

Assembly Bill No. 1261

CHAPTER 580

An act to amend Sections 11591 and 11591.5 of, to repeal Sections 11590, 11592, 11593, and 11595 of, and to repeal and add Section 11594 of, the Health and Safety Code, relating to controlled substances.

[Approved by Governor October 8, 2019. Filed with Secretary
of State October 8, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1261, Jones-Sawyer. Controlled substances: narcotics registry.

Existing law requires a person who is convicted in this state, or in another state under certain circumstances, of specified offenses involving controlled substances to register with the chief of police of the city in which the person resides, or the sheriff of the county if that person resides in an unincorporated area, as specified. Existing law makes registration consist of a statement in writing signed by the person, giving information required by the Department of Justice, and the fingerprints and photograph of the person. Existing law requires, within 3 days after registering, the law enforcement agency to forward the statement, fingerprints, and photograph to the Department of Justice. A person who knowingly violates the registration requirement and related requirements is guilty of a misdemeanor.

This bill would delete that registration requirement and make conforming changes. The bill would prohibit the statements, photographs, and fingerprints obtained pursuant to these requirements as they read on January 1, 2019, from being inspected by the public or by any person other than a regularly employed peace or other law enforcement officer.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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

SECTION 1. Section 11590 of the Health and Safety Code, as amended by Section 2 of Chapter 1417 of the Statutes of 1990, is repealed.

SEC. 2. Section 11590 of the Health and Safety Code, as amended by Section 1 of Chapter 714 of the Statutes of 1995, is repealed.

SEC. 3. Section 11591 of the Health and Safety Code is amended to read:

11591. Every sheriff, chief of police, or the Commissioner of the California Highway Patrol, upon the arrest for any of the controlled substance offenses described in Section 11350, 11351, 11351.5, 11352, 11353, 11353.5, 11353.7, 11354, 11355, 11358, 11359, 11360, 11361, 11363, 11366, 11366.5, 11366.6, 11368, 11370.1, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11383, or 11550, or subdivision (a) of Section 11377, or Section 11364, insofar as that section relates to paragraph (12) of subdivision (d) of Section 11054, of any school employee, shall, provided that the sheriff, chief of police, or Commissioner of the California Highway Patrol knows that the arrestee is a school employee, do one of the following:

(a) If the school employee is a teacher in any of the public schools of this state, the sheriff, chief of police, or Commissioner of the California Highway Patrol shall immediately notify by telephone the superintendent of schools of the school district employing the teacher and shall immediately give written notice of the arrest to the Commission on Teacher Credentialing and to the superintendent of schools in the county where the person is employed. Upon receipt of the notice, the county superintendent of schools and the Commission on Teacher Credentialing shall immediately notify the governing board of the school district employing the person.

(b) If the school employee is a nonteacher in any of the public schools of this state, the sheriff, chief of police, or Commissioner of the California Highway Patrol shall immediately notify by telephone the superintendent of schools of the school district employing the nonteacher and shall immediately give written notice of the arrest to the governing board of the school district employing the person.

(c) If the school employee is a teacher in any private school of this state, the sheriff, chief of police, or Commissioner of the California Highway Patrol shall immediately notify by telephone the private school authority employing the teacher and shall immediately give written notice of the arrest to the private school authority employing the teacher.

(d) If a person described in subdivision (a) was arrested for an offense defined in Section 11378, 11379, or 11380, this section shall only apply to offenses involving controlled substances specified in paragraph (12) of subdivision (d) of Section 11054 and paragraph (2) of subdivision (d) of Section 11055, and to analogs of these substances, as defined in Section 11401. If a person described in subdivision (a) was arrested for an offense defined in Section 11379 or 11379.5, this section does not apply if the arrest was for transporting, offering to transport, or attempting to transport a controlled substance. This section does not apply to a person who was arrested for a misdemeanor under Section 11360.

SEC. 4. Section 11591.5 of the Health and Safety Code is amended to read:

11591.5. (a) Every sheriff or chief of police, upon the arrest for any of the controlled substance offenses described in Section 11350, 11351, 11351.5, 11352, 11353, 11353.5, 11353.7, 11354, 11355, 11358, 11359, 11360, 11361, 11363, 11366, 11366.5, 11366.6, 11368, 11370.1, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11383, or 11550, or subdivision

(a) of Section 11377, or Section 11364, insofar as that section relates to paragraph (9) of subdivision (d) of Section 11054, of any teacher or instructor employed in any community college district shall immediately notify by telephone the superintendent of the community college district employing the teacher or instructor and shall immediately give written notice of the arrest to the Office of the Chancellor of the California Community Colleges. Upon receipt of that notice, the district superintendent shall immediately notify the governing board of the community college district employing the person.

(b) If a person described in subdivision (a) was arrested for an offense defined in Section 11378, 11379, or 11380, this section shall only apply to offenses involving controlled substances specified in paragraph (12) of subdivision (d) of Section 11054 and paragraph (2) of subdivision (d) of Section 11055, and to analogs of these substances, as defined in Section 11401. If a person described in subdivision (a) was arrested for an offense defined in Section 11379 or 11379.5, this section does not apply if the arrest was for transporting, offering to transport, or attempting to transport a controlled substance. This section does not apply to a person who was arrested for a misdemeanor under Section 11360.

SEC. 5. Section 11592 of the Health and Safety Code is repealed.

SEC. 6. Section 11593 of the Health and Safety Code is repealed.

SEC. 7. Section 11594 of the Health and Safety Code is repealed.

SEC. 8. Section 11594 is added to the Health and Safety Code, to read:

11594. All registration requirements set forth in this article, as it read on January 1, 2019, are terminated. The statements, photographs, and fingerprints obtained pursuant to this section, as it read on January 1, 2019, are not open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

SEC. 9. Section 11595 of the Health and Safety Code is repealed.

SEC. 10. The Legislature finds and declares that Section 8 of this act, which adds Section 11594 of the Health and Safety Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

To maintain the privacy of individuals who have previously been subject to registration requirements under the provisions repealed by this act.