Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

CHAPTER 174

HOUSE BILL 2441

AN ACT

AMENDING SECTIONS 15-106, 41-1758 AND 41-1758.01, ARIZONA REVISED STATUTES; RELATING TO FINGERPRINTING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 15-106, Arizona Revised Statutes, is amended to read:

15-106. Identity verified fingerprints

~~Beginning on January 1, 2008,~~ An applicant who applies for a new teaching certificate in order to teach in a school district, a participant in field experience or student teaching in this state, an applicant who applies for a renewal of an existing teaching certificate in order to continue teaching in a school district, an applicant who is required for the first time to be fingerprinted in order to teach in a charter school and an applicant who is required to renew fingerprints in order to continue teaching in a charter school pursuant to section 15-183, an applicant who is required to be fingerprinted pursuant to section 15-512 and any person who is contracted by this state, by a school district or by a charter school to provide tutoring services shall submit for an identity verified fingerprint card that will be used by the department of public safety to process the fingerprint clearance card pursuant to title 41, chapter 12, article 3.1 as follows:

1. The applicant shall submit a request for an application packet from the department of public safety.

2. The application packet shall be contained in an envelope specified by the department of public safety and shall include the following:

(a) A blank applicant fingerprint card.

(b) An application for a fingerprint clearance card.

(c) Instructions for the return of the application packet.

3. A school district or charter school may contract for fingerprinting services through an entity or entities and shall provide a copy of the instructions to the entity or entities as provided by the department of public safety regarding the submission of identity verified fingerprints. If a school district or charter school elects to provide fingerprinting services, the school district or charter school shall authorize an individual employed by the school district or charter school to administer the services.

4. The department of public safety shall provide instructions to law enforcement agencies and public schools regarding the submission of identity verified fingerprints. The department of public safety shall reject the application for a fingerprint clearance card if the application is not correct or is not submitted according to the instructions provided by the department of public safety.

5. The applicant, at the time that identity verified fingerprints are taken, shall provide the law enforcement agency, school district, charter school or other entity with a completed application form for a fingerprint clearance card, the fingerprint card with the requisite demographic information and the required fee in the form of a money order or cashier's check made out to the department of public safety. The law enforcement agency, school district, charter school or other entity shall verify the

identity of the applicant through recognized means of photographic identification and a comparison of the demographic information on the photographic identification against the demographic information on the application form and the fingerprint card. The authorized person taking the fingerprints shall enter on the application form a description of the photographic identification presented by the applicant. The law enforcement agency, school district, charter school or other entity shall place the completed fingerprint card, THE completed application form or any other form required by the department of public safety and the fee provided by the applicant in the postage prepaid envelope provided by the department of public safety and mail it to the fingerprinting division in the department of public safety. A law enforcement agency, school district, charter school or other entity may charge the applicant a reasonable fee for services provided pursuant to this section.

6. FINGERPRINTS SUBMITTED ELECTRONICALLY OR THROUGH AN INTERNET-BASED SYSTEM PURSUANT TO SECTION 41-1758.01 SHALL INCLUDE A COMPLETED APPLICATION FOR A FINGERPRINT CLEARANCE CARD, THE REQUISITE APPLICANT DEMOGRAPHIC INFORMATION AND THE REQUIRED FEE, AND SHALL BE IDENTITY VERIFIED IN ACCORDANCE WITH INSTRUCTIONS PROVIDED BY THE DEPARTMENT OF PUBLIC SAFETY. THE DEPARTMENT SHALL REJECT THE APPLICATION FOR A FINGERPRINT CLEARANCE CARD IF THE APPLICATION IS NOT CORRECT OR IS NOT SUBMITTED ACCORDING TO THE DEPARTMENT'S INSTRUCTIONS. THE ENTITY OR ENTITIES CONTRACTED BY THE DEPARTMENT SHALL COMPLY WITH:

(a) ALL INFORMATION PRIVACY AND SECURITY MEASURES AND SUBMISSION STANDARDS ESTABLISHED BY THE DEPARTMENT.

