

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

SENATE BILL 1472

AN ACT

AMENDING SECTIONS 32-2401, 32-2402 AND 32-2404, ARIZONA REVISED STATUTES; REPEALING SECTIONS 32-2405 AND 32-2406, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 24, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING NEW SECTIONS 32-2405 AND 32-2406; AMENDING SECTIONS 32-2407, 32-2411, 32-2412, 32-2421, 32-2422, 32-2443, 32-2456, 32-2457 AND 32-2459, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 24, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-2462; AMENDING SECTIONS 32-2601, 32-2602, 32-2607, 32-2608, 32-2609, 32-2612, 32-2622, 32-2636, 32-2639, 32-2640, 32-2641 AND 32-2642, ARIZONA REVISED STATUTES; RELATING TO PRIVATE INVESTIGATORS AND SECURITY GUARDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-2401, Arizona Revised Statutes, is amended to
3 read:

4 32-2401. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Advertising" means the submission of bids, contracting or making
7 known by any public notice, publication or solicitation of business **THROUGH**
8 **ELECTRONIC OR OTHER MEDIA**, directly or indirectly, that services regulated
9 under this chapter are available for consideration.

10 2. "Agency license" means a certificate that is authenticated by the
11 department and that attests that a qualifying party is authorized to conduct
12 the business of private investigations in this state.

13 3. "Applicant" means a person who has submitted a completed
14 application and all required application and fingerprint processing fees.

15 4. "Associate" means a person who is a partner or corporate officer in
16 a private investigation agency.

17 5. "Board" means the private investigator and security guard hearing
18 board established by section 32-2404.

19 6. "Conviction" means an adjudication of guilt by a federal, state or
20 local court resulting from trial or plea, including a plea of no contest,
21 regardless of whether the adjudication of guilt was set aside or vacated.

22 7. "Department" means the department of public safety.

23 8. "Director" means the director of the department of public safety.

24 9. "Emergency action" means a summary suspension of a license pending
25 revocation, suspension or probation in order to protect the public health,
26 safety or welfare.

27 10. "Employee" means an individual who works for an employer, is listed
28 on the employer's payroll records and is under the employer's direction and
29 control.

30 11. "Employer" means a person who is licensed pursuant to this chapter,
31 who employs an individual for wages or salary, who lists the individual on
32 the employer's payroll records and who withholds all legally required
33 deductions and contributions.

34 12. "Identification card" means a card issued by the department to a
35 qualified applicant for an agency license, an associate or a registrant.

36 13. "Insurance adjuster" means a person other than a private
37 investigator who, for any consideration, engages in any of the activities
38 prescribed in the definition of private investigator in this section in the
39 course of adjusting or otherwise participating in the disposal of any claim
40 under or in connection with a policy of insurance.

41 14. "Letter of concern" means ~~an advisory letter to~~ **A WRITTEN INFORMAL**
42 **DISCIPLINE SANCTION ISSUED TO A LICENSEE OR REGISTRANT AND RETAINED IN THE**
43 **LICENSEE'S OR REGISTRANT'S FILE TO** notify ~~a private investigator~~ **THE LICENSEE**
44 **OR REGISTRANT** that:

1 (a) While there is insufficient evidence to support probation or
2 suspension or revocation of a license OR REGISTRATION, the ~~department~~ BOARD
3 believes the ~~private investigator~~ LICENSEE OR REGISTRANT should modify or
4 eliminate certain practices. ~~and that~~

5 (b) Continuation of the activities that led to the information being
6 submitted to the ~~department~~ BOARD may result in further disciplinary action
7 against the ~~private investigator's~~ PERSON'S license OR REGISTRATION.

8 15. "Licensee" means a person to whom an agency license is granted
9 pursuant to this chapter.

10 16. "NEGLIGENCE" MEANS DEVIATION FROM THE STANDARD OF CARE THAT A
11 REASONABLE LICENSEE OR REGISTRANT WOULD EXERCISE IN THE SITUATION.

12 ~~16.~~ 17. "Private investigator" means a person other than an insurance
13 adjuster or an on-duty peace officer as defined in section 1-215 who, for any
14 consideration, engages in business or accepts employment to:

15 (a) Furnish, agree to make or make any investigation for the purpose
16 of obtaining information with reference to:

17 (i) Crime or wrongs done or threatened against the United States or
18 any state or territory of the United States.

19 (ii) The identity, habits, conduct, movements, whereabouts,
20 affiliations, associations, transactions, reputation or character of any
21 person or group of persons.

22 (iii) The credibility of witnesses or other persons.

23 (iv) The whereabouts of missing persons, owners of abandoned property,
24 or escheated property or heirs to estates.

25 (v) The location or recovery of lost or stolen property.

26 (vi) The causes and origin of, or responsibility for, a fire, libel,
27 slander, a loss, an accident, damage or an injury to real or personal
28 property.

