

CALIFORNIA DEPARTMENT OF JUSTICE

**TITLE 11. LAW
DIVISION 1. ATTORNEY GENERAL
CHAPTER 4.5. CALIFORNIA VOLUNTEER AND EMPLOYEE CRIMINAL HISTORY
SERVICE (CalVECHS) PROGRAM**

NOTICE OF PROPOSED RULEMAKING

Notice published March 7, 2025

The Department of Justice (DOJ) proposes to adopt sections 401 through 406 of title 11, division 1, chapter 4.5 of the California Code of Regulations concerning the California Volunteer and Employee Criminal History Service (CalVECHS) Program.

PUBLIC HEARING

DOJ has not scheduled a public hearing on this proposed regulatory action. However, DOJ will hold a hearing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or their authorized representative may submit written comments relevant to the proposed regulatory action. The written comment period closes on **April 22, 2025 at 5:00 p.m.** DOJ will consider only timely received comments. Please submit written comments to:

Department of Justice
Authorization & Certification Program
Attn: Shelley Rider
P.O. Box 160608
Sacramento, CA 95816-0608
(916) 210-2517
shelley.rider@doj.ca.gov

NOTE: Written and oral comments, attachments, and associated contact information (e.g., address, phone, email, etc.) become part of the public record and can be released to the public upon request.

AUTHORITY AND REFERENCE

Authority: Section 11105.3, Penal Code.
Reference: Section 11105.3, Penal Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations:

Federal law generally prevents DOJ from disseminating federal-level criminal offender record information (CORI) to private, non-governmental agencies.

The National Child Protection Act, as amended by the Volunteers for Children Act (NCPA/VCA), codified in United States Code, title 34, section 40102, allows states to authorize fingerprint-based federal background checks of employees and volunteers of organizations that serve children, the elderly, or individuals with disabilities, some of which organizations would otherwise be unqualified to receive federal-level CORI due to the restrictions of Public Law 92-544.

The state programs established under the NCPA/VCA are commonly known as Volunteer and Employee Criminal History System (VECHS) programs. In September 2023, the California Legislature enacted Senate Bill 135 amending Penal Code section 11105.3 to establish the CalVECHS Program. Penal Code section 11105.3, subdivision (b), allows DOJ to disseminate federal-level CORI to qualified entities under the authority of United States Code, title 34, section 40102 and sets forth controls on access and use of the federal-level CORI.

Effect of the Proposed Rulemaking:

The proposed regulations apply to the dissemination of CORI by DOJ to a qualified entity pursuant to Penal Code section 11105.3. These regulations further establish procedures and guidelines for participation in the CalVECHS Program.

Anticipated Benefits of the Proposed Regulations:

This rulemaking action will particularly benefit private, non-governmental entities that serve children, the elderly, and individuals with disabilities that would otherwise be unable to receive federal-level CORI due to the restrictions of Public Law 92-544.

Substantial Differences from Existing, Comparable Federal Regulations or Statutes:

As stated above, the federal NCPA/VCA generally allows for states to authorize fingerprint-based federal background check of employees and volunteers of organizations that would serve children, the elderly, or individuals with disabilities, some of which organizations would be otherwise unqualified to receive federal-level CORI. However, there are no existing, comparable federal regulations or statutes dealing specifically with California's ability to disseminate federal-level CORI.

Determination of Inconsistency/Incompatibility with Existing State Regulations:

DOJ has determined that these proposed regulations are not inconsistent or incompatible with existing state regulations. After conducting a review for any regulations that would relate to or

affect this area, DOJ has concluded that these are the only regulations that establish procedures for qualified entities to participate in the CalVECHS Program and request the CORI of covered individuals.

Forms Incorporated by Reference:

1. CalVECHS User Agreement Conditions for Release of Criminal Offender Record Information, BCIA 9017, Orig. 07/2024 (see section 402)
2. CalVECHS Waiver Agreement for Release of Criminal Offender Record Information, BCIA 9018, Orig. 07/2024 (see subdivision (a) of section 405)
3. Request for Live Scan Service, BCIA 8016VECHS, Orig. 07/2024 (see subdivision (a) of section 406)
4. Applicant Fingerprint Form, FD-258 (Rev. 11-1-20) 1110-0046 (see subdivision (b) of section 406)

Other Statutory Requirements:

None.

DISCLOSURES REGARDING THE PROPOSED ACTION

DOJ's Initial Determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other non-discretionary costs or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Cost impacts on representative person or business: DOJ is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: None.

Significant, statewide adverse economic impact directly affecting businesses, including ability to compete: DOJ has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Results of the Economic Impact Assessment:

DOJ concludes that the proposal will not (1) create or eliminate jobs within the state, (2) create new businesses or eliminate existing businesses within the state, (3) result in the expansion of businesses currently doing business within the state.

DOJ also concludes that:

(1) The proposal will benefit the health and welfare of California residents because these regulations will establish procedures for qualified entities to participate in the CalVECHS Program and request the CORI of their employees and volunteers, which will help protect the children, elders, or individuals with disabilities that they serve.

(2) The proposal will not benefit worker safety.

(3) The proposal will not benefit the state's environment.

Business report requirement: None.

Small business determination: DOJ has determined that this proposed action does not affect small businesses because these regulations only establish procedures for qualified entities to participate in the CalVECHS Program and request the CORI of covered individuals.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), DOJ must determine that no reasonable alternative considered by DOJ or that has otherwise been identified and brought to the attention of DOJ would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

DOJ has determined that the proposed regulations are the most effective way to implement the CalVECHS Program and specify procedures for participation by qualified entities.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Department of Justice
Authorization & Certification Program
Attn: Shelley Rider
P.O. Box 160608
Sacramento, CA 95816-0608
(916) 210-2517
shelley.rider@doj.ca.gov

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. In the event the contact person is unavailable, inquiries regarding the proposed action may be directed to the following backup contact person:

Department of Justice
Authorization & Certification Program
Attn: Zac Stone
P.O. Box 160608
Sacramento, CA 95816-0608
(916) 210-4182
zac.stone@doj.ca.gov

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

DOJ will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this Notice of Proposed Rulemaking (Notice) is published in the Notice Register, the rulemaking file consists of this Notice, the Text of Proposed Regulations (the “express terms” of the regulations), the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based. The text of this Notice, the express terms, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based are available on DOJ’s website at <https://www.oag.ca.gov/bcia/regulations>. Please refer to the contact information listed above to obtain copies of these documents.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After DOJ analyzes all timely and relevant comments received during the 45-day public comment period, DOJ will either adopt these regulations substantially as described in this notice or make modifications based on the comments. If DOJ makes modifications which are sufficiently related to the originally-proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before DOJ adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of the name and address indicated above. DOJ will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons will be available on DOJ’s website at <https://www.oag.ca.gov/bcia/regulations>. Please refer to the contact information included above to obtain a written copy of the Final Statement of Reasons.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the express terms, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based are available on DOJ's website at <https://www.oag.ca.gov/bcia/regulations>.