(b) THE INFORMATION TECHNOLOGY SECURITY POLICY APPROVED BY THE DEPARTMENT.

~~6.~~ 7. The department of public safety shall process the application packet in the same manner prescribed for fingerprint clearance cards issued pursuant to title 41, chapter 12, article 3.1.

~~7.~~ 8. The department of public safety shall provide for digital storage and retrieval of identity verified fingerprints taken pursuant to this section. The fingerprints taken pursuant to this section shall be digitally designated in the fingerprint archive as identity verified fingerprint records.

~~8.~~ 9. A person who has a set of identity verified fingerprints on file with the department of public safety pursuant to this section shall not be required to submit a new set of fingerprints to the department of public safety to renew the person's fingerprint clearance card. On receipt of the required application form and fee for a renewal fingerprint clearance card from a person required to submit identity verified fingerprints, the department of public safety shall attempt to use the electronic copy of the applicant's identity verified fingerprints that are retained pursuant to this section to conduct the state and national criminal records checks. The department of public safety may require the applicant to submit a new set of

identity verified fingerprints if the department of public safety determines that the original fingerprints submitted have been lost or damaged or are found to be otherwise of insufficient quality to conduct a valid technical fingerprint search either by the department of public safety or the federal bureau of investigation.

~~9.~~ 10. A person who participates in a teacher preparation program that is approved by the state board of education and who does not participate in field experience or student teaching in this state shall not be required to obtain a fingerprint clearance card pursuant to this section.

Sec. 2. Section 41-1758, Arizona Revised Statutes, is amended to read:

41-1758. Definitions

In this article, unless the context otherwise requires:

1. "Agency" means the supreme court, the department of economic security, the department of education, the department of health services, the department of juvenile corrections, the department of emergency and military affairs, the department of transportation, the state real estate department, the board of fingerprinting or the board of examiners of nursing care institution administrators and assisted living facility managers.

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

3. "ELECTRONIC OR INTERNET-BASED FINGERPRINTING SERVICES" MEANS A SECURE SYSTEM FOR DIGITIZING APPLICANT FINGERPRINTS AND TRANSMITTING THE APPLICANT DATA AND FINGERPRINTS OF A PERSON OR ENTITY SUBMITTING FINGERPRINTS TO THE DEPARTMENT OF PUBLIC SAFETY FOR ANY AUTHORIZED PURPOSE UNDER THIS TITLE. FOR THE PURPOSES OF THIS PARAGRAPH, "SECURE SYSTEM" MEANS A SYSTEM THAT COMPLIES WITH THE INFORMATION TECHNOLOGY SECURITY POLICY APPROVED BY THE DEPARTMENT OF PUBLIC SAFETY.

~~3.~~ 4. "Good cause exception" means the issuance of a fingerprint clearance card to an employee pursuant to section 41-619.55.

~~4.~~ 5. "Person" means a person who is required to be fingerprinted pursuant to any of the following:

(a) Section 8-105.
(b) Section 8-322.
(c) Section 8-509.
(d) Section 8-802.
(e) Section 15-183.
(f) Section 15-503.
(g) Section 15-512.
(h) Section 15-534.
(i) Section 15-782.02.
(j) Section 15-1330.
(k) Section 15-1881.
(l) SECTION 17-215.
~~(l)~~ (m) Section 26-103.
~~(m)~~ (n) Section 32-2108.01.

~~(n)~~ (o) Section 32-2123.
~~(o)~~ (p) Section 32-2371.
~~(p)~~ (q) Section 36-207.
~~(q)~~ (r) Section 36-411.
~~(r)~~ (s) Section 36-425.03.
~~(s)~~ (t) Section 36-446.04.
~~(t)~~ (u) Section 36-594.01.
~~(u)~~ (v) Section 36-594.02.
~~(v)~~ (w) Section 36-882.
~~(w)~~ (x) Section 36-883.02.
~~(x)~~ (y) Section 36-897.01.
~~(y)~~ (z) Section 36-897.03.
~~(z)~~ (aa) Section 36-3008.
~~(aa)~~ (bb) Section 41-619.52.
~~(bb)~~ (cc) Section 41-619.53.
~~(cc)~~ (dd) Section 41-1964.
~~(dd)~~ (ee) Section 41-1967.01.
~~(ee)~~ (ff) Section 41-1968.
~~(ff)~~ (gg) Section 41-1969.
~~(gg)~~ (hh) Section 41-2814.
~~(hh)~~ (ii) Section 46-141, subsection A.
~~(ii)~~ (jj) Section 46-321.

