

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

Senate Engrossed
FILED
KEN BENNETT
SECRETARY OF STATE

CHAPTER 81

SENATE BILL 1038

AN ACT

AMENDING SECTION 41-2814, ARIZONA REVISED STATUTES; RELATING TO THE
DEPARTMENT OF JUVENILE CORRECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-2814, Arizona Revised Statutes, is amended to
3 read:

4 41-2814. Fingerprinting personnel; exception; violation;
5 classification; definition

6 A. All employees of the department and all contract service providers
7 that provide services primarily on department premises shall be
8 fingerprinted. These individuals shall submit fingerprints and the form
9 prescribed in subsection F of this section within seven days after the date
10 of employment. Employment with the department is conditioned on the results
11 of the fingerprint check. Fingerprint checks shall be conducted pursuant to
12 section 41-1750, subsection G, paragraph 1.

13 B. Except as provided in subsection A of this section, a paid or
14 unpaid employee of a licensee or contract provider who has direct contact
15 with committed youth shall have a valid fingerprint clearance card issued
16 pursuant to chapter 12, article 3.1 of this title or shall apply for a
17 fingerprint clearance card within seven days of beginning employment.

18 C. A service contract or license with any contract provider or
19 licensee that involves the employment of persons who have direct contact with
20 committed youth shall provide that the contract or license may be canceled or
21 terminated immediately if a person certifies pursuant to subsection F of this
22 section that the person is awaiting trial on or has been convicted of any of
23 the offenses listed in subsection F of this section in this jurisdiction or
24 acts committed in another jurisdiction that would be offenses in this
25 jurisdiction or if the person does not possess or is denied issuance of a
26 valid fingerprint clearance card.

27 D. A contract provider or licensee may avoid cancellation or
28 termination of the contract or license under subsection C of this section if
29 a person who does not possess or has been denied issuance of a valid
30 fingerprint clearance card or who certifies pursuant to subsection F of this
31 section that the person has been convicted of or is awaiting trial on any of
32 the offenses listed in subsection F, paragraphs 1, 2, 3, 6, 7, 9, 15 ~~through~~,
33 16, 17, 18 and 21 of this section is immediately prohibited from employment
34 or service with the contract provider or licensee in any capacity requiring
35 or allowing direct contact with committed youth.

36 E. A contract provider or licensee may avoid cancellation or
37 termination of the contract or license under subsection C of this section if
38 a person who does not possess or has been denied issuance of a valid
39 fingerprint clearance card or who certifies pursuant to subsection F of this
40 section that the person has been convicted of or is awaiting trial on any of
41 the offenses listed in subsection F, paragraphs 4, 5, 8, 10 ~~through~~, 11, 12,
42 13, 14, 19, 20, 22 and 23 of this section is immediately prohibited from
43 employment or service with the contract provider or licensee in any capacity

1 requiring or allowing direct contact with committed youth unless the employee
2 is granted a good cause exception pursuant to section 41-619.55.

3 F. Personnel who are employed by the department and contract personnel
4 who have direct contact with committed youth shall certify on forms provided
5 by the department and notarized whether they are awaiting trial on or have
6 ever been convicted of or committed any of the following criminal offenses in
7 this state or similar offenses in another state or jurisdiction:

- 8 1. Sexual abuse of a minor.
- 9 2. Incest.
- 10 3. First or second degree murder.
- 11 4. Kidnapping.
- 12 5. Arson.
- 13 6. Sexual assault.
- 14 7. Sexual exploitation of a minor.
- 15 8. Felony offenses involving contributing to the delinquency of a
16 minor.
- 17 9. Commercial sexual exploitation of a minor.
- 18 10. Felony offenses involving sale, distribution or transportation of,
19 offer to sell, transport or distribute or conspiracy to sell, transport or
20 distribute marijuana, dangerous drugs or narcotic drugs.
- 21 11. Felony offenses involving the possession or use of marijuana,
22 dangerous drugs or narcotic drugs.
- 23 12. Burglary.
- 24 13. Aggravated or armed robbery.
- 25 14. Robbery.
- 26 15. A dangerous crime against children as defined in section 13-705.
- 27 16. Child abuse.
- 28 17. Sexual conduct with a minor.
- 29 18. Molestation of a child.
- 30 19. Manslaughter.
- 31 20. Assault or aggravated assault.
- 32 21. Exploitation of minors involving drug offenses.
- 33 22. A violation of section 28-1381, 28-1382 or 28-1383.
- 34 23. Offenses involving domestic violence.

