Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 267

HOUSE BILL 2430

AN ACT

AMENDING SECTIONS 32-2412, 32-2422, 32-2441, 32-2609, 32-2612 AND 32-2622, ARIZONA REVISED STATUTES; RELATING TO PRIVATE INVESTIGATORS AND SECURITY GUARDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 32-2412, Arizona Revised Statutes, is amended to read:

32-2412. Good cause exceptions for felony offenses

A. ~~The board may grant a good cause exception for a felony offense if ten or more years have passed since the person completed all terms of sentencing and~~ If ~~the~~ A person shows at a hearing to the board's satisfaction that the person is not awaiting trial on or has not been convicted of committing any of the offenses listed in section 41-1758.03, subsection B, ~~.~~ THE BOARD MAY GRANT A GOOD CAUSE EXCEPTION FOR THE FOLLOWING:

1. A MISDEMEANOR OFFENSE IF THE PERSON COMPLETED ALL TERMS OF SENTENCING.

2. A FELONY OFFENSE IF TEN OF MORE YEARS HAVE PASSED SINCE THE PERSON COMPLETED ALL TERMS OF SENTENCING.

B. Before granting a good cause exception at a hearing the board shall consider all of the following in accordance with board rule:

1. The extent of the person's criminal record.

2. The length of time that has elapsed since the offense was committed.

3. The nature of the offense.

4. Evidence supporting any applicable mitigating circumstances.

5. Evidence supporting the degree to which the person participated in the offense.

6. Evidence supporting the extent of the person's rehabilitation, including:

(a) Completion of probation, parole or community supervision.

(b) Whether the person paid restitution or other compensation for the offense.

(c) Evidence of positive action to change criminal behavior, such as completion of a drug treatment program or counseling.

(d) Personal references attesting to the person's rehabilitation.

~~B.~~ C. If seeking a good cause exception, at least five days before the hearing the applicant shall submit to the department any evidence the applicant will be presenting at the hearing.

Sec. 2. Section 32-2422, Arizona Revised Statutes, is amended to read:

32-2422. Qualification of applicant for agency license; substantiation of work experience

A. An applicant as a qualifying party for an agency license under this chapter shall:

1. Be at least twenty-one years of age.

2. Be a citizen or legal resident of the United States who is authorized to seek employment in the United States.

3. Not have been convicted of any felony or currently be under indictment for a felony.

4. Within the five years immediately preceding the application for an agency license, not have been convicted of any misdemeanor act involving:

(a) Personal violence or force against another person or threatening to commit any act of personal violence or force against another person.

(b) Misconduct involving a deadly weapon as provided in section 13-3102.

(c) Dishonesty or fraud.

(d) Arson.

(e) Theft.

(f) Domestic violence.

(g) A violation of title 13, chapter 34 or 34.1 or an offense that has the same elements as an offense listed in title 13, chapter 34 or 34.1.

(h) Sexual misconduct.

5. Not be on parole, on community supervision, on work furlough, on home arrest, on release on any other basis or named in an outstanding arrest warrant.

6. Not be serving a term of probation pursuant to a conviction for any act of personal violence or domestic violence, as defined in section 13-3601, or an offense that has the same elements as an offense listed in section 13-3601.

7. Not be either of the following:

(a) Adjudicated mentally incompetent.

(b) Found to constitute a danger to self or others pursuant to section 36-540.

8. Not have a disability as defined in section 41-1461, unless that person is a qualified individual as defined in section 41-1461.

9. Not have been convicted of acting or attempting to act as a private investigation agency or a private investigator without a license if a license was required.

10. Have had a minimum of three years of full-time investigative experience or the equivalent of three years of full-time investigative experience that consists of actual work performed as an investigator for a private concern, for the federal government or for a state, county or municipal government.

11. NOT BE A REGISTERED SEX OFFENDER.

B. If the applicant for an agency license is a firm, partnership, association or corporation, the qualifications required by subsection A of this section are required of the individual in active management who shall be the qualifying party of the firm, partnership, association or corporation.

C. Applicants for an agency license shall substantiate investigative work experience claimed as years of qualifying experience and provide the exact details as to the character and nature of the experience on a form prescribed by the department and certified by the employers. On written request, an employer shall submit to the employee a written certification of prior work experience within thirty days. The written certification is

subject to independent verification by the director. If an employer goes out of business, the employer shall provide all employees with a complete and accurate record of their work history. If applicants are unable to supply written certification from an employer in whole or in part, applicants may offer written certification from persons other than an employer covering the same subject matter for consideration by the department. The burden of proving the minimum years of experience is on the applicant.

D. The department may deny an agency license if the department determines that the applicant does not meet the requirements of this section.

