

AMENDED IN ASSEMBLY JULY 11, 2019

AMENDED IN ASSEMBLY JUNE 18, 2019

AMENDED IN SENATE MAY 2, 2019

AMENDED IN SENATE MARCH 25, 2019

**SENATE BILL**

**No. 438**

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**Introduced by Senator Hertzberg**

(Principal coauthor: Assembly Member Eggman)

**(Coauthor: Senator Galgiani)**

~~(Coauthor: Assembly Member Aguiar-Curry)~~

*(Coauthors: Assembly Members Aguiar-Curry, Bonta, and Rodriguez)*

February 21, 2019

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An act to amend Section 53110 of, and to add Section 53100.5 to, the Government Code, and to add Sections 1797.223 and 1798.8 to the Health and Safety Code, relating to emergency services.

LEGISLATIVE COUNSEL'S DIGEST

SB 438, as amended, Hertzberg. Emergency medical services: dispatch.

Existing law, the Warren-911-Emergency Assistance Act, requires every local public agency to establish within its jurisdiction a basic emergency telephone system that includes, at a minimum, police, firefighting, and emergency medical and ambulance services. Existing law authorizes a public agency to incorporate private ambulance service into the system.

This bill would prohibit a public agency from delegating, assigning, or contracting for "911" emergency call processing ~~or notification duties regarding services for~~ the dispatch of emergency response resources unless the delegation or assignment is to, or the contract or agreement

is with, another public agency. The bill would exempt from that prohibition a public agency that is a joint powers authority that *delegated, assigned, or contracted for emergency response resources “911” call processing services* on or before January 1, 2019, under certain conditions. The bill would *also* authorize a public agency that *delegated, assigned, or contracted for dispatch of emergency response resources “911” call processing services* on or before January 1, 2019, to continue that contract or to renegotiate or adopt new contracts if the public agency and to do so with the concurrence of the public safety agencies that provide prehospital emergency medical services consent services. *If a public safety agency does not concur with the public agency to continue to delegate, assign, or contract for those services, the bill would authorize the public agency to continue to delegate, assign, or contract for those services for the remaining concurring public safety agencies.* The bill would state the Legislature’s intent to affirm and clarify a public agency’s duty and authority to develop emergency communication procedures and respond quickly to a person seeking emergency services through the “911” emergency telephone system.

Existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, authorizes each county to develop an emergency medical services (EMS) program and designate a local EMS agency. Existing law delegates responsibility over the medical direction and management of an EMS system to the medical director of the local EMS agency, and requires the local EMS agency to maintain medical control over the EMS system in accordance with minimum standards established by the Emergency Medical Services Authority.

This bill would require a public safety agency that provides ~~dispatch of prehospital emergency response resources~~ *“911” call processing services for medical response* to make a connection available from the public safety agency dispatch center to an EMS provider’s dispatch center, as specified. The bill would provide that the public safety agency is entitled to recover from an EMS provider the *actual* costs incurred in establishing and maintaining the connection. The bill would require ~~all local EMS-agency-approved~~ *the local EMS-agency-authorized* EMS providers and *the* EMS system providers *within the jurisdiction of the incident*, to be simultaneously notified and dispatched at the same response code. The bill would also, unless the local EMS agency takes affirmative action to the contrary, deem a public safety agency’s plan

~~to implement an EMD or advanced life support program to be approved within 60 days of submission if the plan satisfies state guidelines and regulations. mode. The bill would require a local EMS agency to review and approve or deny a public safety agency’s plan to implement an emergency medical dispatcher or advanced life support program within 90 days of submission of the plan.~~

This bill would provide that medical control by a local EMS agency ~~medical-director~~ *director*, or medical direction and management of an EMS ~~system~~ *system*, may not be construed to, among other things, limit the authority of a public safety agency to directly receive and ~~administer~~ *process* “911” emergency requests originating within the agency’s territorial jurisdiction or authorize a local EMS agency to *unilaterally* reduce a public safety agency’s response mode *below that of the EMS transport provider*, *prevent a public safety response*, or *alter the* deployment of emergency response resources within the agency’s territorial jurisdiction. The bill would also clarify that a public safety agency does not transfer its authority to administer emergency medical services to a local EMS agency by adhering to the policies, procedures, and protocols adopted by a local EMS agency.

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

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 53100.5 is added to the Government
- 2 Code, to read:
- 3 53100.5. The Legislature finds and declares all of the following:
- 4 (a) The provision of fire protection services, rescue services,
- 5 emergency medical services, hazardous material response services,
- 6 ambulance services, and other services related to the protection of
- 7 lives and property is a matter of public safety and critical to the
- 8 public peace, health, and safety of the state.
- 9 (b) It is in the public interest that emergency services be
- 10 deployed quickly and efficiently in the interest of saving lives and
- 11 reducing the damage or destruction of property.
- 12 (c) The establishment of a uniform, statewide policy regarding
- 13 a public agency’s ability to receive and process emergency calls
- 14 is a matter of statewide concern and an interest to all inhabitants
- 15 and citizens of this state.

