

House Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 63

HOUSE BILL 2073

AN ACT

AMENDING SECTIONS 8-802, 41-619.51, 41-1758, 41-1758.01 AND 46-141, ARIZONA
REVISED STATUTES; RELATING TO FINGERPRINTING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-802, Arizona Revised Statutes, is amended to
3 read:

4 8-802. Child protective services worker; fingerprint clearance
5 cards; powers and duties; alteration of files;
6 violation; classification

7 A. The department OF ECONOMIC SECURITY shall employ child protective
8 services workers. ALL PERSONS WHO ARE EMPLOYED AS CHILD PROTECTIVE SERVICES
9 WORKERS SHALL HAVE A VALID FINGERPRINT CLEARANCE CARD THAT IS ISSUED PURSUANT
10 TO TITLE 41, CHAPTER 12, ARTICLE 3.1 OR SHALL APPLY FOR A FINGERPRINT
11 CLEARANCE CARD WITHIN SEVEN WORKING DAYS OF EMPLOYMENT. A CHILD PROTECTIVE
12 SERVICES WORKER SHALL CERTIFY ON FORMS THAT ARE PROVIDED BY THE DEPARTMENT
13 OF ECONOMIC SECURITY AND THAT ARE NOTARIZED WHETHER THE WORKER IS AWAITING
14 TRIAL ON OR HAS EVER BEEN CONVICTED OF ANY OF THE CRIMINAL OFFENSES LISTED
15 IN SECTION 41-1758.03, SUBSECTIONS B AND C IN THIS STATE OR SIMILAR OFFENSES
16 IN ANOTHER STATE OR JURISDICTION. ~~The department shall not hire a person as~~
17 ~~a child protective services worker if the person has been convicted of an~~
18 ~~offense described in section 41-1758.03, subsection B or C.~~

19 B. The department may cooperate with county agencies and community
20 social services agencies to achieve the purposes of this section.

21 C. A child protective services worker shall:

22 1. Promote the safety and protection of children.

23 2. Accept, screen and assess reports of abuse or neglect pursuant to
24 section 8-817.

25 3. Receive reports of dependent, abused or abandoned children and be
26 prepared to provide temporary foster care for such children on a twenty-four
27 hour basis.

28 4. Receive from any source oral or written information regarding a
29 child who may be in need of protective services. A worker shall not
30 interview a child without the prior written consent of the parent, guardian
31 or custodian of the child unless either:

32 (a) The child initiates contact with the worker.

33 (b) The child who is interviewed is the subject of or is the sibling
34 of or living with the child who is the subject of an abuse or abandonment
35 investigation pursuant to paragraph 5, subdivision (b) of this subsection.

36 5. After the receipt of any report or information pursuant to
37 paragraph 2, 3 or 4 of this subsection, immediately do both of the following:

38 (a) Notify the municipal or county law enforcement agency.

39 (b) Make a prompt and thorough investigation of the nature, extent and
40 cause of any condition that would tend to support or refute the allegation
41 that the child should be adjudicated dependent and the name, age and
42 condition of other children in the home. An extremely serious conduct
43 allegation shall be investigated according to the protocols established
44 pursuant to section 8-817 with the appropriate municipal or county law
45 enforcement agency as provided in section 8-817.

1 6. Take a child into temporary custody as provided in section
2 8-821. Law enforcement officers shall cooperate with the department to
3 remove a child from the custody of the child's parents, guardian or custodian
4 when necessary.

5 7. After investigation, evaluate conditions created by the parents,
6 guardian or custodian that would support or refute the allegation that the
7 child should be adjudicated dependent. The child protective services worker
8 shall then determine whether any child is in need of protective services.

9 8. Offer to the family of any child who is found to be a child in need
10 of protective services those services that are designed to correct unresolved
11 problems that would indicate a reason to adjudicate the child dependent.

12 9. Submit a written report of the worker's investigation to:

13 (a) The department's case management information system within
14 twenty-one days after receipt of the initial information except as provided
15 in section 8-811. If the investigation involves allegations regarding a
16 child who at the time of the alleged incident was in the custody of a child
17 welfare agency licensed by the department of economic security under this
18 title, a copy of the report and any additional investigative or other related
19 reports shall be provided to the board of directors of the agency or to the
20 administrative head of the agency unless the incident is alleged to have been
21 committed by the person. The department shall excise all information with
22 regard to the identity of the source of the reports.

23 (b) The appropriate court forty-eight hours before a dependency
24 hearing pursuant to a petition of dependency or within twenty-one days after
25 a petition of dependency is filed, whichever is earlier. On receipt of the
26 report the court shall make the report available to all parties and counsel.

27 10. Accept a child into voluntary placement pursuant to section 8-806.

