

1 Legend: (Proposed Amendments)
2 Single Underline = Proposed new language
3 **[Bold, Print, and Brackets]** = Current language proposed for deletion
4 Regular Print = Current language
5 (No change.) = No changes are being considered for the designated subdivision

6
7 §157.37

8 Certification or Licensure of Persons with Criminal Backgrounds

9
10 (a) Purpose. This section lists guidelines and criteria for establishing the eligibility of
11 persons with criminal backgrounds for certification or continued certification as emergency
12 medical services (EMS) personnel or licensure or continued licensure as paramedics. The Texas
13 Department of Health (department) will apply the requirements of the Health and Safety Code,
14 Chapter 773, Subchapter C [Occupations Code, Chapter 53, Subchapter B], and will consider
15 and review the criteria listed in the Health and Safety Code, Chapter 773, Subchapter C,
16 §773.0615, §773.0616, and §773.0617 [Occupation Code, Chapter 53, Subchapter B, §53.022
17 and §53.023] to determine a person’s EMS certification eligibility before enrollment in an EMS
18 education and training course, or to determine whether to deny, suspend or revoke an EMS
19 certification or paramedic license based upon the person’s criminal history.

20
21 (b) Department A[a]ccess to C[c]riminal H[h]istory R[r]ecord I[i]nformation.

22
23 (1) The department is entitled to obtain criminal history information maintained
24 by the Department of Public Safety, the Federal Bureau of Investigation Identification Division,
25 or any other law enforcement agency to investigate and determine the EMS certification
26 eligibility of a person who has filed a petition for a pre-enrollment criminal history prescreening
27 or an initial application for EMS certification or a reciprocity application for EMS certification
28 or paramedic licensure or the continued certification/licensure eligibility of a certificant or
29 licensed paramedic. [candidate for EMS personnel certification, recertification, licensure or
30 renewal and to investigate the continued eligibility of a certificant/licensee]

31
32 (2) A person who has filed a petition for a pre-enrollment criminal history
33 prescreening or an initial application for EMS certification or a reciprocity application for EMS
34 certification or licensure or an EMS certificant or licensed paramedic who has disclosed a
35 criminal history record or who has a known criminal history record shall timely submit a
36 complete set of his or her fingerprints along with the appropriate processing fee to the Texas
37 Department of Public Safety (DPS), as required under the Government Code, §411.087 and/or
38 §411.110. [A candidate for EMS certification/licensure or an EMS certificant/licensed
39 paramedic who has disclosed a criminal history record or who has a known criminal
40 history record shall be required to submit a completed set of fingerprints as required under
41 the Government Code, §411.087 and/or §411.110.]

42
43 (3) With respect to a prescreening petitioner or an applicant for EMS certification
44 or licensure who has a criminal history record, the department is authorized to close a petition or
45 application file and deem that the petition or application is withdrawn when the petitioner or
46 applicant has failed to respond to the Department’s request(s) for information during its
47 prescreening or investigation [eligibility determination under the Occupations Code, Chapter 53

48 **Subchapter B; Health and Safety Code, Chapter 773; or the rules adopted thereunder]** within 60
49 days of said request(s).

50
51 (c) Petition for Criminal History Prescreening .

52
53 (1) The department may provide a prescreening criminal history record check for
54 persons interested in pursuing an EMS certification or licensure to determine the person's
55 eligibility for certification before enrolling in an EMS educational or training program approved
56 by the department. A petition for prescreening is not considered an application for initial or
57 renewal certification or licensure. To request a criminal history prescreening, the petitioner
58 shall:

59
60 (A) submit a completed Petition for Criminal History Prescreening form;

61
62 (B) submit a nonrefundable fee of \$50.00;

63
64 (C) complete and return all Criminal History Prescreening documents
65 provided to the petitioner by the department and timely provide documents and information
66 requested by the Department.

