



AGENDA REPORT

Meeting Date: February 2, 2010
Item Number: F-5
To: Honorable Mayor & City Council
From: Timothy J. Scranton, Fire Chief
Subject: A RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS ESTABLISHING THE NEED OF THE CITY OF BEVERLY HILLS FIRE DEPARTMENT TO RECEIVE FEDERAL BUREAU OF INVESTIGATION CRIMINAL BACKGROUND CHECKS

Attachments:

1. Proposed Resolution; Establishing the Need for Receiving FBI Criminal Background Checks
2. Resolution No. 08-R-12605; Authorizing Access to State Criminal History Information, Adopted May 2008
3. AB 2917, Amended, February 22, 2008

INTRODUCTION

The California Emergency Medical Services Authority (EMSA), as required by the recently passed Assembly Bill 2917, will be requiring all Emergency Medical Technicians (EMT) within the State to be listed on the State's EMT Central Registry. In order to be listed in said Registry, an EMT must undergo a California Department of Justice (DOJ) criminal background check, which is to include subsequent arrest notification and a Federal Bureau of Investigation (FBI) criminal background check.

AB 2917 mandates that after July 2010, the State EMSA will facilitate all DOJ and FBI criminal background checks. Prior to July 2010, the State EMSA is providing a window of time in which each Pre-Hospital Care Provider, whom employs EMTs, may facilitate their own criminal background checks. The onus will be upon the Provider to ensure that all employed EMTs will have undergone a DOJ criminal background check with subsequent arrest notification. A Provider's EMT will not have to undergo a FBI criminal background check during this window of time.

With consideration to the results of the DOJ criminal background check with subsequent arrest notification, each Provider must certify to the State EMSA that their perspective EMTs are free of:

- Any sexually related offense specified under Section 290 of the Penal Code

- The conviction of murder, attempted murder or murder for hire
- The conviction of two (2) or more felonies
- Parole or probation for any felony

EMTs that undergo DOJ background checks with subsequent arrest notification during this window period are considered 'grandfathered' into the State's EMT Central Registry. If the State EMSA facilitates said background check process, the Provider will incur increased fees as well as will be subject to the DOJ internal processing time constraints, potentially delaying Certification, and as such, prohibiting the EMT from working in the field. It is for this reason that the State EMSA encourages Providers to participate in the 'grandfathering' process.

In an effort to support Providers in the 'grandfathering' process, the State EMSA has provided an algorithm by which a Provider may facilitate their own criminal background checks. One of the requirements is a City Resolution under which the City's Fire Department establishes the need to receive transmission of DOJ and FBI criminal background information. The language that must be included in said resolution is provided by the State EMSA.

The City's current Resolution, No. 08-R-12605, adopted May 20, 2008, of which the City of Beverly Hills operates under, does not include such language. Under Section 1, the addition of language; "*(EMT-I, EMT-II, and / or paramedics)*" must be included for the DOJ and FBI to approve transmission of criminal background check information to the City of Beverly Hills Fire Department (BHFD) under the regulations of AB 2917.

Currently, the BHFD conducts DOJ with subsequent arrest notification criminal background checks on all its newly hired personnel. This practice began as of the year 1989. As such, the Fire Department can ensure that EMT personnel hired after 1989 are free of the prohibited offenses noted above. Prior to 1989, subsequent arrest notification was not included in the background check process. Consequently, the Fire Department cannot ensure its EMT personnel hired prior to 1989 are free of the offenses noted above. Therefore, said DOJ background check with subsequent notification is required of said personnel.

With the adoption of the proposed Resolution, the BHFD will be able to facilitate DOJ with subsequent arrest notification background checks on all of its employees hired prior to the year 1989. Facilitation of such background checks will fulfill the Department's requirement to certify that all of its EMT personnel pursuant to AB 2917.

DISCUSSION

Once the proposed Resolution has been adopted, the Fire Department will forward said Resolution to the California Department of Justice whom will then forward the Resolution to the FBI for federal approval. Once approved, the Resolution will be returned to the DOJ for State approval and subsequent issuance of an Originating Agency Identifier number (ORI). It is this ORI number that the Fire Department needs to facilitate its own criminal background checks. Once the ORI number has been received by the Fire Department, the Fire Department will move to have all EMT personnel hired prior to 1989 undergo DOJ background check with subsequent notification.

The time frame for said process is approximately:

- 2 months from the time that DOJ receives the Resolution until an ORI number is issued.

- 2-4 weeks to move necessary EMT personnel through the City's background check process

FISCAL IMPACT

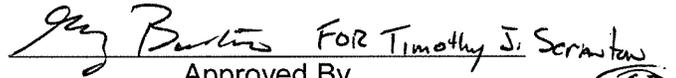
The action is proposed to allow the City to save \$38 on each of the DOJ check of our 32 EMT personnel. The savings from this action will be \$1,216.00.