1 (d) The purpose of the act that added this section is to affirm  
2 and clarify a public agency’s duty, responsibility, and jurisdiction  
3 to establish and improve emergency communication procedures  
4 and quickly respond to any person calling the telephone number  
5 “911” seeking fire, medical, rescue, or other emergency services.

6 SEC. 2. Section 53110 of the Government Code is amended  
7 to read:

8 53110. (a) Every system shall include police, firefighting, and  
9 emergency medical and ambulance services, and may include other  
10 emergency services, in the discretion of the affected local public  
11 agency, such as poison control services, suicide prevention  
12 services, and civil defense services. The system may incorporate  
13 private ambulance service. In areas in which a public safety agency  
14 of the state provides emergency services, the system shall include  
15 the public safety agency or agencies.

16 (b) Notwithstanding subdivision (a), a public agency shall not  
17 delegate, assign, or enter into a contract for “911” call processing  
18 ~~or emergency notification duties regarding services for~~ the dispatch  
19 of emergency response resources except as provided in subdivision  
20 (c) or if the delegation or assignment is to, or the contract or  
21 agreement is with, another public agency.

22 (c) Notwithstanding subdivision (b), the following entities may  
23 ~~delegate or assign to a nonpublic agency, or contract for dispatch~~  
24 ~~of emergency response resources with a nonpublic agency for,~~  
25 ~~“911” call processing services only as described:~~ *described in*  
26 *paragraphs (1) and (2).*

27 (1) A joint powers authority that *delegated, assigned, or*  
28 ~~contracted for dispatch of emergency response resources~~ “911”  
29 *call processing services* on or before January 1, 2019, may continue  
30 to *delegate, assign, or contract for dispatch of those resources and*  
31 ~~may those services and may, upon the expiration of the delegation,~~  
32 *assignment, or contract,* renegotiate or adopt new contracts, if the  
33 membership of the joint powers authority includes all public safety  
34 agencies that provide prehospital emergency medical services and  
35 the joint powers authority consents to the *continued delegation,*  
36 *assignment, or renegotiation or adoption of the contract.*

37 (2) A public agency that has *delegated, assigned, or contracted*  
38 ~~for dispatch of emergency response resources~~ “911” *call*  
39 *processing services* on or before January 1, 2019, may continue  
40 to ~~contract for dispatch of those resources and may renegotiate or~~

1 ~~adopt new contracts if the public agency and do so with the~~  
2 ~~concurrence of the public safety agencies that provide prehospital~~  
3 ~~emergency medical services consent to the renegotiation and~~  
4 ~~adoption of the contract.~~ *services. If a public safety agency does*  
5 *not concur with the delegation, assignment, or contracting of the*  
6 *“911” call processing services within its jurisdictional boundaries,*  
7 *the following shall apply:*

8 (A) *The public agency may continue to delegate, assign, or*  
9 *contract for “911” call processing services as described in this*  
10 *paragraph for the remaining concurring public safety agencies,*  
11 *and the nonconcurring public safety agency shall discharge “911”*  
12 *call processing duties within its jurisdictional boundaries.*  
13 *Notwithstanding this subparagraph, if the delegation, assignment,*  
14 *or contract provided the option for one or more public safety*  
15 *agencies to withdraw from the delegation, assignment, or contract,*  
16 *the terms of that delegation, assignment, or contract shall prevail.*

17 (B) *If continuing the delegation, assignment, or contract*  
18 *described in subparagraph (A) is not feasible, the withdrawing*  
19 *public safety agency shall assume “911” call processing services*  
20 *for the service area originally subject to delegation, assignment,*  
21 *or contract.*

22 (d) *This section does not prohibit a public agency or public*  
23 *safety agency from entering into an agreement for backup “911”*  
24 *call processing services.*

25 SEC. 3. Section 1797.223 is added to the Health and Safety  
26 Code, to read:

27 1797.223. (a) (1) ~~A public safety agency that provides dispatch~~  
28 ~~of prehospital emergency response resources~~ *“911” call processing*  
29 *services for emergency medical response shall make a connection*  
30 *available from the public safety agency dispatch center to an*  
31 *emergency medical services (EMS) provider’s dispatch center for*  
32 *the timely transmission of emergency response information.*

33 (2) *A public safety agency shall be entitled to recover from an*  
34 *EMS provider the actual costs incurred in establishing and*  
35 *maintaining a connection required by this subdivision.*

36 (3) *An EMS provider that elects not to use the connection*  
37 *provided pursuant to this subdivision shall be dispatched by the*  
38 *appropriate public safety agency and charged the same rates as*  
39 ~~any other EMS provider being dispatched by that agency.~~ *a rate*  
40 *negotiated by the parties.*

1 (4) If an EMS provider is not directly dispatched from a public  
2 safety agency, the response interval for calculations for that EMS  
3 provider shall not include the call processing times of the public  
4 safety agency and shall begin upon receipt of notification by the  
5 EMS provider of the emergency response caller data, either  
6 electronically or by any other means prescribed in paragraph (5).

