State of California Office of Administrative Law

In re:

Department of Justice

Regulatory Action:

Title 11, California Code of Regulations

Amend sections: 999.601

NOTICE OF APPROVAL OF CHANGES WITHOUT REGULATORY EFFECT

California Code of Regulations, Title 1. Section 100

OAL Matter Number: 2024-1127-02

OAL Matter Type: Nonsubstantive (N)

This action without regulatory effect by the Department of Justice amends form BCIA 8016CUS, "Request for Live Scan Service (Custodian of Records)," that is incorporated by reference in Section 999.601 of Title 11 of the California Code of Regulations. Specifically, the amendments add a third gender option on the form that applicants can select, "Nonbinary," in addition to the two gender options currently available to choose from, "Male" and "Female."

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, title 1, section 100.

Date: January 8, 2025

Stephen P. Mehlert

Senior Attorney

For:

Kenneth J. Pogue

Director

Original: Rob Bonta, Attorney General

Copy:

Marlon Martinez

ALHEER Z REQUATION AND REPORT OF LIBO FOR use by Office of Administrative Law (OAL) only For use by Office of Administrative Law (OAL) only For use by Office of Administrative Law (OAL) only For use by Office of Administrative Law (OAL) only CFFICE CF ADMSN. L.RW 2024 MOU 27 HALLES LI 35 pm NOTICE REQUATIONS AGENCY WITH RULEZAMONG AUTHORITY Department of Justice AGENCY HILE MARGER IT say) AGENCY FILE MARGER IT say) AGENCY FILE MARGER IT say) AGENCY HILE MARGER IT say) AGENCY FILE MARGER	D. 400 (REV. 10/2019)	elitation .			
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Marlon Martinez (213) 269-6437 marlon.martinez@doj.ca.gov 8 I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification. SIGNATURE OF AGENCY HEAD OR DESIGNEE Venus D. Johnson Digitally signed by Venus D. Johnson Date: 2024,11.27 07:42-46-08007 DATE DATE DATE DATE DATE DATE TYPED NAME AND TITLE OF SIGNATORY	individually. Attach additional sheet if needed.) ITITLE(S) 3. TYPE OF FILING Regular Rulemaking (Gov. Code §11346) Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) Emergency (Gov. Code, §11346.1(b)) 4. ALL BEGINNING AND ENDING DATES 5. EFFECTIVE DATE OF CHANGES (Gov. Effective January 1, April 1, July October 1 (Gov. Code §11343.4) 6. CHECK IF THESE REGULATIONS REQ	AMEND 999.601 REPEAL Certificate of Compliance below certifies that this provisions of Gov. Code before the emergency within the time period remergency filing (Gov.) OF AVAILABILITY OF MODIFIED Code, §§ 11343.4, 11346.1(d), Cart, or Effective on fine Secretary of Stutter NOTICE TO, OR REVIEW, (2011)	agency complied with the \$\frac{1}{2}1	he Gov. Code, §1134 ither or File & Print Other (Specify) MATERIAL ADDED TO THE RULEMA) hanges Without Effective of (Specify) WAL OR CONCURRENCE BY, ANOT	Regulatory Effect (Cal. Code Regs., title 1, §100) Print Only AKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347. Other HER AGENCY OR ENTITY
of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification. SIGNATURE OF AGENCY HEAD OR DESIGNEE Venus D. Johnson Digitally signed by Venus D. Johnson Date: 2024.11.27 07:42.46 - 08:007 TYPED NAME AND TITLE OF SIGNATORY Digitally signed by Venus D. Johnson Date: 2024.11.27 07:42.46 - 08:007	individually. Attach additional sheet if needed.) TITLE(S) TYPE OF FILING Regular Rulemaking (Gov. Code §11346) Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) Emergency (Gov. Code, §11346.1(b)) ALL BEGINNING AND ENDING DATES EFFECTIVE DATE OF CHANGES (Gov. Effective January 1, April 1, July October 1 (Gov. Code §11343.4) CHECK IF THESE REGULATIONS REQUIRED THE PROPERTY OF COMMENT OF COMENT OF COMMENT OF COMMENT OF COMMENT OF COMMENT OF COMMENT OF COM	AMEND 999.601 REPEAL Certificate of Compliance below certifies that this provisions of Gov. Code before the emergency within the time period remergency filing (Gov.) OF AVAILABILITY OF MODIFIED Code, §§ 11343.4, 11346.1(d), Cart, or Effective on fine Secretary of Stutter NOTICE TO, OR REVIEW, (2011)	agency complied with the \$\frac{1}{2}1	he Gov. Code, §1134 ither or File & Print Other (Specify) MATERIAL ADDED TO THE RULEMA) hanges Without Effective of (Specify) WAL OR CONCURRENCE BY, ANOT	Regulatory Effect (Cal. Code Regs., title 1, §100) Print Only AKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347 other HER AGENCY OR ENTITY
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CALIFORNIA DEPARTMENT OF JUSTICE