Recommendation

Given the Regulation from the California EMS Agency secondary to AB 2917, it is appears that it is in the best interest of the Fire Department to participate in the 'grandfathering' process. The Fire Department will be able to facilitate the DOJ criminal background checks with subsequent arrest before the deadline of July 2010, thus eliminating an extraneous cost of \$1,216 as well as ensuring that our EMT personnel are streamlined through the certification process, minimizing the chance that delays at the State level could leave Fire Department personnel with a pending certification status. Therefore, it is the Fire Department's recommendation to pass said proposed Resolution.



Finance Approver


Approved By GTS

Attachment 1

Proposed Resolution:
Establishing the Need for Receiving FBI
Criminal Background Checks

RESOLUTION NO.10-R-

A RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS ESTABLISHING THE NEED OF THE CITY OF BEVERLY HILLS FIRE DEPARTMENT TO RECEIVE FEDERAL BUREAU OF INVESTIGATION CRIMINAL BACKGROUND CHECKS

WHEREAS, Penal Code Sections 11105(b)(10) and 13300(b)(10) authorize cities, counties and districts to access state and local summary criminal history information for employment, licensing or certification purposes; and

WHEREAS, Penal Code Section 11105(b)(10) authorizes cities, counties and districts to access federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation;

WHEREAS, Penal Code Sections 11105(b)(10) and 13300(b)(10) require that there be a requirement or exclusion from employment, licensing, or certification based on specific criminal conduct on the part of the subject of the record; and

WHEREAS, Penal Code Sections 11105(b)(10) and 13300(b)(10) require the city council, board of supervisors, or governing body of a city, county or district to specifically authorize access to summary criminal history information for employment, licensing or certification.

NOW THEREFORE, the Council of the City of Beverly Hills hereby finds, resolves and determines as follows:

Section 1. The City of Beverly Hills Fire Department is hereby authorized to access state and federal level summary criminal history information for employment (including volunteers and contract employees), licensing, or certification (EMT-I, EMT-II, and / or paramedics) purposes and may not disseminate the information to a private entity.

Section 2. The City of Beverly Hills shall not consider a person who has been convicted of a felony or misdemeanor involving moral turpitude eligible for employment (including volunteer and contract employees), or licensing; except that such conviction may be disregarded if it is determined that mitigating circumstances exist, or that the conviction is not related to the employment, volunteer or license in question.

Section 3. The City Clerk shall send copies of this resolution to the California Department of Justice.

Section 4. The City Clerk shall certify to the adoption of this Resolution and shall cause this Resolution and his certification to be entered in the Book of Resolutions of this City.

Adopted:

NANCY KRASNE
Mayor of the City of
Beverly Hills, California

ATTEST:

(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:



TIMOTHY SCRANTON
Fire Chief

SCOTT G. MILLER
Director of Administrative Services/
Chief Financial Officer



SANDRA OLIVENCIA
Assistant Director of Administrative
Services/Human Resources

Attachment 2

Resolution No. 08-R-12605:
Authorizing Access to State Criminal History
Information, Adopted May 2008

RESOLUTION NO. 08-R- 12605

RESOLUTION OF THE COUNCIL OF THE CITY OF
BEVERLY HILLS AUTHORIZING ACCESS TO STATE
CRIMINAL HISTORY INFORMATION

WHEREAS, Penal Code Sections 11105(b)(10) and 13300(b)(10) authorize cities, counties and districts to access state and local summary criminal history information for employment, licensing or certification purposes; and

WHEREAS, Penal Code Section 11105(b)(10) authorizes cities, counties and districts to access federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation;

WHEREAS, Penal Code Sections 11105(b)(10) and 13300(b)(10) require that there be a requirement or exclusion from employment, licensing, or certification based on specific criminal conduct on the part of the subject of the record; and

WHEREAS, Penal Code Sections 11105(b)(10) and 13300(b)(10) require the city council, board of supervisors, or governing body of a city, county or district to specifically authorize access to summary criminal history information for employment, licensing or certification.

NOW THEREFORE, the City Council of the City of Beverly Hills hereby finds, resolves and determines as follows:

Section 1. The City of Beverly Hills is hereby authorized to access state and federal level summary criminal history information for employment (including volunteers and contract

employees), licensing, or certification purposes and may not disseminate the information to a private entity.