29 (b) Secure evidence to be used before investigating committees or
30 boards of award or arbitration or in the trial of civil or criminal cases and
31 the preparation therefor.

32 (c) Investigate threats of violence and provide the service of
33 protection of individuals from serious bodily harm or death.

34 18. "PROBATION" MEANS A WRITTEN FORMAL DISCIPLINE SANCTION THAT FINDS A
35 LICENSEE OR REGISTRANT HAS VIOLATED THIS CHAPTER BUT THAT ALLOWS THE LICENSEE
36 OR REGISTRANT TO PRACTICE IN THE PROFESSION OR OCCUPATION UNDER SPECIFIED
37 CONDITIONS FOR A SPECIFIC PERIOD OF TIME.

38 ~~17.~~ 19. "Qualifying party" means the individual ~~meeting~~ WHO MEETS the
39 qualifications under this chapter for an agency license.

40 ~~18.~~ 20. "Registrant" means an employee of a licensed agency qualified
41 to perform the services of the agency.

42 ~~19.~~ 21. "Registration certificate" means a certificate that is
43 authenticated by the department and that attests that an employee of a
44 business holding an agency license has satisfactorily complied with article 3
45 of this chapter.

1 ~~20-~~ 22. "Restructuring" means any change in a business' legal status.

2 23. "REVOCATION" OR "REVOKE" MEANS A WRITTEN FORMAL DISCIPLINE SANCTION
3 FINDING THAT A LICENSEE OR REGISTRANT IS IN VIOLATION OF THIS CHAPTER, AND
4 THE LICENSE OR REGISTRATION TO PRACTICE IN THE PROFESSION OR OCCUPATION IS
5 RESCINDED.

6 24. "SANCTION" MEANS AN EXPLICIT AND OFFICIAL ACTION RESULTING FROM AN
7 INFORMAL OR FORMAL DISCIPLINARY ACTION FINDING THAT A LICENSEE OR REGISTRANT
8 IS IN VIOLATION OF THIS CHAPTER.

9 25. "SUSPEND" OR "SUSPENSION" MEANS A WRITTEN FORMAL DISCIPLINE
10 SANCTION FINDING THAT A LICENSEE OR REGISTRANT IS IN VIOLATION OF THIS
11 CHAPTER, AND THE LICENSEE OR REGISTRANT IS NOT PERMITTED TO EXERCISE THE
12 PRIVILEGES OF THE LICENSE OR REGISTRATION FOR A SPECIFIED PERIOD OF TIME AS
13 THE RESULT OF A FINAL ORDER OF DISCIPLINARY ACTION.

14 26. "UNLICENSED ACTIVITY" MEANS AN ACTIVITY CONDUCTED BY A PERSON FOR
15 WHOM A VALID LICENSE OR REGISTRATION MUST BE ISSUED BY THE DEPARTMENT UNDER
16 THIS CHAPTER OR CHAPTER 26 OF THIS TITLE BUT FOR WHICH THE PERSON DOES NOT
17 POSSESS A VALID LICENSE OR REGISTRATION ISSUED UNDER THIS CHAPTER OR CHAPTER
18 26 OF THIS TITLE.

19 27. "UNLICENSED PERSON" MEANS A PERSON CONDUCTING AN UNLICENSED
20 ACTIVITY.

21 ~~21-~~ 28. "Unprofessional conduct" means any of the following:

22 (a) Engaging or offering to engage by fraud or misrepresentation in
23 activities regulated by this chapter.

24 (b) Aiding or abetting a person who is not licensed pursuant to this
25 chapter in representing that person as a private investigator in this state.

26 (c) Gross negligence in the practice of a private investigator.

27 (d) Failing or refusing to maintain adequate records and investigative
28 findings on a client. For THE purposes of this subdivision, "adequate
29 records" means records containing, at a minimum, sufficient information to
30 identify the client, the dates of service, the fee for service, the payments
31 for service, the type of service given and copies of any reports that may
32 have been made.

33 (e) Committing a felony or a misdemeanor involving any crime that is
34 grounds for denial, suspension or revocation of a private investigator
35 license or employee identification card. In all cases, conviction by a court
36 of competent jurisdiction or a plea of no contest is conclusive evidence of
37 the commission.

38 (f) Making a fraudulent or untrue statement to the department, the
39 board or its investigators, staff or consultants.