28 D. No child shall remain in temporary custody for a period exceeding
29 seventy-two hours, excluding Saturdays, Sundays and holidays, unless a
30 dependency petition is filed. If no petition is filed and the child is
31 released to the child's parent, guardian or custodian, the worker shall file
32 a report of removal with the central registry within seventy-two hours of the
33 child's release. The report shall include:

34 1. The dates of previous referrals, investigations or temporary
35 custody.

36 2. The dates on which other children in the family have been taken
37 into temporary custody.

38 E. The department shall provide child protective services workers who
39 investigate allegations of abuse and neglect with training in forensic
40 interviewing and processes, the protocols developed pursuant to section 8-817
41 and relevant law enforcement procedures. All child protective services
42 workers shall be trained in their duty to protect the legal rights of
43 children and families from the time of the initial contact through treatment.
44 The training for child protective services workers shall also include

1 instruction on the legal rights of parents and the requirements for legal
2 search and seizure by law enforcement officers.

3 F. Any person who alters a client file for the purpose of fraud or
4 misrepresentation is guilty of a class 2 misdemeanor.

5 Sec. 2. Section 41-619.51, Arizona Revised Statutes, is amended to
6 read:

7 41-619.51. Definitions

8 In this article, unless the context otherwise requires:

9 1. "Agency" means the supreme court, the department of economic
10 security, the department of education, the department of health services or
11 the department of juvenile corrections.

12 2. "Board" means the board of fingerprinting.

13 3. "Expedited review" means an examination, in accordance with board
14 rule, of the documents an applicant submits by the board or its hearing
15 officer without the applicant being present.

16 4. "Facility" or "program" means state facilities or programs that
17 provide direct services to adults with developmental disabilities or to
18 juveniles.

19 5. "Good cause exception" means the issuance of a fingerprint
20 clearance card to an employee pursuant to section 41-619.55.

21 6. "Person" means a person who is required to be fingerprinted
22 pursuant to any of the following:

23 (a) Section 8-322.

24 (b) SECTION 8-802.

25 (c) SECTION 15-183.

26 (d) Section 15-512.

27 (e) Section 15-534.

28 (f) Section 15-1330.

29 (g) Section 36-425.03.

30 (h) Section 36-594.01.

31 (i) Section 36-882.

32 (j) Section 36-883.02.

33 (k) Section 36-897.01.

34 (l) Section 36-897.03.

35 (m) Section 36-3008.

36 (n) Section 41-1964.

37 (o) Section 41-1967.01.

38 (p) Section 41-2814.

39 (q) Section 46-141, subsection A.

40 (r) Section 46-321.

41 Sec. 3. Section 41-1758, Arizona Revised Statutes, is amended to read:

42 41-1758. Definitions

43 In this article, unless the context otherwise requires:

1 1. "Agency" means the supreme court, the department of economic
2 security, the department of education, the department of health services or
3 the department of juvenile corrections.

4 2. "Division" means the fingerprinting division in the department of
5 public safety.

6 3. "Facility or program" means state facilities or programs that
7 provide direct services to adults with developmental disabilities or to
8 juveniles.

9 4. "Good cause exception" means the issuance of a fingerprint
10 clearance card to an employee pursuant to section 41-619.55.

11 5. "Person" means a person who is required to be fingerprinted
12 pursuant to any of the following:

13 (a) Section 8-322.

14 (b) SECTION 8-802.

15 ~~(b)~~ (c) Section 15-183.

16 ~~(c)~~ (d) Section 15-512.

17 ~~(d)~~ (e) Section 15-534.

18 ~~(e)~~ (f) Section 15-1330.

19 ~~(f)~~ (g) Section 36-425.03.

20 ~~(g)~~ (h) Section 36-594.01.

21 ~~(h)~~ (i) Section 36-882.

22 ~~(i)~~ (j) Section 36-883.02.

23 ~~(j)~~ (k) Section 36-897.01.

24 ~~(k)~~ (l) Section 36-897.03.

25 ~~(l)~~ (m) Section 36-3008.

26 ~~(m)~~ (n) Section 41-1964.

27 ~~(n)~~ (o) Section 41-1967.01.

28 ~~(o)~~ (p) Section 41-2814.

29 ~~(p)~~ (q) Section 46-141, subsection A.

30 ~~(q)~~ (r) Section 46-321.

31 6. "Vulnerable adult" has the same meaning prescribed in section
32 13-3623.