Section 2. The City of Beverly Hills shall not consider a person who has been convicted of a felony or misdemeanor involving moral turpitude eligible for employment (including volunteer and contract employees), or licensing; except that such conviction may be disregarded if it is determined that mitigating circumstances exist, or that the conviction is not related to the employment, volunteer or license in question.

Section 3. The City Clerk shall send copies of this resolution to the California Department of Justice.

Section 4. The City Clerk shall certify to the adoption of this Resolution and shall cause this Resolution and his certification to be entered in the Book of Resolutions and his certification to be entered in the Book of Resolutions of the Council of the City.

Adopted: May 20, 2008

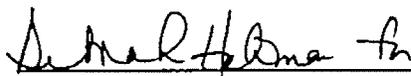

BARRY BRUCKER
Mayor of the City of Beverly Hills,
California

ATTEST:


BYRON POPE
City Clerk

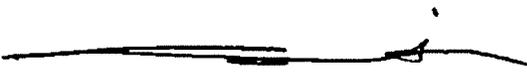
Seal

APPROVED AS TO FORM:

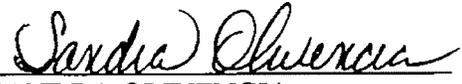

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:


DAVID SNOWDEN
Chief of Police



SCOTT G. MILLER
Director of Administrative Services/CFO



SANDRA OLIVENCIA
Assistant Director of Administrative
Services/Human Resources

Attachment 3

AB 2917, Amended, February 22, 2008

BILL NUMBER: AB 2917 AMENDED
BILL TEXT

AMENDED IN SENATE AUGUST 13, 2008
AMENDED IN SENATE AUGUST 4, 2008
AMENDED IN SENATE JULY 2, 2008
AMENDED IN SENATE JUNE 19, 2008
AMENDED IN ASSEMBLY MAY 23, 2008
AMENDED IN ASSEMBLY APRIL 2, 2008

INTRODUCED BY Assembly Member Torrico

FEBRUARY 22, 2008

An act to amend Sections 1797.101, 1797.170, 1797.172, 1797.216, ~~1798.200, and 1799.50~~ and 1798.200 of, to add Sections 1797.61, 1797.117, 1797.118, 1797.184, 1797.211, 1797.217, and 1797.219 to, and to repeal and add Section 1797.62 of, the Health and Safety Code, relating to emergency medical services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2917, as amended, Torrico. Emergency medical services personnel.

Under existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, the Emergency Medical Services Authority is responsible for establishing minimum standards and promulgating regulations for the training and scope of practice for emergency medical technicians-paramedic (EMT-P). Violation of the act is a misdemeanor. Under existing law, these standards and regulations would be applicable to local governments, agencies, and other organizations that provide this training.

The act also provides for the certification of emergency medical technicians through the issuance of certificates, including EMT-I and EMT-II certificates, by local entities, known as local EMS agencies, which are designated by counties. Existing law also permits public safety agencies, for public safety personnel, and the State Board of Fire Services, for fire safety personnel, to issue EMT-I certificates. Existing law provides that the medical director of a local EMS agency or the Emergency Medical Services Authority may deny, suspend, or revoke certificates issued under these provisions, or may place a certificate holder on probation, upon the occurrence of any of specified events.

This bill would, among other things, require the authority to establish and maintain a centralized system for monitoring and tracing EMT-I and EMT-II certification status and EMT-P licensure status to be used by certifying entities, as defined, and would require specified fees to be collected and expended, upon appropriation, for related purposes. The bill would require the authority to adopt regulations regarding the submission of fingerprint images and related information to the Department of Justice.

This bill would require the authority to establish EMT-I and EMT-II certification and disciplinary guidelines. This bill would authorize an EMT-I or EMT-II employer to investigate and discipline those EMT-I and EMT-II employees who commit specified acts. This bill would require the medical director to investigate and discipline

specified EMT-IIs and EMT-IIIs. By imposing new duties upon local officials, this bill would create a state-mandated local program.

By changing the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would make the operation of its provisions contingent upon the enactment of SB 997 of the 2007-08 Regular Session.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) The health and safety of Californians often depends on the timely response and competent care of emergency medical service (EMS) personnel.

(b) Whether it is an automobile accident, heart attack, near drowning, unscheduled childbirth, gunshot wound, or other life critical incident, emergency medical technicians (EMTs) provide vital, lifesaving, prehospital attention to the public and assist in transporting the sick or injured to an appropriate medical facility.

(c) Maintaining consistent and accountable supervision of EMT certificate holders requires that pertinent information about certification be available to all EMS providers prior to the employment of an EMT.

(d) Ensuring the safety of the public, as well as that of first responders, requires that any entity that employs EMTs have access to pertinent information concerning any applicant's background and criminal history as a condition of his or her employment.