TITLE 11. LAW DIVISION 1. ATTORNEY GENERAL CHAPTER 23. CONFIRMATION OF INDIVIDUALS DESIGNATED BY A PUBLIC OR PRIVATE AGENCY AS A CUSTODIAN OF RECORDS

TEXT OF PROPOSED REGULATIONS

The original text published in the California Code of Regulations has no underline. Changes are illustrated by <u>single blue underline</u> for proposed additions and single red strikethrough for proposed deletions.

Article 2. Application for Confirmation as a Custodian of Records

§ 999.601. Application for Confirmation.

- (a) An individual designated as a Custodian of Records for an agency shall apply for confirmation by submitting to the Department a Custodian of Records Application for Confirmation, BCIA 8374 (Orig. 01/2024), incorporated herein by reference. This requirement does not apply to criminal justice agency personnel who have undergone a state and federal criminal record background check and are exempt from the requirements of Penal Code section 11102.2.
- (b) The applicant shall submit the completed Custodian of Records Application for Confirmation, BCIA 8374 (Orig. 01/2024), and electronically transmit fingerprint images to the Department. Fingerprint images shall be electronically submitted by using the Request for Live Scan Service, BCIA 8016CUS (OrigRev. 0110/2024), incorporated herein by reference. Alternatively, if an applicant is unavailable to be fingerprinted via Live Scan within California, the applicant shall submit to the Department the completed Custodian of Records Application for Confirmation, BCIA 8374 (Orig. 01/2024), and a completed 10-print fingerprint card, Applicant Fingerprint Form, FD-258 (Rev. 11-1-20) 1110-0046, incorporated herein by reference.
- (c) The applicant shall submit a check or money order in the amount of thirty dollars (\$30) to cover the costs of the confirmation program, made payable to "Department of Justice."

Note: Authority cited: Section 11102.2, Penal Code. Reference: Section 11102.2, Penal Code.



REQUEST FOR LIVE SCAN SERVICE

(Custodian of Records)

Applicant Submission				
CA0349400	CUSTDN RECORDS 11102.2	PC .		
ORI (Code assigned by DOJ)	Authorized Applicant Type			
CUSTODIAN OF RECORDS				
Type of License/Certification/Permit OR Working Title (Maximum 30 cha	aracters - if assigned by DOJ, use exact title assi	gned)		
Contributing Agency Information:				
DEPARTMENT OF JUSTICE	15798			
Agency Authorized to Receive Criminal Record Information	Mail Code (five-digit code assigned by DO	J)		
P.O. Box 903417				
Street Address or P.O. Box	Contact Name (mandatory for all school su	bmissions)		
SACRAMENTO CA 94203-4170				
City State ZIP Code	Contact Telephone Number			
Applicant Information:				
Last Name	First Name	Middle Initial Suffix		
Other Name: (AKA or Alias)				
Other Name. (ArA of Alias)				
Last Name	First Name	Suffix		
Sex Male Nonbinary				
Date of Birth Female	Driver's License Number			
	•			
Height Weight Eye Color Hair Color	Billing Number			
	(Agency Billing Number) Misc.			
Place of Birth (State or Country) Social Security Number	Number			
	(Other Identification Number)			
Home		7/0.4		
Address Street Address or P.O. Box	City	State ZIP Code		
I have received and read the included Privacy Notice	e, Privacy Act Statement, and Applicar	it's Privacy Rights.		
Applicant Signature		Date		
Your Number:	Level of Service: X DOJ	₹ FBI		
OCA Number (Agency Identifying Number)		•		
If re-submission, list original ATI number:				
(Must provide proof of rejection) Original ATI Number				
Employer (Additional response for agencies specified by statut	re):			
Employer Name				
Street Address or P.O. Box	Telephone Number (optional)			
City State ZIP Code	Mail Code (five digit code assigned by DOJ)			
Live Scan Transaction Completed By:				
N	Dete			
Name of Operator	Date			
Transmitting Agency LSID	ATI Number	Amount Collected/Billed		



