deadly force by its officers and the officer has been instructed in that policy.

(2) (A) A level 2 humane officer is not a peace officer, but may exercise the powers of a peace officer at all places within the state in order to prevent the perpetration of any act of cruelty upon any animal and to that end may summon to his or her aid any bystander. A level 2 humane officer may use reasonable force necessary to prevent the perpetration of any act of cruelty upon any animal.

(B) A level 2 humane officer may make arrests for the violation of any penal law of this state relating to or affecting animals in the same manner as any peace officer and may serve search warrants during the course and within the scope of employment, upon the successful completion of a course relating to the exercise of the police powers specified in Section 832 of the Penal Code, except the power to carry and use firearms.

(C) A level 2 humane officer is not authorized to carry firearms.



(D) A level 2 humane officer shall, prior to appointment, provide evidence satisfactory to the appointing agency that he or she has successfully completed courses of training in the following subjects:

(i) At least 20 hours of a course of training in animal care sponsored or provided by an accredited postsecondary institution or any other provider approved by the California Veterinary Medical Association, the focus of which is the identification of disease, injury, and neglect in domestic animals and livestock.

(ii) At least 40 hours of a course of training in the state humane laws relating to the powers and duties of a humane officer, sponsored or provided by an accredited postsecondary institution, law enforcement agency, or the State Humane Association of California.

(E) In order to be eligible for reappointment, a level 2 humane officer shall, every three years, complete 40 hours of continuing education and training relating to the powers and duties of a humane officer, which education and training shall be provided by an accredited postsecondary institution, law enforcement agency, or the State Humane Association of California.

(j) Every humane officer shall, when making an arrest, exhibit and expose a suitable badge to be adopted by the corporation under this title of which he or she is a member which shall bear its name and a number. Uniforms worn by humane officers shall prominently display the name of the appointing agency. Humane officer uniforms shall not display the words "state" or "California," unless part of the appointing agency's incorporated name.

(k) Any person resisting a humane officer in the performance of his or her duty as provided in this section, is guilty of a misdemeanor. Any person who has not been appointed and qualified as a humane officer as provided in this section, or whose appointment has been revoked as provided in this section, or whose appointment, having expired, has not been renewed as provided in this section, who shall represent himself or herself to be or shall attempt to act as an officer shall be guilty of a misdemeanor.

(l) No humane officer shall serve a search warrant without providing prior notice to local law enforcement agencies operating within that jurisdiction.

(m) Any humane society, society for the prevention of cruelty to animals, or person, who knowingly provides a court with false or forged documentation for the appointment of a humane officer, is guilty of a misdemeanor and shall be punished by a fine of up to ten thousand dollars (\$10,000).

(n) A humane society or a society for the prevention of cruelty to animals shall notify the sheriff of the county in which the society is incorporated, prior to appointing a humane officer, of the society's intent to enforce laws for the prevention of cruelty to animals. Humane societies or societies for the prevention of cruelty to animals incorporated and enforcing animal cruelty laws prior to January 1,



1996, that intend to continue to enforce those laws, shall notify the sheriff of the county in which the society is incorporated by March 1, 1996.

(o) Except as otherwise provided by this section, a humane officer shall serve only in the county in which he or she is appointed. A humane officer may serve temporarily in a county other than that in which he or she is appointed if the humane officer gives notice requesting consent to the sheriff of the county in which he or she intends to serve, and acquires consent from the sheriff of the county in which he or she intends to serve, or from a person authorized by the sheriff to give that consent. A sheriff shall promptly respond to any request by a humane officer to serve in his or her jurisdiction and any request shall not be unreasonably denied.

SEC. 2. 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:

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

(ii) “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 any of 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 entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and of 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), (b), and (f) of Section 830.2, subdivision (a) of Section 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision (a) of Section 830.31.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) Probation officers of the state.

(6) Parole officers of the state.



(7) 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.

(8) A public defender or attorney of record when representing a person in a criminal case and if authorized access by statutory or decisional law.

(9) Any agency, officer, or official of the state 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.

(10) Any city or county, or city and county, or district, or any 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 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.

(11) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120), Chapter 1, Title 1 of Part 4.

(12) Any 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.

(13) Health officers of a city, county, or city and county, or district, when in the performance of their official duties enforcing Section 3110 of the Health and Safety Code.

(14) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(15) Any humane society, or society for the prevention of cruelty to animals, for the specific purpose of complying with Section 607f of the Civil Code for the appointment of level 1 humane officers.

(c) The Attorney General may furnish state summary 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 entity, in fulfilling employment, certification, or



licensing duties, Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) Any 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, he or she shall furnish a copy of the data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To a peace officer of another country.

(4) To 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.

(5) To any 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.

(6) The courts of the United States, other states or territories or possessions of the United States.

(7) Peace officers of the United States, other states, or territories or possessions of the United States.

(8) To any individual who is the subject of the record requested if needed in conjunction with an application to enter the United States or any foreign nation.

(9) Any public utility as defined in Section 216 of the Public Utilities Code, if access is needed in order to assist in employing current or prospective employees who in the course of their employment may be seeking entrance to private residences. The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

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.

Any information obtained from the state summary criminal history is confidential and the receiving public utility 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 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 his or her 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.

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 to recover damages proximately caused by the violations. Any public utility's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences in the course of their employment shall be deemed a "compelling need" as required to be shown in this subdivision.

Nothing in this section shall be construed as imposing any duty upon public utilities to request state summary criminal history information on any current or prospective employees.

(10) To any campus of the California State University or the University of California, or any 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 any 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.

(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, any 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 12054 of the Penal Code, and 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 7514 of the Business and Professions Code shall take priority over the processing of 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 any state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting summary criminal history information checks that are authorized by law.

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

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