(e) Local EMS agencies have a role to play in maintaining the consistency of department policies and in conforming to the legal requirements necessary to provide appropriate medical oversight and protect the public safety.

SEC. 2. Section 1797.61 is added to the Health and Safety Code, to read:

1797.61. (a) "Certificate" or "license" means a specific document issued to an individual denoting competence in the named area of prehospital service.

(b) "Certificate status" or "license status" means the active, expired, denied, suspended, revoked, or placed on probation designation applied to a certificate or license issued pursuant to this division.

SEC. 3. Section 1797.62 of the Health and Safety Code is repealed.

SEC. 4. Section 1797.62 is added to the Health and Safety Code, to read:

1797.62. "Certifying entity" means a public safety agency or the office of the State Fire Marshal if the agency has a training program for EMT-I personnel that is approved pursuant to the standards

developed pursuant to Section 1797.109, or the medical director of a local EMS agency.

SEC. 5. Section 1797.101 of the Health and Safety Code is amended to read:

1797.101. The Emergency Medical Services Authority shall be headed by the Director of the Emergency Medical Services Authority who shall be appointed by the Governor upon nomination by the Secretary of California Health and Human Services. The director shall be a physician and surgeon licensed in California pursuant to the provisions of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, and who has substantial experience in the practice of emergency medicine.

SEC. 6. Section 1797.117 is added to the Health and Safety Code, to read:

1797.117. (a) The authority shall establish and maintain a centralized registry system for the monitoring and tracking of each EMT-I and EMT-II certificate status and each EMT-P license status. This centralized registry system shall be used by the certifying entities as part of the certification process for an EMT-I and EMT-II and by the authority as part of the licensure process for an EMT-P license. The authority shall, by regulation, specify the data elements to be included in the centralized registry system, the requirements for certifying entities to report the data elements for inclusion in the registry, including reporting deadlines, the penalties for failure of a certifying entity to report certification status changes within these deadlines, and requirements for submission to the Department of Justice fingerprint images and related information required by the Department of Justice of, except as otherwise provided in this division, EMT-I and EMT-II certificate candidates or holders and EMT-P license candidates or holders for the purposes described in subdivision (c). The data elements to be included in the centralized registry system shall include, but are not limited to, data elements that are to be made publicly available pursuant to subdivision (b).

(b) The information made available to the public through the centralized registry system shall include all of the following data elements: the full name of every individual who has been issued an EMT-I or EMT-II certificate or EMT-P license, the name of the entity that issued the certificate or license, the certificate or license number, the date of issuance of the license or certificate, and the license or certificate status.

(c) (1) As part of the centralized registry system, the authority shall electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice of all EMT-I and EMT-II certificate candidates or holders, and of all EMT-P license applicants, for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and also information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her recognizance pending trial or appeal.

(2) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this subdivision. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and electronically disseminate a primary response to the authority and electronically disseminate a dual response to one government agency certifying entity.

(3) The Department of Justice shall electronically provide the

primary response to the authority and also electronically, the dual response to one certifying entity that is a government agency, pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(d) The authority shall request the Department of Justice to provide subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons described in subdivision (c). All subsequent arrest notifications provided to the authority for persons described in subdivision (c) shall be electronically submitted to one government agency certifying entity, as a dual response by the Department of Justice.

(e) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this section.

SEC. 7. Section 1797.118 is added to the Health and Safety Code, to read:

1797.118. (a) On and after July 1, 2010, and except as provided in subdivision (b), every EMT-I and EMT-II certificate candidate or holder shall have their fingerprint images and related information submitted to the authority for submission to the Department of Justice pursuant to the regulations adopted pursuant to Section 1797.117 for a state and federal level criminal offender record information search, including subsequent arrest information.

(b) If a state level criminal offender record information search, including subsequent arrest information, has been conducted on a currently certified EMT-I or EMT-II, who was certified prior to July 1, 2010, for the purposes of employment or EMT-I or EMT-II certification, then the certifying entity or employer as identified in paragraph (2) of subdivision (a) of Section 1798.200 shall verify in writing to the authority pursuant to regulations adopted pursuant to Section 1797.117 that a state level criminal offender record information search, including subsequent arrest information, has been conducted and that nothing in the criminal offender record information search precluded the individual from obtaining EMT-I or EMT-II certification.

SEC. 8. Section 1797.170 of the Health and Safety Code is amended to read:

1797.170. (a) The authority shall develop and, after approval by the commission pursuant to Section 1799.50, adopt regulations for the training and scope of practice for EMT-I certification.