REQUEST FOR LIVE SCAN SERVICE (Custodian of Records)

Privacy Notice

As Required by Civil Code § 1798.17

Collection and Use of Personal Information. The California Justice Information Services (CJIS) Division in the Department of Justice (DOJ) collects the information requested on this form as authorized by Business and Professions Code sections 4600-4621, 7574-7574.16, 26050-26059, 11340-11346, and 22440-22449; Penal Code sections 11100-11112, and 11077.1; Health and Safety Code sections 1522, 1416.20-1416.50, 1569.10-1569.24, 1596.80-1596.879, 1725-1742, and 18050-18055; Family Code sections 8700-8720, 8800-8823, and 8900-8925; Financial Code sections 1300-1301, 22100-22112, 17200-17215, and 28122-28124; Education Code sections 44330-44355; Welfare and Institutions Code sections 9710-9719.5, 14043-14045, 4684-4689.8, and 16500-16523.1; and other various state statutes and regulations. The CJIS Division uses this information to process requests of authorized entities that want to obtain information as to the existence and content of a record of state or federal convictions to help determine suitability for employment, or volunteer work with children, elderly, or disabled; or for adoption or purposes of a license, certification, or permit. In addition, any personal information collected by state agencies is subject to the limitations in the Information Practices Act and state policy. The DOJ's general privacy policy is available at http://oag.ca.gov/privacy-policy.

Providing Personal Information. All the personal information requested in the form must be provided. Failure to provide all the necessary information will result in delays and/or the rejection of your request.

Access to Your Information. You may review the records maintained by the CJIS Division in the DOJ that contain your personal information, as permitted by the Information Practices Act. See below for contact information.

Possible Disclosure of Personal Information. In order to process applications pertaining to Live Scan service to help determine the suitability of a person applying for a license, employment, or a volunteer position working with children, the elderly, or the disabled, we may need to share the information you give us with authorized applicant agencies.

The information you provide may also be disclosed in the following circumstances:

- With other persons or agencies where necessary to perform their legal duties, and their use of your information is compatible and complies with state law, such as for investigations or for licensing, certification, or regulatory purposes.
- To another government agency as required by state or federal law.

Contact Information. For questions about this notice or access to your records, you may contact the Associate Governmental Program Analyst at the DOJ's Keeper of Records at (916) 210-3310, by email at keeperofrecords@doj.ca.gov, or by mail at:

Department of Justice
Bureau of Criminal Information & Analysis
Keeper of Records
P.O. Box 903417
Sacramento, CA 94203-4170



REQUEST FOR LIVE SCAN SERVICE (Custodian of Records)

Privacy Act Statement

Authority. The FBI's acquisition, preservation, and exchange of fingerprints and associated information is generally authorized under 28 U.S.C. 534. Depending on the nature of your application, supplemental authorities include Federal statutes, State statutes pursuant to Pub. L. 92-544, Presidential Executive Orders, and federal regulations. Providing your fingerprints and associated information is voluntary; however, failure to do so may affect completion or approval of your application.

