



ARIZONA STATE SENATE
Fifty-Second Legislature, Second Regular Session

AMENDED

FACT SHEET FOR S.B. 1238

advisory council; Indian health care

Purpose

Modifies the membership and duties of the Advisory Council on Indian Health Care (Council). Permits an authorized tribe to request federal name-based fingerprint background checks for emergency child placement.

Background

The Advisory Council on Indian Health Care (Council) provides technical assistance to tribal governments on health care initiatives. The Council is required to annually notify the director of the Arizona Health Care Cost Containment System of the amount of appropriation required for the Council for the following fiscal year (A.R.S. § 36-2902.02)

On September 14, 2006, Governor Janet Napolitano signed Executive Order 2006-14. The executive order required all executive branch agencies to develop and implement tribal consultation policies to guide their work and interactions with federally recognized Tribes in Arizona and designate a member of staff to assume responsibility for the agency's implementation of the tribal consultation policy. The consultation policies should require state agencies and offices to seek and integrate input from tribal officials before undertaking a policy believed to have an effect on a tribal community or its members. Annually executive agencies must review their tribal consultation policies and submit a report to the Governor, Legislature and Arizona Commission of Indian Affairs.

The National Crime Prevention and Privacy Compact (Compact) of 1988 established an infrastructure by which states are able to exchange criminal records for noncriminal justice purposes according to the laws of the requesting state. To date, 30 states have ratified the compact. The Compact established a Council to promote rules and procedures for the use of the Interstate Identification Index (Index) for noncriminal justice purposes. The Compact Council, as a national independent authority, works in partnership with criminal history record custodians, end users and policy makers to regulate and facilitate the sharing of complete, accurate and timely criminal history record information to noncriminal justice users.

Article V of the Compact mandates that fingerprint submission is done contemporaneously with the request for criminal history information. Under exigent circumstances, a delayed fingerprint submission may be permissible with approval by the Compact Council and a preliminary Index name based check may be made pending the receipt of

delayed submission of the fingerprints. The state repository may authorize terminal access to authorized agencies designated by the state, to enable them to conduct such checks.

Applications must be sent to the Compact Council Chairman and include information to fully describe the emergency nature of the situation in which delayed submission authority is being sought, the risk to health and safety of the individuals involved and the reasons why the submission of fingerprints contemporaneously with the search request is not feasible. In evaluating requests, the Compact Council must consider the risk to health and safety and the emergency nature of the request.

Pursuant to A.R.S. § 41-1750, the Department of Public Safety (DPS) is responsible for the effective operation of the state repository in order to collect, store and disseminate complete and accurate Arizona criminal history records and related criminal justice information.

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Requires the Council to assist tribes and urban Indian health organizations to develop medical and public health care delivery and financing systems to meet the needs of the American Indian Tribes in Arizona by:
 - a) recommending new Medicare and Medicaid programs, services, funding options, policies and demonstration projects to meet the needs of the tribes and urban Indian health organizations on and off reservations;
 - b) facilitate communications, planning, advocacy and discussion among tribes and urban Indian health organizations with state and federal agencies;
 - c) recommend and advocate tribal, state and federal policy and legislation supporting medical and public health care delivery and financing systems for tribes and urban Indian health organizations with state and federal agencies;
 - d) conduct and commission studies and research to further promote the purpose of the Council and address disparities in Indian health care;
 - e) conduct public hearings for recommendations and input from the tribal populations; and
 - f) seek grants, contracts and funding.
2. Amends membership to include the following:
 - a) 22 representatives of the federally recognized American Indian Tribes;
 - b) one representative from the Inter Tribal Council of Arizona;
 - c) one representative from an urban Indian health organization that receives Indian health services funding from the federal government for Indian health care; and
 - d) one representative from the Arizona Early Childhood Development and Health Board.
3. Modifies the name to Arizona Advisory Council on Indian Health Care.
4. Requires the Council to give representation in Arizona to tribal governments, tribal organizations and urban Indian health care organizations in shaping Medicaid, health care policies and laws that impact the populations they serve.