(b) Any individual certified as an EMT-I pursuant to this division shall be recognized as an EMT-I on a statewide basis, and recertification shall be based on statewide standards. Effective July 1, 1990, any individual certified as an EMT-I pursuant to this act shall complete a course of training on the nature of sudden infant death syndrome which is developed by the California SIDS program in the State Department of Public Health in consultation with experts in the field of sudden infant death syndrome.

SEC. 9. Section 1797.172 of the Health and Safety Code is amended to read:

1797.172. (a) The authority shall develop and, after approval by the commission pursuant to Section 1799.50, adopt minimum standards for the training and scope of practice for EMT-P.

(b) The approval of the director, in consultation with a committee of local EMS medical directors named by the EMS Medical Directors Association of California, is required prior to implementation of any addition to a local optional scope of practice for EMT-Ps proposed by the medical director of a local EMS agency.

(c) Notwithstanding any other provision of law, the authority shall be the agency solely responsible for licensure and licensure renewal of EMT-Ps who meet the standards and are not precluded from

licensure because of any of the reasons listed in subdivision (d) of Section 1798.200. Each application for licensure or licensure renewal shall require the applicant's social security number in order to establish the identity of the applicant. The information obtained as a result of a state and federal level criminal offender record information search shall be used in accordance with Section 11105 of the Penal Code, and to determine whether the applicant is subject to denial of licensure or licensure renewal pursuant to this division. Submission of fingerprint images to the Department of Justice may not be required for licensure renewal upon determination by the authority that fingerprint images have previously been submitted to the Department of Justice during initial licensure, or a previous licensure renewal, provided that the license has not lapsed and the applicant has resided continuously in the state since the initial licensure.

(d) The authority shall charge fees for the licensure and licensure renewal of EMT-Ps in an amount sufficient to support the authority's licensure program at a level that ensures the qualifications of the individuals licensed to provide quality care. The basic fee for licensure or licensure renewal of an EMT-P shall not exceed one hundred twenty-five dollars (\$125) until the adoption of regulations that specify a different amount that does not exceed the authority's EMT-P licensure, license renewal, and enforcement programs. The authority shall annually evaluate fees to determine if the fee is sufficient to fund the actual costs of the authority's licensure, licensure renewal, and enforcement programs. If the evaluation shows that the fees are excessive or are insufficient to fund the actual costs of the authority's EMT-P licensure, licensure renewal, and enforcement programs, then the fees shall be adjusted accordingly through the rulemaking process described in the Administrative Procedures Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Separate additional fees may be charged, at the option of the authority, for services that are not shared by all applicants for licensure and licensure renewal, including, but not limited to, any of the following services:

(1) Initial application for licensure as an EMT-P.

(2) Competency testing, the fee for which shall not exceed thirty dollars (\$30), except that an additional fee may be charged for the cost of any services that provide enhanced availability of the exam for the convenience of the EMT-P, such as on-demand electronic testing.

(3) Fingerprint and criminal record check. The applicant shall, if applicable according to subdivision (c), submit fingerprint images and related information for criminal offender record information searches with the Department of Justice and the Federal Bureau of Investigation.

(4) Out-of-state training equivalency determination.

(5) Verification of continuing education for a lapse in licensure.

(6) Replacement of a lost licensure card. The fees charged for individual services shall be set so that the total fees charged to EMT-Ps shall not exceed the authority's actual total cost for the EMT-P licensure program.

(e) The authority may provide nonconfidential, nonpersonal information relating to EMS programs to interested persons upon request, and may establish and assess fees for the provision of this information. These fees shall not exceed the costs of providing the information.

(f) At the option of the authority, fees may be collected for the

authority by an entity that contracts with the authority to provide any of the services associated with the EMT-P program. All fees collected for the authority in a calendar month by any entity designated by the authority pursuant to this section to collect fees for the authority shall be transmitted to the authority for deposit into the Emergency Medical Services Personnel Fund within 30 calendar days following the last day of the calendar month in which the fees were received by the designated entity, unless the contract between the entity and the authority specifies a different timeframe.

SEC. 10. Section 1797.184 is added to the Health and Safety Code, to read:

1797.184. The authority shall develop and, after approval by the commission pursuant to Section 1799.50, adopt all of the following:

(a) Guidelines for disciplinary orders, temporary suspensions, and conditions of probation for EMT-I and EMT-II certificate holders that protects the public health and safety.

(b) Regulations for the issuance of EMT-I and EMT-II certificates by a certifying entity that protects the public health and safety.

(c) Regulations for the recertification of EMT-I and EMT-II certificate holders that protect the public health and safety.

