

**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

NONSUBSTANTIVE

For use by Secretary of State only

STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2024-1127-02 N	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

JAN 08 2025

1:35 pm

NM

OFFICE OF ADMIN. LAW
2024 NOV 27 AM 11:56

AGENCY WITH RULEMAKING AUTHORITY Department of Justice	AGENCY FILE NUMBER (if any)
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Custodian of Records	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	ADOPT
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	AMEND 999.601
TITLE(S) 11	REPEAL

3. TYPE OF FILING	<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
	<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
	<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)	<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY	<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
	<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Marlon Martinez	TELEPHONE NUMBER (213) 269-6437	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) marlon.martinez@doj.ca.gov
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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	DATE
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TYPED NAME AND TITLE OF SIGNATORY Venus D. Johnson, Chief Deputy Attorney General
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For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JAN 08 2025

Office of Administrative Law

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 single blue underline 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 (~~Orig~~Rev. 01/10/2024), 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

ORI (Code assigned by DOJ)

CUSTODIAN OF RECORDS

Type of License/Certification/Permit OR Working Title (Maximum 30 characters - if assigned by DOJ, use exact title assigned)

CUSTDN RECORDS 11102.2 PC

Authorized Applicant Type

Contributing Agency Information:

DEPARTMENT OF JUSTICE

Agency Authorized to Receive Criminal Record Information

P.O. Box 903417

Street Address or P.O. Box

SACRAMENTO

City

CA 94203-4170

State ZIP Code

15798

Mail Code (five-digit code assigned by DOJ)

Contact Name (mandatory for all school submissions)

Contact Telephone Number

Applicant Information:

Last Name

Other Name: (AKA or Alias)

Last Name

Date of Birth

Sex Male Female Nonbinary

Height

Weight

Eye Color

Hair Color

Place of Birth (State or Country)

Social Security Number

Home

Address Street Address or P.O. Box

First Name

Middle Initial Suffix

First Name

Suffix

Driver's License Number

Billing Number

(Agency Billing Number)

Misc. Number

(Other Identification Number)

City

State ZIP Code

I have received and read the included Privacy Notice, Privacy Act Statement, and Applicant's Privacy Rights.

Applicant Signature

Date

Your Number:

OCA Number (Agency Identifying Number)

Level of Service:

DOJ FBI

If re-submission, list original ATI number:

(Must provide proof of rejection)

Original ATI Number

Employer (Additional response for agencies specified by statute):

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:

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 non-governmental 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 notification¹ 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

² <https://www.fbi.gov/services/cjis/compact-council/privacy-act-statement>

³ See 28 CFR 50.12(b)

⁴ See 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)