~~5.~~ 6. "Vulnerable adult" has the same meaning prescribed in section 13-3623.

Sec. 3. Section 41-1758.01, Arizona Revised Statutes, is amended to read:

41-1758.01. Fingerprinting division; duties

A. The fingerprinting division is established in the department of public safety and shall:

1. Conduct fingerprint background checks for persons and applicants who are seeking licenses from state agencies, employment with licensees, contract providers and state agencies or employment or educational opportunities with agencies that require fingerprint background checks pursuant to sections 8-105, 8-322, 8-509, 8-802, 15-183, 15-503, 15-512, 15-534, 15-782.02, 15-1330, 15-1881, 17-215, 26-103, 32-2108.01, 32-2123, 32-2371, 36-207, 36-411, 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 and 41-2814, section 46-141, subsection A and section 46-321.

2. Issue fingerprint clearance cards. On issuance, a fingerprint clearance card becomes the personal property of the cardholder and the cardholder shall retain possession of the fingerprint clearance card.

3. On submission of an application for a fingerprint clearance card, collect the fees established by the board of fingerprinting pursuant to

section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the monies collected in the board of fingerprinting fund.

4. Inform in writing each person who submits fingerprints for a fingerprint background check of the person's right to petition the board of fingerprinting for a good cause exception pursuant to sections 41-1758.03 and 41-1758.07.

5. Administer and enforce this article.

B. THE FINGERPRINTING DIVISION MAY CONTRACT FOR ELECTRONIC OR INTERNET-BASED FINGERPRINTING SERVICES THROUGH AN ENTITY OR ENTITIES FOR THE ACQUISITION AND TRANSMISSION OF APPLICANT FINGERPRINT AND DATA SUBMISSIONS TO THE DEPARTMENT, INCLUDING IDENTITY VERIFIED FINGERPRINTS PURSUANT TO SECTION 15-106. THE ENTITY OR ENTITIES CONTRACTED BY THE DEPARTMENT OF PUBLIC SAFETY MAY CHARGE THE APPLICANT A FEE FOR SERVICES PROVIDED PURSUANT TO THIS ARTICLE. THE ENTITY OR ENTITIES CONTRACTED BY THE DEPARTMENT OF PUBLIC SAFETY SHALL COMPLY WITH:

1. ALL INFORMATION PRIVACY AND SECURITY MEASURES AND SUBMISSION STANDARDS ESTABLISHED BY THE DEPARTMENT OF PUBLIC SAFETY.

2. THE INFORMATION TECHNOLOGY SECURITY POLICY APPROVED BY THE DEPARTMENT OF PUBLIC SAFETY.

Sec. 4. Emergency

This act is an emergency measure that is necessary to preserve the public peace, health or safety and is operative immediately as provided by law.

APPROVED BY THE GOVERNOR MAY 2, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 2, 2013.

Passed the House February 20, 2013

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

with Emergency

Speaker of the House

Pro Tempore

Cheryl Laube

Chief Clerk of the House

Passed the Senate April 10, 2013

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting

with Emergency

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

H.B. 2441

HOUSE CONCURS IN SENATE AMENDMENTS AND FINAL PASSAGE

April 30, 2013,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

with Emergency

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

30 day of April, 2013,

at 2:40 o'clock P M.

Mikhaila Howard

Secretary to the Governor

Approved this 2nd day of

May, 2013,

at 2:56 o'clock P. M.

Janice K. Brewer

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 2nd day of May, 2013,

at 4:55 o'clock P M.

Jim Drake

acting Secretary of State

H.B. 2441