33 Sec. 4. Section 41-1758.01, Arizona Revised Statutes, is amended to
34 read:

35 41-1758.01. Fingerprinting division; duties

36 The fingerprinting division is established in the department of public
37 safety and shall:

38 1. Conduct fingerprint background checks for persons and applicants
39 who are seeking employment with licensees, contract providers and state
40 agencies that require fingerprint background checks pursuant to sections
41 8-322, 8-802, 15-183, 15-534, 15-1330, 36-411, 36-425.03, 36-594.01, 36-882,
42 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-1964, 41-1967.01 and 41-2814,
43 section 46-141, subsection A and section 46-321.

1 a person who does not possess or has been denied issuance of a valid
2 fingerprint clearance card or who certifies pursuant to subsections F and G
3 of this section that the person has been convicted of or is awaiting trial
4 on any of the offenses listed in section 41-1758.03, subsection C is
5 immediately prohibited from employment or service with the contract provider
6 or licensee in any capacity requiring contact with juveniles unless the
7 person is granted a good cause exception pursuant to section 41-619.55.

8 F. Personnel who are employed by any contract provider or licensee,
9 whether paid or not, and who are required or allowed to provide services
10 directly to juveniles shall certify on forms provided by the department of
11 economic security and notarized whether they are awaiting trial on or have
12 ever been convicted of any of the criminal offenses listed in section
13 41-1758.03, subsections B and C in this state or similar offenses in another
14 state or jurisdiction.

15 G. Personnel who are employed by any contract provider or licensee,
16 whether paid or not, and who are required or allowed to provide services
17 directly to juveniles shall certify on forms provided by the department of
18 economic security and notarized whether they have ever committed any act of
19 sexual abuse of a child, including sexual exploitation and commercial sexual
20 exploitation, or any act of child abuse.

21 H. Federally recognized Indian tribes or military bases may submit and
22 the department of economic security shall accept certifications that state
23 that personnel who are employed or who will be employed during the contract
24 term have not been convicted of, have not admitted committing or are not
25 awaiting trial on any offense under subsection F of this section.

26 I. A person who applies to the department of economic security for a
27 license or certificate or for paid or unpaid employment, including contract
28 services, and who will provide direct services to juveniles or vulnerable
29 adults shall submit a full set of fingerprints to the department for the
30 purpose of obtaining a state and federal criminal records check pursuant to
31 section 41-1750 and Public Law 92-544. The department of public safety may
32 exchange this fingerprint data with the federal bureau of investigation.

33 J. The special services unit of the department of economic security
34 may use the department of public safety automated system to update all
35 criminal history record information in order to ensure, to the maximum extent
36 reasonably possible, complete disposition information. The department of
37 economic security may deny employment or issuance or renewal of the contract
38 or license applied for in these cases if it determines that the criminal
39 history record information indicates that such employee, applicant or
40 contractor is not qualified or suitable.

41 K. Volunteers who provide services to juveniles under the direct
42 visual supervision of the contractor's or licensee's employees are exempt
43 from the fingerprinting requirements of this section.

44 L. The department of economic security shall notify the department of
45 public safety if the department of economic security receives credible

1 evidence that a person who possesses a valid fingerprint clearance card
2 pursuant to subsection A of this section either:

3 1. Is arrested for or charged with an offense listed in section
4 41-1758.03, subsection B.

5 2. Falsified information on the form required by subsection F of this
6 section.

7 M. SUBSECTION I DOES NOT APPLY TO PERSONS WHO SUBMIT FINGERPRINTS
8 PURSUANT TO SECTION 8-802.

9 Sec. 6. Applicability

10 Notwithstanding section 8-802, Arizona Revised Statutes, as amended by
11 this act, the department of economic security may employ a person who does
12 not have a valid fingerprint clearance card as a child protective services
13 worker if:

14 1. The person is employed by the department of economic security as
15 a child protective services worker on the effective date of this act, the
16 person applies for a fingerprint clearance card within sixty days after the
17 effective date of this act and the person's application has not been denied.

18 2. The person begins employment as a child protective services worker
19 after the effective date of this act and the person applies for a fingerprint
20 clearance card on or before the seventh day following the date the person was
21 hired and the person's application has not been denied.

APPROVED BY THE GOVERNOR APRIL 8, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 9, 2004.

Passed the House February 16, 2004,

Passed the Senate April 1, 2004,

by the following vote: 56 Ayes,
0 Nays, 4 Not Voting

by the following vote: 27 Ayes,
0 Nays, 3 Not Voting

Jake Flake
Speaker of the House

Ken Blumett
President of the Senate

Norman L. Moore
Chief Clerk of the House

Charmaine Ballinger
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
5th day of April, 2004,

at 2:40 o'clock P. M.

Jennidee Horta
Secretary to the Governor

Approved this 8 day of

Apr. 1, 2004,

at 4³⁰ o'clock P. M.

Jt. Noyth
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 9 day of April, 2004,

at 10:45 o'clock AM M.

Janice K. Brewer
Secretary of State