



Commission on Peace Officer Standards and Training

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Subject: **Background Investigation Update – Recent Legislation (SB 781) and Revision to GC 1031.1: employment information**

In September, Governor Newsom signed the Public Safety Omnibus Bill (SB 781), which becomes effective January 1, 2020. Within the bill is a provision to amend section 1031.1 of the Government Code, addressing employment records for non-sworn law enforcement agency applicants.

In July 2017, AB 1339 amended 1031.1 of the Government Code to extend employer disclosure requirements to applicants for positions other than peace officers within a law enforcement agency. Although the law, which became effective January 2018, extended employer disclosure requirements to applicants for other non-sworn positions within a law enforcement agency, non-sworn applicants were not addressed in the conditions of disclosure outlined in the section. The recent amendments to GC §1031.1 clarify the employer's rights and obligations, specifying that employment information applies to both peace officer applicants and others applying for non-sworn positions within a law enforcement agency. These revisions (attached) provide consistency with and clarification of the changes made by AB 1339.

Sample C.9 (copy of Government Code section 1031.1) in Appendix C of the *POST Background Investigation Manual: Guidelines for the Investigator* and associated sections of the Manual will be updated to reflect these changes.

Questions regarding this Bulletin may be directed to [Melani Singley](#) at (916) 227-4258.

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Executive Director

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**Government Code Section
1031.1.**

(a) For purposes of performing a thorough background investigation for applicants not currently employed as a peace officer, as required by subdivision (d) of Section 1031, or in the case of an applicant for a position other than a sworn peace officer within a law enforcement agency, an employer shall disclose employment information relating to a current or former employee, upon request of a law enforcement agency, if all of the following conditions are met:

(1) The request is made in writing.

(2) The request is accompanied by a notarized authorization by the applicant releasing the employer of liability.

(3) The request and the authorization are presented to the employer by a sworn officer or other authorized representative of the employing law enforcement agency.

(b) In the absence of fraud or malice, ~~no~~ *an* employer shall *not* be subject to ~~any~~ civil liability for any relevant cause of action by virtue of releasing employment information required pursuant to this section. ~~Nothing in this section is intended to, nor does~~ *This section does not* in any way or ~~manner,~~ *manner* abrogate or lessen the existing common law or statutory privileges and immunities of an employer.

(c) For purposes of this section, "employment information" includes written information in connection with job applications, performance evaluations, attendance records, disciplinary actions, eligibility for rehire, and other information relevant to ~~peace officer performance,~~ *the performance of a peace officer or other law enforcement agency applicant*, except information prohibited from disclosure by any other state or federal law or regulation.

(d) An employer's refusal to disclose information to a law enforcement agency in accordance with this section shall constitute grounds for a civil action for injunctive relief requiring disclosure on the part of an employer.

(e) Employment information disclosed by an employer to an initial requesting law enforcement agency shall be deemed confidential. However, the initial requesting law enforcement agency may disclose this information to another authorized law enforcement agency that is also conducting a ~~peace officer background investigation. Whenever~~ *background investigation into a peace officer or other law enforcement agency applicant. If* this information is disclosed to another law enforcement agency, that agency shall utilize the information for investigative leads only and the information shall be independently verified by that agency in order to be used in determining the suitability of a peace officer *or other law enforcement agency* applicant.

(f) An employer may charge reasonable fees to cover actual costs incurred in copying and furnishing documents to law enforcement agencies as required by this section.

Key:

Italics=addition

~~Strikeout~~=deletion