35 G. The department shall make documented, good faith efforts to contact
36 previous employers of personnel to obtain information or recommendations that
37 may be relevant to an individual's fitness for employment.

38 H. Hospital employees, licensed medical personnel, staff and
39 volunteers who provide services to juveniles in a health care facility
40 located outside the secure care facility and who are under the direct visual
41 supervision as is medically reasonable of the department's employees or the
42 department's contracted security employees are exempt from the requirements
43 of this section.

1 I. NOTWITHSTANDING SUBSECTIONS B, C, D AND E OF THIS SECTION, THE
2 DIRECTOR MAY ALLOW A PAID OR UNPAID EMPLOYEE OF A LICENSEE OR CONTRACT
3 PROVIDER WHO HAS BEEN CONVICTED OF AN OFFENSE LISTED IN SUBSECTION F,
4 PARAGRAPH 11 OR 22 OF THIS SECTION TO HAVE DIRECT CONTACT WITH COMMITTED
5 YOUTH IF THE DIRECTOR FINDS THAT THE PERSON IS SUCCESSFULLY REHABILITATED.
6 IN DETERMINING WHETHER A PERSON IS SUCCESSFULLY REHABILITATED, THE DIRECTOR:
7 1. MAY REQUIRE THE PERSON TO DISCLOSE EVIDENCE REGARDING SUBSTANTIATED
8 ALLEGATIONS OF NEGLECT OR CHILD OR VULNERABLE ADULT ABUSE PURSUANT TO SECTION
9 13-3623.

10 2. SHALL CONSIDER ALL OF THE FOLLOWING:

11 (a) THE EXTENT OF THE PERSON'S CRIMINAL RECORD.

12 (b) THE LENGTH OF TIME THAT HAS ELAPSED SINCE THE OFFENSE WAS
13 COMMITTED.

14 (c) THE NATURE OF THE OFFENSE.

15 (d) ANY APPLICABLE MITIGATING CIRCUMSTANCES.

16 (e) THE EXTENT OF THE PERSON'S REHABILITATION, INCLUDING:

17 (i) THE COMPLETION OF PROBATION, PAROLE OR COMMUNITY SUPERVISION.

18 (ii) WHETHER THE PERSON PAID RESTITUTION OR ANY OTHER COMPENSATION FOR
19 THE OFFENSE.

20 (iii) ANY EVIDENCE OF POSITIVE ACTION TO CHANGE CRIMINAL BEHAVIOR
21 INCLUDING COMPLETION OF A DRUG TREATMENT PROGRAM OR COUNSELING.

22 (iv) ANY PERSONAL REFERENCES ATTESTING TO THE PERSON'S REHABILITATION.

23 ~~I~~. J. The department of juvenile corrections shall notify the
24 department of public safety if the department of juvenile corrections
25 receives credible evidence that a person who possesses a valid fingerprint
26 clearance card either:

27 1. Is arrested for or charged with an offense listed in section
28 41-1758.03, subsection B.

29 2. Falsified information on the form required by subsection F of this
30 section.

31 ~~J~~. K. A person who makes a false statement, representation or
32 certification in an application for employment with the department is guilty
33 of a class 3 misdemeanor.

34 ~~K~~. L. For the purposes of this section, "employee" means paid and
35 unpaid personnel who have direct contact with committed youth.

APPROVED BY THE GOVERNOR MARCH 27, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 27, 2012.

Passed the House March 20, 2012,

by the following vote: 45 Ayes,

12 Nays, 3 Not Voting

[Signature]
Speaker of the House

Cheryl Laube
Chief Clerk of the House

Passed the Senate January 19, 2012,

by the following vote: 26 Ayes,

2 Nays, 1 Not Voting

1 Vacant
Structure 2
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

21 day of March, 2012,

at 11:20 o'clock A M.

[Signature]
Secretary to the Governor

Approved this 27th day of

March, 2012;

at 2:28 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 27th day of March, 2012,

at 5:12 o'clock P. M.

[Signature]
Secretary of State

S.B. 1038