Principal Purpose. Certain determinations, such as employment, licensing, and security clearances, may be predicated on fingerprint-based background checks. Your fingerprints and associated information/biometrics may be provided to the employing, investigating, or otherwise responsible agency, and/or the FBI for the purpose of comparing your fingerprints to other fingerprints in the FBI's Next Generation Identification (NGI) system or its successor systems (including civil, criminal, and latent fingerprint repositories) or other available records of the employing, investigating, or otherwise responsible agency. The FBI may retain your fingerprints and associated information/biometrics in NGI after the completion of this application and, while retained, your fingerprints may continue to be compared against other fingerprints submitted to or retained by NGI.

Routine Uses. During the processing of this application and for as long thereafter as your fingerprints and associated information/biometrics are retained in NGI, your information may be disclosed pursuant to your consent, and may be disclosed without your consent as permitted by the Privacy Act of 1974 and all applicable Routine Uses as may be published at any time in the Federal Register, including the Routine Uses for the NGI system and the FBI's Blanket Routine Uses. Routine uses include, but are not limited to, disclosures to: employing, governmental, or authorized nongovernmental agencies responsible for employment, contracting, licensing, security clearances, and other suitability determinations; local, state, tribal, or federal law enforcement agencies; criminal justice agencies; and agencies responsible for national security or public safety.



REQUEST FOR LIVE SCAN SERVICE (Custodian of Records)

Noncriminal Justice Applicant's Privacy Rights

As an applicant who is the subject of a national fingerprint-based criminal history record check for a noncriminal justice purpose (such as an application for employment or a license, an immigration or naturalization matter, security clearance, or adoption), you have certain rights which are discussed below.

- You must be provided written notification that your fingerprints will be used to check the criminal history records of the FBI.
- You must be provided, and acknowledge receipt of, an adequate Privacy Act Statement when you submit your fingerprints and associated personal information. This Privacy Act Statement should explain the authority for collecting your information and how your information will be used, retained, and shared. 2
- If you have a criminal history record, the officials making a determination of your suitability for the employment, license, or other benefit must provide you the opportunity to complete or challenge the accuracy of the information in the record.
- The officials must advise you that the procedures for obtaining a change, correction, or update of your criminal history record are set forth at Title 28, Code of Federal Regulations (CFR), Section 16.34.
- If you have a criminal history record, you should be afforded a reasonable amount of time to correct or complete the record (or decline to do so) before the officials deny you the employment, license, or other benefit based on information in the criminal history record. 3

You have the right to expect that officials receiving the results of the criminal history record check will use it only for authorized purposes and will not retain or disseminate it in violation of federal statute, regulation or executive order, or rule, procedure or standard established by the National Crime Prevention and Privacy Compact Council. 4

If agency policy permits, the officials may provide you with a copy of your FBI criminal history record for review and possible challenge. If agency policy does not permit it to provide you a copy of the record, you may obtain a copy of the record by submitting fingerprints and a fee to the FBI. Information regarding this process may be obtained at https://www.fbi.gov/services/cjis/identity-history-summary-checks.

If you decide to challenge the accuracy or completeness of your FBI criminal history record, you should send your challenge to the agency that contributed the questioned information to the FBI. Alternatively, you may send your challenge directly to the FBI. The FBI will then forward your challenge to the agency that contributed the questioned information and request the agency to verify or correct the challenged entry. Upon receipt of an official communication from that agency, the FBI will make any necessary changes/corrections to your record in accordance with the information supplied by that agency. (See 28 CFR 16.30 through 16.34.) *You can find additional information on the FBI website at* https://www.fbi.gov/about-us/cjis/background-checks.

¹ Written notification includes electronic notification, but excludes oral notification

 $^{{\}tt 2~https://www.fbi.gov/services/cjis/compact-council/privacy-act-statement}\\$

³ See 28 CFR 50.12(b)

⁴See U.S.C. 552a(b); 28 U.S.C. 534(b); 34 U.S.C. § 40316 (formerly cited as 42 U.S.C. § 14616), Article IV(c)