(d) Regulations for disciplinary processes for EMT-I and EMT-II applicants and certificate holders that protect the public health and safety. These disciplinary processes shall be in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 11. Section 1797.211 is added to the Health and Safety Code, to read:

1797.211. Each local EMS agency shall submit certificate status updates to the authority within three working days after a final determination is made regarding a certification disciplinary action taken by the medical director that results in a change to an EMT-I or EMT-II certificate status.

SEC. 12. Section 1797.216 of the Health and Safety Code is amended to read:

1797.216. Public safety agencies that are certifying entities may certify and recertify public safety personnel as EMT-I. The state fire marshal, subject to policy guidance and advice from the State Board of Fire Services, may certify and recertify fire safety personnel as EMT-I. All persons certified shall have completed a program of training approved by the local EMS agency or the authority and have passed a competency based examination.

SEC. 13. Section 1797.217 is added to the Health and Safety Code, to read:

1797.217. (a) Every certifying entity shall submit to the authority certification data required by Section 1797.117.

(b) The authority shall collect fees from each certifying entity for the certification and certification renewal of each EMT-I and EMT-II in an amount sufficient to support the authority's central registry program and the local EMS agency administrative law judge reimbursement program. Separate additional fees may be charged, at the option of the authority, for services that are not shared by all applicants.

(c) The authority's fees shall be established in regulations, and fees charged for individual services shall be set so that the total fees charged shall not exceed the authority's actual total cost for the authority's central registry program, state and federal criminal offender record information search response program, and the local EMS agency administrative law judge reimbursement program.

(d) In addition to any fees collected by EMT-I or EMT-II certifying entities to support their certification, recertification,

or enforcement programs, EMT-I or EMT-II certifying entities shall collect fees to support the authority's central registry program, and the local EMS agency administrative law judge reimbursement program. In lieu of collecting fees from an individual, pursuant to an employer choice, a collective bargaining agreement, or other employment contract, the certifying entity shall provide the appropriate fees to the authority pursuant to this subdivision.

(e) All fees collected for or provided to the authority in a calendar month by an EMT-I or EMT-II certifying entity pursuant to this section shall be transmitted to the authority for deposit into the Emergency Medical Technician Certification Fund within 30 calendar days following the last day of the calendar month in which the fees were received by the certifying entity, unless a contract between the certifying entity and the authority specifies a different timeframe.

(f) At the option of the authority, fees may be collected for the authority by an entity that contracts with the authority to provide any of the services associated with the registry program, or the state and federal criminal offender record information search response program, or the local EMS agency administrative law judge reimbursement program. All fees collected for the authority in a calendar month by any entity designated by the authority pursuant to this section to collect fees for the authority shall be transmitted to the authority for deposit into the Emergency Medical Technician Certification Fund within 30 calendar days following the last day of the calendar month in which the fees were received by the designated entity, unless the contract between the entity and the authority specifies a different timeframe.

(g) The authority shall annually evaluate fees to determine if the fee is sufficient to fund the actual costs of the authority's central registry program, state and federal criminal offender record information search response program, and local EMS agency administrative law judge reimbursement program. If the evaluation shows that the fees are excessive or are insufficient to fund the actual costs of these programs, then the fees will be adjusted accordingly through the rulemaking process as outlined in the Administrative Procedures Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(h) The Emergency Medical Technician Certification Fund is hereby created in the State Treasury. All moneys deposited in the fund shall be made available, upon appropriation, to the authority for purposes of the central registry program, state and federal criminal offender record information search response program, and the local EMS agency administrative law judge reimbursement program. The local EMS agency administrative law judge reimbursement program is solely for the purpose of making reimbursements to local emergency medical service agencies for actual administrative law judge costs regarding EMT-I or EMT-II disciplinary action appeals. Reimbursement to the local emergency medical service agencies shall only be made if adequate funds are available from fees collected for the authority's local EMS agency administrative law judge reimbursement program.

(i) The authority may transfer unused portions of the Emergency Medical Technician Certification Fund to the Surplus Money Investment Fund. Funds transferred to the Surplus Money Investment Fund shall be placed in a separate trust account, and shall be available for transfer to the Emergency Medical Technician Certification Fund, together with interest earned, when requested by the authority.

(j) The authority shall maintain a reserve balance in the Emergency Medical Technician Certification Fund of 5 percent of annual revenues. Any increase in the fees deposited in the Emergency

Medical Technician Certification Fund shall be effective upon a determination by the authority that additional moneys are required to fund expenditures of this section.

SEC. 14. Section 1797.219 is added to the Health and Safety Code, to read:

1797.219. All investigatory and disciplinary processes for EMT-I and EMT-II certificate holders shall be, subject to Chapter 9.6 (commencing with Section 3250) of Division 4 of Title 1 of the Government Code, with respect to certificate holders who are firefighters otherwise subject to these provisions, and Chapter 9.7 (commencing with Section 3300) of Division 4 of Title 1 of the Government Code, with respect to certificate holders who are peace officers otherwise subject to these provisions.