7 (5) For purposes of this subdivision, “connection” means either  
8 a direct computer aided ~~dispatch~~ *dispatch* (CAD) to CAD link,  
9 where permissible under law, between the public safety agency  
10 and an EMS provider or an indirect connection, including, but not  
11 limited to, a ring down line, intercom, radio, or other electronic  
12 means for timely notification of caller data and the location of the  
13 emergency response.

14 (b) Unless ~~an~~ *a local* EMS agency has approved an emergency  
15 medical dispatch (EMD) program *in conformance with Section*  
16 *1798.8*, that allows for a tiered or modified response, ~~all local EMS~~  
17 ~~providers approved by the local EMS agency~~ *the local*  
18 *EMS-agency-authorized EMS system providers*, and ~~all~~  
19 ~~statutorily-authorized~~ *the statutorily authorized* EMS system  
20 providers *within the jurisdiction of the incident*, shall be  
21 simultaneously notified, or as close as technologically feasible,  
22 and dispatched at the same response ~~code~~. *A mode*.

23 (c) A public safety agency implementing an EMD program shall  
24 be subject to the review and approval of the local EMS ~~agency~~  
25 *agency*, and shall *perform “911” call processing services and*  
26 *operate the program in accordance with applicable state guidelines*  
27 ~~and regulations~~. *regulations, and the policies adopted by the local*  
28 *EMS agency that are consistent with Section 1798.8.*

29 ~~(e) Unless the~~

30 (d) A local EMS agency ~~takes affirmative action to the contrary,~~  
31 *shall review and approve or deny* a public safety agency’s plan to  
32 implement an EMD or advanced life support program ~~shall be~~  
33 ~~deemed approved within 60 days of submission if the plan satisfies~~  
34 ~~state guidelines and regulations~~. *within 90 days of submission of*  
35 *the plan. A public safety agency may elect to appeal any action of*  
36 *a local EMS agency as described in paragraphs (1) and (2):*

37 (1) *If a public safety agency’s application for an EMD or*  
38 *advanced life support program is not timely approved or is denied,*  
39 *an appeal shall be conducted in conformance with the*  
40 *administrative adjudication proceedings set forth in Chapter 5*

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

3 *(2) A final decision rendered pursuant to this subdivision may*  
4 *be appealed to a court of competent jurisdiction.*

5 *(e) This section does not authorize a public safety agency to*  
6 *alter the response of a local EMS-agency-authorized EMS*  
7 *transport provider, including EMS transport providers operating*  
8 *pursuant to Section 1797.224, unless authorized by a local EMS*  
9 *agency.*

10 *(f) Nothing in this section supersedes Section 1797.201.*

11 SEC. 4. Section 1798.8 is added to the Health and Safety Code,  
12 to read:

13 1798.8. (a) Notwithstanding any provision of this division,  
14 medical control by a local EMS agency medical director, or  
15 medical direction and management of an emergency medical  
16 services system, as described in this chapter, shall not be construed  
17 to do any of the following:

18 (1) Limit, supplant, prohibit, or otherwise alter a public safety  
19 agency's authority to directly ~~receive, process, and administer~~  
20 *receive and process* requests for assistance originating within the  
21 public safety agency's territorial jurisdiction through the emergency  
22 "911" system established pursuant to Article 6 (commencing with  
23 Section 53100) of Chapter 1 of Part 1 of Division 2 of Title 5 of  
24 the Government Code. *This paragraph does not supersede the*  
25 *local EMS agency's authority to adopt and implement emergency*  
26 *lifesaving instructions or EMD prearrival instructions.*

27 (2) Authorize or permit a local EMS agency to delegate, assign,  
28 or enter into a contract in contravention of subdivision (b) of  
29 Section 53110 of the Government Code.

30 (3) Authorize or permit a local EMS agency to *unilaterally*  
31 *reduce a public safety agency's response mode below that of the*  
32 *EMS transport provider, prevent a public safety response, or alter*  
33 *the deployment of public safety emergency response resources*  
34 *within the public safety agency's territorial jurisdiction.*

35 (4) Authorize or permit a local EMS agency to prevent a public  
36 safety agency from providing mutual aid pursuant to the California  
37 Emergency Services Act (Chapter 7 (commencing with Section  
38 8550) of Division 1 of Title 2 of the Government Code).

39 (b) A public safety agency's adherence to the policies,  
40 procedures, and protocols adopted by a local EMS agency does

1 not constitute a transfer of any of the public safety agency's  
2 authorities regarding the administration of emergency medical  
3 services.

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