67
68 (D) submit his or her complete fingerprints along with the appropriate processing
69 fee to the Texas Department of Public Safety, as required under the Government Code,
70 §411.087 and/or §411.110;

71
72 (E) submit or arrange for submission of all court documentation to the
73 Department, including final court orders noting sentencing information, conditions of probation,
74 releases from probation, revocation of probation, and any other information relating to the
75 petitioner's criminal history, or other information requested by the Department;

76
77 (F) shall inform the Department of any new court actions or petitioner's
78 criminal activities that have developed or become a part of his or her criminal history, to
79 include, but not be limited to, any new arrests, criminal charges or indictments, criminal
80 investigations, motions to revoke probation, etc. since filing the prescreening petition with the
81 Department;

82
83 (G) be subject to a Department criminal history investigation, if and when
84 the petitioner subsequently files an application for EMS certification.

85
86 (d) Limitation on Information Required for Certification/License Renewal. The
87 Department's procedures for the renewal of an EMS certification or paramedic license:

88
89
90 (1) may not require an applicant to provide any unchanged criminal history
91 information already included in one or more of the applicant's previously filed initial or renewal
92 applications for EMS certification or paramedic licensure; and,

93
94 (2) may require the applicant to provide only new information relevant to the
95 period occurring since the date of the applicant's last initial or renewal application for EMS

96 certification or paramedic licensure, including information relevant to any new Department
97 requirement applicable to the certification or license held by the applicant.

98
99 (e) [(c)] Criminal History Evaluation Criteria[convictions].

100
101 (1) For a person who has been convicted of, or placed on deferred adjudication
102 community supervision or deferred disposition for any offense, other than those listed under
103 subsection (5), that [When the conviction of a felony or misdemeanor] relates directly to the
104 duties and responsibilities of EMS personnel, the department may:

105
106 (A) deny to the person an initial or renewed EMS certification or
107 paramedic licensure or the person's opportunity to take a certification or paramedic licensure
108 examination; [deny to a person the opportunity for eligibility for a certificate or license]

109
110 (B) disqualify the person's eligibility to acquire an EMS certificate or
111 paramedic license [disqualify a person from receiving a certificate or license]; or

112
113 (C) [decertify,] revoke or suspend the person's EMS certification or
114 paramedic license.

115
116 (2) In determining [considering] whether an offense, [a crime] other than those
117 listed under subsection (5) relates directly to the duties and responsibilities [occupation] of EMS
118 personnel, the department shall consider and review the following:

119
120 (A) the Health and Safety Code, Chapter 773, Subchapter C, §773.0615
121 [Occupations Code, Chapter 53, Subchapter B, §53.022];

122
123 (B) the nature and seriousness of the crime;

124
125 (C) the relationship of the crime to the purposes for requiring a certificate
126 or license to engage in the occupation;

127
128 (D) the extent to which involvement in EMS would afford a certificant or
129 licensee an opportunity to engage in further criminal activity of the same type as that in which
130 the person previously has been involved; and

131
132 (E) the relationship of the crime to the ability, capacity, or fitness required
133 to perform the duties and discharge the responsibilities of the EMS profession.

134
135 (3) In determining the fitness to perform the duties and discharge the
136 responsibilities of emergency medical services personnel for a person who has been convicted of,
137 or placed on deferred adjudication community supervision or deferred disposition for, any
138 offense other than those listed under subsection (5) the department shall consider, in addition to
139 the factors listed in Paragraph (2):

140
141 (A) the extent and nature of the person's past criminal activity;

142
143 (B) the age of the person when the crime was committed;

144
145 (C) the amount of time that has elapsed since the person's last criminal
146 activity;

147
148 (D) the conduct and work activity of the person before and after the
149 criminal activity;

150
151 (E) evidence of the person's rehabilitation or rehabilitative effort while
152 incarcerated, after release, or since imposition of deferred adjudication community supervision,
153 or receiving deferred disposition; and

154
155 (F) other evidence of the person's fitness, including letters of
156 recommendation from:

157
158 (i) prosecutors, law enforcement officers, correctional officers, or
159 community supervision officers who prosecuted, arrested, or had custodial or other responsibility
160 for the person;

161
162 (ii) the sheriff or chief of police in the community where the
163 person resides; and

164
165 (iii) any other person in contact with the person.