SEC. 15. Section 1798.200 of the Health and Safety Code is amended to read:

1798.200. (a) (1) (A) Except as provided in paragraph (2), an employer of an EMT-I or EMT-II may conduct investigations, as necessary, and take disciplinary action against an EMT-I or EMT-II who is employed by that employer for conduct in violation of subdivision (c). The employer shall notify the medical director of the local EMS agency that has jurisdiction in the county in which the alleged violation occurred within three days when an allegation has been validated as a potential violation of subdivision (c).

(B) Each employer of an EMT-I or EMT-II employee shall notify the medical director of the local EMS agency that has jurisdiction in the county in which a violation related to subdivision (c) occurred within three days after the EMT-I or EMT-II is terminated or suspended for a disciplinary cause, the EMT-I or EMT-II resigns following notification of an impending investigation based upon evidence that would indicate the existence of a disciplinary cause, or the EMT-I or EMT-II is removed from EMT-related duties for a disciplinary cause after the completion of the employer's investigation.

(C) At the conclusion of an investigation, the employer of an EMT-I or EMT-II may develop and implement, in accordance with the guidelines for disciplinary orders, temporary suspensions, and conditions of probation adopted pursuant to Section 1797.184, a disciplinary plan for the EMT-I or EMT-II. Upon adoption of the disciplinary plan, the employer shall submit that plan to the local EMS agency within three working days. The employer's disciplinary plan may include a recommendation that the medical director of the local EMS agency consider taking action against the holder's certificate pursuant to paragraph (3).

(2) If an EMT-I or EMT-II is not employed by an ambulance service licensed by the Department of the California Highway Patrol or a public safety agency or if that ambulance service or public safety agency chooses not to conduct an investigation pursuant to paragraph (1) for conduct in violation of subdivision (c), the medical director of a local EMS agency shall conduct the investigations, and, upon a determination of disciplinary cause, take disciplinary action as necessary against this EMT-I or EMT-II. At the conclusion of these investigations, the medical director shall develop and implement, in accordance with the recommended guidelines for disciplinary orders, temporary orders, and conditions of probation adopted pursuant to Section 1797.184, a disciplinary plan for the EMT-I or EMT-II. The medical director's disciplinary plan may include action against the holder's certificate pursuant to paragraph (3).

(3) The medical director of the local EMS agency may, upon a determination of disciplinary cause and in accordance with regulations for disciplinary processes adopted pursuant to Section

1797.184, deny, suspend, or revoke any EMT-I or EMT-II certificate issued under this division, or may place any EMT-I or EMT-II certificate holder on probation, upon the finding by that medical director of the occurrence of any of the actions listed in subdivision (c) and the occurrence of one of the following:

(A) The EMT-I or EMT-II employer, after conducting an investigation, failed to impose discipline for the conduct under investigation, or the medical director makes a determination that the discipline imposed was not according to the guidelines for disciplinary orders and conditions of probation and the conduct of the EMT-I or EMT-II certificate holder constitutes grounds for disciplinary action against the certificate.

(B) Either the employer of an EMT-I or EMT-II further determines, after an investigation conducted under paragraph (1), or the medical director determines after an investigation conducted under paragraph (2), that the conduct requires disciplinary action against the certificate.

(4) The medical director of the local EMS agency, after consultation with the employer of an EMT-I or EMT-II, may temporarily suspend, prior to a hearing, any EMT-I or EMT-II certificate or both EMT-I and EMT-II certificates upon a determination that both of the following conditions have been met:

(A) The certificate holder has engaged in acts or omissions that constitute grounds for revocation of the EMT-I or EMT-II certificate.

(B) Permitting the certificate holder to continue to engage in the certified activity without restriction would pose an imminent threat to the public health or safety.

(5) If the medical director of the local EMS agency temporarily suspends a certificate, the local EMS agency shall notify the certificate holder that his or her EMT-I or EMT-II certificate is suspended and shall identify the reasons therefor. Within three working days of the initiation of the suspension by the local EMS agency, the agency and employer shall jointly investigate the allegation in order for the agency to make a determination of the continuation of the temporary suspension. All investigatory information not otherwise protected by law held by the agency and employer shall be shared between the parties via facsimile transmission or overnight mail relative to the decision to temporarily suspend. The local EMS agency shall decide within 15 calendar days, whether to serve the certificate holder with an accusation pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. If the certificate holder files a notice of defense, the hearing shall be held within 30 days of the local EMS agency's receipt of the notice of defense. The temporary suspension

order shall be deemed vacated if the local EMS agency fails to make a final determination on the merits within 15 days after the administrative law judge renders the proposed decision.

