



Legislation Details (With Board Report)

File #: RES 17-023 **Name:** Med. Marijuana Background Check
Type: BoS Resolution **Status:** Consent Agenda
File created: 2/23/2017 **In control:** Board of Supervisors
On agenda: 3/7/2017 **Final action:**
Title: Adopt a resolution authorizing the Monterey County Sheriff’s Office to access state and federal level summaries of criminal history information for the issuance and monitoring of medical cannabis regulatory permits. (Resolution - Cannabis Permitting background checks, County-wide)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Board Report, 2. Attachment A - Draft Resolution, 3. Completed Board Order & Resolution

Date	Ver.	Action By	Action	Result
3/7/2017	1	Board of Supervisors	continued	Pass

Adopt a resolution authorizing the Monterey County Sheriff’s Office to access state and federal level summaries of criminal history information for the issuance and monitoring of medical cannabis regulatory permits. (Resolution - Cannabis Permitting background checks, County-wide)

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution (**Attachment A**) authorizing the Monterey County Sheriff’s Office to access state and federal level summaries of criminal history information for the issuance and monitoring of medical cannabis regulatory permits.

SUMMARY:

In July 2016, the Board of Supervisors adopted new regulations to require all commercial medical cannabis operations to obtain a use permit and a commercial medical cannabis business permit to operate. As a part of the application process and ongoing monitoring of the cannabis business permit, all property owners, supervisors, employees, and persons having a ten percent or more financial interest in the commercial medical cannabis activity must not have been convicted of a felony or drug related misdemeanor within the past ten (10) years. As such, the Sheriff’s Office needs to obtain criminal history to verify this information.

Penal Code Section 11105(b)(11) allows the State Attorney General, through the California Department of Justice (DOJ), to provide the criminal histories to the County if:

- Access is needed in order to assist the County in implementing a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person, and contains requirements or exclusions expressly based on that conduct; and
- The Board of Supervisors specifically authorizes the County, its officers and/or officials to access the criminal history information in order to fulfill licensing or certification duties.

Procedurally, the Sheriff’s Office collects fingerprints through the LiveScan system located at the Sheriff’s Office. Those finger prints are electronically submitted to the DOJ with a request for criminal history information. The DOJ also transmits the fingerprint images and related information to the Federal Bureau of Investigation (FBI). After the DOJ and FBI gather the criminal history information, a summary of criminal

history is provided to the Sheriff's Office.

In order to submit applicant fingerprints through Livescan to receive criminal history information, an agency must have an Originating Agency Identifier (ORI) and be authorized as a custodian of records. The Sheriff's Office already has an ORI and is an authorized custodian of records, but pursuant to above and FBI requirements the Sheriff's Office needs to amend its access permission to specifically obtain criminal history information for medical cannabis permitting.

The DOJ has provided a sample resolution containing the language and wording desired to obtain approval for summary criminal history information under the relevant Penal Codes. The attached resolution reflects the DOJ sample resolution.

The resolution must be adopted by the Board of Supervisors and accepted by the DOJ in order to obtain necessary permissions to receive criminal history information needed to fulfill permitting duties pursuant to Chapter 7.90 of the Monterey County Code.

OTHER AGENCY INVOLVEMENT:

The Resource Management Agency has assisted the Sheriff's Office in preparation of this report and the report has been reviewed by the Office of County Counsel.

FINANCING:

Funding for staff time associated with this project is included in the FY16-17 Adopted Budget for the Sheriff's Office Fund 001, Appropriation Unit SHE001 and RMA-Planning Fund 001, Appropriation Unit RMA001. The Sheriff's Office will collect a standard fee for fingerprinting services including fees charged for services by the Department of Justice. The fee is included in the adopted fee schedule for such services and no new fee schedule is required.

Prepared by: Commander Matthew Luther, Sheriff's Office

With assistance from: Craig Spencer, Senior Planner, RMA - Planning, Ext. 5233

Approved by: Stephen Bernal, Sheriff

Approved by: Carl P. Holm, AICP, RMA Director

This report was reviewed by Kelly Donlon, Deputy County Counsel.

This following attachment is on file with the Clerk of the Board:

Attachment A - Resolution

cc: Front Counter Copy; Craig Spencer, Senior Planner; Matt Luther, Commander; California Department of Justice