166
167 (G) The petitioner, applicant, certificant, or licensed paramedic has the
168 responsibility, to the extent possible, to obtain and provide to the department the
169 recommendations of the persons required by Subparagraph (F).

170
171 (H) In addition to providing evidence related to the factors under (e)(2)
172 of this section, the petitioner, applicant, certificant, or licensed paramedic shall furnish proof in
173 the form required by the department that the petitioner, applicant, certificant, or licensed
174 paramedic has:

175
176 (i) maintained a record of steady employment;

177
178 (ii) supported the applicant's or certificate holder's dependents;

179
180 (iii) maintained a record of good conduct; and

181
182 (iv) paid all outstanding court costs, supervision fees, fines, and
183 restitution ordered in any criminal case in which the petitioner, applicant, certificant, or licensed
184 paramedic has been convicted, been placed on deferred adjudication community supervision, or
185 received deferred disposition.

186
187 (4) [(3)] The following crimes are considered to directly relate to the certification
188 and licensure of EMS personnel because of their nature and seriousness and because they impact
189 the ability to carry out the duties and responsibilities associated with patient care and public
190 safety and shall be considered and reviewed:

191

192 (A) offenses under the Health and Safety Code, Chapter 773;

193
194 (B) under the Transportation Code, except offenses for which points are
195 assessed under §708.052 of the Transportation Code;

196
197 (C) offenses under the Alcoholic Beverage Code;

198
199 (D) offenses under the Health and Safety Code, Texas Controlled
200 Substances Act, Chapters 481,482 and 483, relating to substance abuse;

201
202 (E) offenses under Department of Public Safety of the State of Texas,
203 Government Code, Chapter 411, Subchapter H, relating to the license to carry a concealed
204 handgun;

205
206 (F) offenses under the following titles of the Texas Penal Code:

207
208 (i) Title 4 - offenses of attempting or conspiring to commit any of
209 the offenses in this clause;

210
211 (ii) Title 5 - offenses against the person;

212
213 (iii) Title 6 - offenses against the family;

214
215 (iv) Title 7 - offenses against property;

216
217 (v) Title 8 - offenses against public administration;

218
219 (vi) Title 9 - offenses against public order and decency;

220
221 (vii) Title 10 - offenses against public health, safety, and morals;

222 and/or

223
224 (viii) Title 11 - offenses involving organized crime.

225
226 (G) Offenses listed in subparagraph (F)(i)-(viii) of this subsection are not
227 exclusive in that the department may consider similar criminal convictions from other state,
228 federal, foreign or military jurisdictions which, although not listed in paragraph (F)(i)-(viii)
229 indicate the lack of ability, capacity, or fitness of the individual to perform the duties and
230 responsibilities of EMS personnel.

231
232 (5) A person shall be disqualified from eligibility to acquire an EMS certification,
233 or a person’s initial or renewal application for EMS certification or paramedic licensure shall be
234 denied, or a person’s EMS certification or paramedic license, whether active or inactive, shall be
235 revoked if the petitioner, applicant, certificant, or licensed paramedic is convicted of or place on
236 deferred adjudication community supervisor or deferred disposition for:

237
238
239

240 (A) an offense listed in Sections 3g(a)(1)(A) through (H), Article 42.12,
241 Code of Criminal Procedure, as follows:

242
243 (i) Murder;

244
245 (ii) Capital murder;

246
247 (iii) Indecency with a child;

248
249 (iv) Aggravated kidnapping;

250
251 (v) Aggravated sexual assault;

252
253 (vi) Aggravated robbery;

254
255 (vii) Substance abuse offenses, as described in Section 481, Health
256 and Safety Code, for which punishment is increased under:

257
258 (I) Section 481.140, Health and Safety Code, regarding the
259 use of a child in the commission of an offense or

260
261 (II) Section 481.134(c), (d), (e) or (f), Health and Safety
262 Code, regarding an offense committed within a drug free zone, if it is shown that the defendant
263 has been previously convicted of an offense for which punishment was increased under one of
264 those subsections;

265
266 (viii) Sexual assault;

267
268 (B) an offense, other than an offense described by Subparagraph (A) of
269 this subsection, committed on or after September 1, 2009, for which the person is subject to
270 register as a sex offender under Chapter 62, Code of Criminal Procedure.

271
272
273 (f) [(d)] Documentation Required During Criminal History Prescreening or Investigation.
274 During a criminal history prescreening or investigation, it shall be the responsibility of the
275 prescreening petitioner, applicant for EMS certification or paramedic licensure, or certificant or
276 licensed paramedic to obtain and send to the department for each criminal offense in his or her
277 criminal history the entire court record, including final court orders noting sentencing
278 information, conditions of probation, revocation of or release from probation, and any other
279 information relating to the petitioner's criminal history, or requested by the department, along
280 with any recommendations of the prosecution, and/or law enforcement and/or correctional
281 authorities regarding the offense(s). The petitioner, applicant, certificant, or licensed paramedic
282 shall also furnish documentation acceptable to the department of prior/current employment
283 status, evidence of court-ordered and/or voluntary rehabilitation, evidence of good conduct in
284 their community, and evidence of payment of all outstanding court costs, supervision fees, fines,
285 and restitution as ordered in the criminal cases in which they have been convicted, placed on
286 deferred adjudication community supervision, deferred disposition. **[Criteria for eligibility and**
287 **continued eligibility. The department will apply the criteria outlined in the Occupations**

288 Code, Chapter 53, Subchapter B, §53.023. In applying the criteria, it shall be the
289 responsibility of the candidate/certificant/licensee to obtain and send the department the
290 entire court record for each criminal offense and recommendations of the prosecution,
291 and/or law enforcement and/or correctional authorities regarding the offense(s). The
292 candidate/certificant/licensee shall also furnish documentation acceptable to the
293 department of prior/current employment status, evidence of court-ordered and/or
294 voluntary rehabilitation, evidence of good conduct in their community, and evidence of
295 payment of all outstanding court costs, supervision fees, fines, and restitution as ordered in
296 the criminal cases in which they have been convicted]

297
298 [(1) The department believes that those certified/licensed in the EMS profession
299 shall conduct the occupation with honesty, trustworthiness and integrity. The department
300 shall consider, review and take action against those candidates/certificants/licensees who
301 during the course of the criminal history evaluation, or by nature of their conviction of
302 certain crimes, exhibit to the department an inability or unwillingness to follow those
303 requirements.]

304 [(2) As authorized under the Occupations Code, Chapter 53, Subchapter B,
305 §53.021(b), upon a certificant/licensee's felony conviction, felony probation revocation,
306 revocation of parole or revocation of mandatory supervision which results in incarceration,
307 their certificate/license shall be decertified/revoked.]

308
309 (g) [(e)] Notice and Appeal Procedures. Notice and appeal procedures in subsections 157.36(d)
310 and (e) are applicable for a person that the department proposes disqualification from eligibility
311 to acquire an EMS certification, or denial of an application for EMS certification or paramedic
312 licensure, or suspension or revocation of a EMS certification or paramedic license based on the
313 requirements and/or criteria outlined in this section as it relates to a person's criminal history
314 record for any offense other than those listed under subsection (5). [Procedures for denying,
315 decertifying, revoking, suspending, or probating a certificate or license to persons with
316 criminal backgrounds can be found in §157.36(c)-(k) of this title (relating to Criteria for
317 Denial and Disciplinary Actions for EMS Personnel and Voluntary Surrender of a
318 Certificate or License).]