Sec. 3. Section 32-2441, Arizona Revised Statutes, is amended to read:

32-2441. Qualification of applicant for associate or employee registration

An applicant for an associate or employee registration certificate shall:

1. Be at least eighteen years of age.

2. Be a citizen or legal resident of the United States who is authorized to seek employment in the United States.

3. Not have been convicted of any felony or currently be under indictment for a felony.

4. Within the five years immediately preceding the application for an associate or employee registration certificate, not have been convicted of any misdemeanor act involving:

(a) Personal violence or force against another person or threatening to commit any act of personal violence or force against another person.

(b) Misconduct involving a deadly weapon as provided in section 13-3102.

(c) Dishonesty or fraud.

(d) Arson.

(e) Theft.

(f) Domestic violence.

(g) A violation of title 13, chapter 34 or 34.1 or an offense that has the same elements as an offense listed in title 13, chapter 34 or 34.1.

(h) Sexual misconduct.

5. Not be on parole, on community supervision, on work furlough, on home arrest, on release on any other basis or named in an outstanding arrest warrant.

6. Not be serving a term of probation pursuant to a conviction for any act of personal violence or domestic violence, as defined in section 13-3601, or an offense that has the same elements as an offense listed in section 13-3601.

7. Not be either of the following:

(a) Adjudicated mentally incompetent.

(b) Found to constitute a danger to self or others pursuant to section 36-540.

8. Not have a disability as defined in section 41-1461, unless that person is a qualified individual as defined in section 41-1461.

9. Not have been convicted of acting or attempting to act as a private investigator without a license if a license was required.

10. NOT BE A REGISTERED SEX OFFENDER.

Sec. 4. Section 32-2609, Arizona Revised Statutes, is amended to read:

32-2609. Good cause exceptions for felony offenses

A. ~~The board may grant a good cause exception for a felony offense if ten or more years have passed since the person completed all terms of sentencing and~~ If ~~the~~ A person shows at a hearing to the board's satisfaction that the person is not awaiting trial on or has not been convicted of committing any of the offenses listed in section 41-1758.03, subsection B, ~~.~~ THE BOARD MAY GRANT A GOOD CAUSE EXCEPTION FOR THE FOLLOWING:

1. A MISDEMEANOR OFFENSE IF THE PERSON COMPLETED ALL TERMS OF SENTENCING.

2. A FELONY OFFENSE IF TEN OF MORE YEARS HAVE PASSED SINCE THE PERSON COMPLETED ALL TERMS OF SENTENCING.

B. Before granting a good cause exception at a hearing the board shall consider all of the following in accordance with board rule:

1. The extent of the person's criminal record.

2. The length of time that has elapsed since the offense was committed.

3. The nature of the offense.

4. Evidence supporting any applicable mitigating circumstances.

5. Evidence supporting the degree to which the person participated in the offense.

6. Evidence supporting the extent of the person's rehabilitation, including:

(a) Completion of probation, parole or community supervision.

(b) Whether the person paid restitution or other compensation for the offense.

(c) Evidence of positive action to change criminal behavior, such as completion of a drug treatment program or counseling.

(d) Personal references attesting to the person's rehabilitation.

~~B.~~ C. If seeking a good cause exception, at least five days before the hearing the applicant shall submit to the department any evidence the applicant will be presenting at the hearing.

Sec. 5. Section 32-2612, Arizona Revised Statutes, is amended to read:

32-2612. Qualifications of applicant for agency license; substantiation of work experience

A. Each applicant, if an individual, or each associate, director or manager, if the applicant is other than an individual, for an agency license to be issued pursuant to this chapter shall:

1. Be at least twenty-one years of age.

2. Be a citizen or a legal resident of the United States who is authorized to seek employment in the United States.

3. Not have been convicted of any felony or currently be under indictment for a felony.

4. Within the five years immediately preceding the application for an agency license, not have been convicted of any misdemeanor act involving:

(a) Personal violence or force against another person or threatening to commit any act of personal violence or force against another person.

(b) Misconduct involving a deadly weapon as provided in section 13-3102.

(c) Dishonesty or fraud.

(d) Arson.

(e) Theft.

(f) Domestic violence.

(g) A violation of title 13, chapter 34 or 34.1 or an offense that has the same elements as an offense listed in title 13, chapter 34 or 34.1.

(h) Sexual misconduct.

5. Not be on parole, on community supervision, on work furlough, on home arrest, on release on any other basis or named in an outstanding arrest warrant.

6. Not be serving a term of probation pursuant to a conviction for any act of personal violence or domestic violence, as defined in section 13-3601, or an offense that has the same elements as an offense listed in section 13-3601.