5. Stipulates the majority of the Council members shall be members of federally recognized American Indian Tribes in this state.
6. Requires the Council to invite federal representatives from Medicare, Medicaid, Indian health services, the Social Security Administration and the Department of Veterans Affairs to serve as technical advisors and ex officio members for a three-year term.
7. Stipulates that members be appointed from federally recognized American Indian Tribes, Inter Tribal Council of Arizona and the urban Indian health organization will serve staggered three-year terms and three unexcused absences constitutes vacating individual membership.
8. Requires a chairperson and vice chairperson selected from members appointed from federally recognized American Indian Tribes, the Inter Tribal Council of Arizona or the Urban Indian Health Organization and from a federally recognized American Indian Tribe in Arizona.
9. Stipulates elections be held on the second Monday in July every other year for a two-year term.
10. Stipulates the Arizona Advisory Council on Indian Health Care to contact each tribe to solicit recommendations for expiring terms and makes the recommendation from each tribe permissive.
11. Allows existing members to continue to serve until the expiration of their normal terms.
12. Permits an authorized tribe to request that each person who is at least eighteen years of age and who is residing in a home where a potential emergency placement is to be made consent to the following:
 - a) a preliminary state and federal name-based background check; and
 - b) submission of a full set of fingerprints to DPS for the purpose of obtaining a state and federal criminal records check within fifteen days after the date that the name-based background check is conducted.
13. Permits DPS to exchange fingerprint data obtained with the Federal Bureau of Investigation.
14. Requires an adult consenting to name-based and fingerprint background checks to submit to an authorized tribe a full set of fingerprints and written permission authorizing the authorized tribe to submit the fingerprints to DPS for the processing of the state and federal criminal records check.
15. Stipulates DPS is required to provide the results of the name-based and fingerprint background checks to the authorized tribe that submitted the request.
16. Permits an authorized tribe to place the child in the home pending the outcome of the fingerprint background check if a name-based background check demonstrates that none of the adults residing in the home where the emergency placement is to be made has been convicted of a disqualifying criminal offense.

17. Prohibits an authorized tribe from placing the child in a home in which the adult resides if that adult refuses to consent to the authorized tribe's request for name-based and fingerprint background checks and stipulates if a child is already placed in a home where an adult refuses to consent the child must be removed immediately.
18. Prohibits an authorized tribe from making an emergency placement or continuing an emergency placement in a home in which an adult resident has been convicted of a disqualifying criminal offense.
19. Stipulates if emergency placement is denied as a result of a name-based background check the adult resident is permitted to request within 15 calendar days after the denial, submit a complete set of fingerprints for the purpose of obtaining a state and federal criminal records.
20. Defines:
 - a) *authorized tribe* as the tribal child safety unit, or its designee, that is responsible for overseeing foster care licensing for an Indian tribe located in this state and that has a valid tribal fingerprint program user agreement with DPS;
 - b) *disqualifying criminal offense* as any offense that precludes an individual from obtaining a level I fingerprint clearance card; and
 - c) *emergency placement* as an instance in which the Department or an authorized tribe provides protective services and places a child in the home of private individuals, including family, neighbors or friends of the child.
21. Makes technical and conforming changes.
22. Becomes effective on the general effective date.

Amendments Adopted by Committee of the Whole

- Requires the Arizona Advisory Council on Indian Health Care to contact each tribe to solicit recommendations for expiring terms and makes the recommendation from each tribe permissive.

Amendments Adopted by the House of Representatives

1. Permits an authorized tribe to request to complete a preliminary state and federal name-based background check on each person who is at least eighteen years of age and who is residing in a home where a potential emergency placement is to be made.
2. Permits DPS to exchange fingerprint data obtained with the Federal Bureau of Investigation.
3. Requires each adult resident in the home to consent to both name-based and fingerprint background checks.
4. Requires DPS to provide the results of the name-based and fingerprint background checks to the authorized tribe that submitted the request.

5. Allows temporary emergency placement of a child in the home pending the outcome of the fingerprint background check.
6. Prohibits an authorized tribe from placing the child in a home in which the adult resides if that adult refuses to consent to the name-based or fingerprint background check.
7. Allows an adult resident denied emergency placement as a result of a name-based background check to request a fingerprint background check within 15 calendar days after the denial.
8. Defines *authorized tribe*, *disqualifying criminal offense* and *emergency placement*.

Senate Action

House Action

GOV	2/10/16	DP	7-0-0-0	HEALTH	3/15/16	DP	5-0-0-1
3 rd Read	2/29/16	DPA	30-0-0-0	3 rd Read	5/6/16		55-0-5-0

Prepared by Senate Research

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RH/rf