(6) The medical director of the local EMS agency shall refer, for investigation and discipline, any complaint received on an EMT-I or EMT-II to the relevant employer within three days of receipt of the complaint, pursuant to subparagraph (A) of paragraph (1) of subdivision (a).

(b) The authority may deny, suspend, or revoke any EMT-P license issued under this division, or may place any EMT-P license issued under this division, or may place any EMT-P licenseholder on probation upon the finding by the director of the occurrence of any of the actions listed in subdivision (c). Proceedings against any EMT-P license or licenseholder shall be held in accordance with

Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Any of the following actions shall be considered evidence of a threat to the public health and safety and may result in the denial, suspension, or revocation of a certificate or license issued under this division, or in the placement on probation of a certificate or licenseholder under this division:

(1) Fraud in the procurement of any certificate or license under this division.

(2) Gross negligence.

(3) Repeated negligent acts.

(4) Incompetence.

(5) The commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, and duties of prehospital personnel.

(6) Conviction of any crime which is substantially related to the qualifications, functions, and duties of prehospital personnel. The record of conviction or a certified copy of the record shall be conclusive evidence of the conviction.

(7) Violating or attempting to violate directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this division or the regulations adopted by the authority pertaining to prehospital personnel.

(8) Violating or attempting to violate any federal or state statute or regulation that regulates narcotics, dangerous drugs, or controlled substances.

(9) Addiction to, the excessive use of, or the misuse of, alcoholic beverages, narcotics, dangerous drugs, or controlled substances.

(10) Functioning outside the supervision of medical control in the field care system operating at the local level, except as authorized by any other license or certification.

(11) Demonstration of irrational behavior or occurrence of a physical disability to the extent that a reasonable and prudent person would have reasonable cause to believe that the ability to perform the duties normally expected may be impaired.

(12) Unprofessional conduct exhibited by any of the following:

(A) The mistreatment or physical abuse of any patient resulting from force in excess of what a reasonable and prudent person trained and acting in a similar capacity while engaged in the performance of his or her duties would use if confronted with a similar circumstance. Nothing in this section shall be deemed to prohibit an EMT-I, EMT-II, or EMT-P from assisting a peace officer, or a peace officer who is acting in the dual capacity of peace officer and EMT-I, EMT-II, or EMT-P, from using that force that is reasonably necessary to effect a lawful arrest or detention.

(B) The failure to maintain confidentiality of patient medical information, except as disclosure is otherwise permitted or required by law in Sections 56 to 56.6, inclusive, of the Civil Code.

(C) The commission of any sexually related offense specified under Section 290 of the Penal Code.

(d) The information shared among EMT-I, EMT-II, and EMT-P employers, medical directors of local EMS agencies, the authority, and EMT-I and EMT-II certifying entities shall be deemed to be an investigative communication that is exempt from public disclosure as a public record pursuant to subdivision (f) of Section 6254 of the Government Code. A ~~final~~ formal disciplinary action against an EMT-I, EMT-II, or EMT-P shall be considered a public record available to the public, unless otherwise protected from disclosure pursuant to state or federal law.

(e) For purposes of this section "disciplinary cause" means an act that is substantially related to the qualifications, functions, and duties of an EMT-I, EMT-II, or EMT-P and is evidence of a threat to the public health and safety described in subdivision (c).

~~SEC. 16. Section 1799.50 of the Health and Safety Code is amended to read:~~

~~1799.50. The commission shall review and approve regulations, standards, and guidelines developed by the authority for implementation of this division before these regulations, standards, and guidelines are adopted by the authority.~~

SEC. 16. This act shall become operative only if Senate Bill 997 of the 2007-08 Regular Session is enacted and becomes effective on or before January 1, 2009.

SEC. 17. This act shall not be construed to limit or otherwise impair the medical control of the medical director of a local EMS agency granted pursuant to Section 1798 of the Health and Safety Code.

SEC. 18. The Legislature finds and declares that Section 15 of this act, which amends Section 1798.200 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: emergency medical technicians serve a critical role in the state's emergency response network. The public safety is best protected when appropriate and consistent disciplinary standards are applied. When accusations have been made against a certified EMT-I or EMT-II, the individual must be given the investigatory and due process protection that is offered to other licensed and certified professionals such as paramedics, physicians, nurses, and other health care providers. The public shall have certification, licensure, disciplinary and other information readily available with the implementation of the EMT-I, EMT-II, and EMT-P registry as created by Section 1797.117 of the Health and Safety Code.

SEC. 19. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.