7. Not be either of the following:

(a) Adjudicated mentally incompetent.

(b) Found to constitute a danger to self or others or to be persistently or acutely disabled or gravely disabled pursuant to section 36-540.

8. Not have a disability as defined in section 41-1461, unless that person is a qualified individual as defined in section 41-1461.

9. Not have been convicted of acting or attempting to act as a security guard or a security guard agency without a license if a license was required.

10. NOT BE A REGISTERED SEX OFFENDER.

B. The qualifying party for an agency license and the resident manager, if a resident manager is required pursuant to section 32-2616, shall have at least three years of full-time experience as a manager, supervisor or administrator of a security guard agency or three years of full-time supervisory experience with any federal, United States military, state, county or municipal law enforcement agency. The qualifying party for an agency license and the resident manager, if a resident manager is required pursuant to section 32-2616, must substantiate managerial work experience claimed as years of qualifying experience and provide the exact details as to the character and nature of the experience on a form prescribed by the

department and certified by the employer. On written request, an employer shall submit to the employee a written certification of prior work experience within thirty calendar days. The written certification is subject to independent verification by the department. If an employer goes out of business, the employer shall provide registered employees with a complete and accurate record of their work history. If an applicant is unable to supply written certification from an employer in whole or in part, the applicant may offer written certification from persons other than an employer covering the same subject matter for consideration by the department. The burden of proving the minimum years of experience is on the applicant.

C. The department may deny an agency license if the department determines that the applicant is unfit based on a conviction, citation or encounter with law enforcement for a statutory violation.

Sec. 6. Section 32-2622, Arizona Revised Statutes, is amended to read:

32-2622. Qualifications of applicant for associate, security guard or armed security guard registration certificate

A. An applicant for an associate or a security guard registration certificate issued pursuant to this article shall:

1. Be at least eighteen years of age.

2. Be a citizen or legal resident of the United States who is authorized to seek employment in the United States.

3. Not have been convicted of any felony or currently be under indictment for a felony.

4. Within the five years immediately preceding the application for an associate, security guard or armed security guard registration certificate, not have been convicted of any misdemeanor act involving:

(a) Personal violence or force against another person or threatening to commit any act of personal violence or force against another person.

(b) Misconduct involving a deadly weapon as provided in section 13-3102.

(c) Dishonesty or fraud.

(d) Arson.

(e) Theft.

(f) Domestic violence.

(g) A violation of title 13, chapter 34 or 34.1 or an offense that has the same elements as an offense listed in title 13, chapter 34 or 34.1.

(h) Sexual misconduct.

5. Not be on parole, on community supervision, on work furlough, on home arrest, on release on any other basis or named in an outstanding arrest warrant.

6. Not be serving a term of probation pursuant to a conviction for any act of personal violence or domestic violence, as defined in section 13-3601, or an offense that has the same elements as an offense listed in section 13-3601.

7. Not be either of the following:
(a) Adjudicated mentally incompetent.
(b) Found to constitute a danger to self or others pursuant to section 36-540.
8. Not have a disability as defined in section 41-1461, unless that person is a qualified individual as defined in section 41-1461.
9. Not have been convicted of acting or attempting to act as an associate security guard or armed security guard without a license if a license was required.
10. NOT BE A REGISTERED SEX OFFENDER.
B. An applicant for an armed security guard registration certificate issued pursuant to this chapter shall:
1. Meet the requirements of subsection A of this section.
2. Successfully complete all background screening and training requirements.
3. Not be a prohibited possessor as defined in section 13-3101 or as described in 18 United States Code section 922.
4. Not have been discharged from the armed services of the United States under other than honorable conditions.
5. Not have been convicted of any crime involving domestic violence as defined in section 13-3601.

APPROVED BY THE GOVERNOR APRIL 17, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2012.

Passed the House February 7, 2012

by the following vote: 56 Ayes,

0 Nays, 3 Not Voting 1 vacant

Speaker of the House

Chief Clerk of the House

Passed the Senate April 10, 2012

by the following vote: 27 Ayes,

3 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary to the Governor

Approved this _____day of

_____

at _____o'clock _____M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary of State

HOUSE CONCURS IN SENATE AMENDMENTS AND FINAL PASSAGE

April 12, 2012,

by the following vote: 50 Ayes,

0 Nays, 9 Not Voting 1 vacant

Speaker of the House

Cheryl Laube

Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

12 day of April, 2012,

at 1:20 o'clock P M.

Secretary to the Governor

Approved this 17th day of

April, 2012

at 11:20 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 17th day of April, 2012,

at 3:36 o'clock P M.

Secretary of State

H.B. 2430