40 Sec. 2. Section 32-2402, Arizona Revised Statutes, is amended to read:

41 32-2402. Administration by director; duty to keep records;
42 redaction; rules; criminal history records checks

43 A. The director of the department of public safety shall administer
44 this chapter.

45 B. The department shall keep a record of:

- 1 1. All applications for licenses or registrations under this chapter.
2 2. All bonds and proof of workers' compensation required to be filed.
3 3. Whether a license, registration certificate, renewal license or
4 renewal registration certificate has been issued under each application and
5 bond.
6 4. If a license or registration certificate is revoked, suspended,
7 cancelled or denied or if a licensee or registrant is placed on probation,
8 the date of filing the order for revocation, suspension, cancellation, denial
9 or probation.
10 5. All individuals, firms, partnerships, associations or corporations
11 that have had a license or registration revoked, suspended or cancelled or
12 that have been placed on probation and a written record of complaints filed
13 against licensees and registrants.
14 C. The department shall maintain all records kept pursuant to
15 subsection B of this section for at least five years. The records, except
16 the financial statement of licensees, are open to inspection as public
17 records.
18 D. The ~~director shall~~ BOARD MAY adopt ~~and enforce~~ rules that are not
19 in conflict with the laws of this state and that are necessary to enforce
20 this chapter. THE DIRECTOR SHALL ADMINISTER AND ENFORCE THE RULES.
21 E. The director may conduct periodic criminal history records checks
22 pursuant to section 41-1750 for the purpose of updating the licensing and
23 registration status of current license and registration holders.
24 Sec. 3. Section 32-2404, Arizona Revised Statutes, is amended to read:
25 32-2404. Private investigator and security guard hearing board;
26 qualifications; appointments; terms; compensation;
27 immunity
28 A. The private investigator and security guard hearing board is
29 established consisting of seven members and an alternate member who are
30 appointed by the ~~director~~ GOVERNOR.
31 B. Each member of the board shall be a citizen of the United States
32 and a resident of this state at the time of appointment. Two members shall
33 be qualifying parties who are licensed as provided in this chapter. Two
34 members shall be qualifying parties who are licensed as provided in chapter
35 26 of this title. Two members shall be certified peace officers with a rank
36 of at least lieutenant who are not employees of the department. One member
37 shall be a public member who ~~shall~~ DOES not have a financial interest in a
38 private investigation or security guard agency and ~~shall~~ DOES not have an
39 immediate family member or a household member who is licensed or registered
40 under this chapter or chapter 26 of this title or who is a certified peace
41 officer. The alternate member shall be a public member who does not have a
42 financial interest in a private investigation or security guard agency and
43 does not have an immediate family member or a household member who is
44 licensed or registered under this chapter or chapter 26 of this title or who
45 is a certified peace officer.

1 C. Each member of the board shall serve for a staggered term of five
2 years beginning and ending on the third Monday in January. The alternate
3 member shall serve a five year term beginning and ending on the third Monday
4 in January. A member, including the alternate member, shall not serve more
5 than one term, except that a member appointed to fill a vacancy may be
6 reappointed for one full term. If a qualified replacement has not been found
7 by the end of the member's term, the ~~director~~ GOVERNOR may extend the
8 member's term for no more than six months or until a replacement is found,
9 whichever occurs first.

10 D. The ~~director~~ GOVERNOR shall fill a vacancy on the board occurring
11 other than by the expiration of term by appointment of a member for the
12 unexpired term as provided in subsection C of this section. The ~~director~~
13 GOVERNOR, after a hearing, may remove any member of the board for misconduct,
14 incompetency or neglect of duty.

15 E. Members of the board, including the alternate member, are eligible
16 to receive compensation pursuant to section 38-611 for each day actually and
17 necessarily spent in the performance of their duties.

18 F. Members of the board, including the alternate member, are
19 personally immune from suit with respect to all acts done and actions taken
20 in good faith and in furtherance of the purposes of this chapter AND CHAPTER
21 26 OF THIS TITLE.

22 Sec. 4. Repeal

23 Sections 32-2405 and 32-2406, Arizona Revised Statutes, are repealed.

24 Sec. 5. Title 32, chapter 24, article 1, Arizona Revised Statutes, is
25 amended by adding new sections 32-2405 and 32-2406, to read:

26 32-2405. Powers and duties of hearing board; records

27 A. THE BOARD SHALL PROTECT THE PUBLIC FROM UNLAWFUL, INCOMPETENT,
28 UNQUALIFIED AND UNPROFESSIONAL PRIVATE INVESTIGATORS AND SECURITY GUARDS AND
29 UNLICENSED AND UNREGISTERED PERSONS REPRESENTING THEMSELVES AS PRIVATE
30 INVESTIGATORS OR SECURITY GUARDS.

31 B. THE BOARD MAY:

32 1. ADOPT RULES NECESSARY FOR THE ADMINISTRATION OF THIS CHAPTER AND
33 CHAPTER 26 OF THIS TITLE.

34 2. DEVELOP AND PUBLISH STANDARDS GOVERNING THE PROFESSION.

35 3. REQUIRE THE DIRECTOR TO OPEN AND CONDUCT AN INVESTIGATION INTO THE
36 LICENSED AND UNLICENSED ACTIVITY OF ANY PERSON.

37 4. CONDUCT INFORMAL INTERVIEWS OR FORMAL HEARINGS RELATING TO
38 UNLICENSED ACTIVITY AND ACTIVITY CONDUCTED BY A PERSON WHO IS REGULATED BY
39 THE BOARD.

40 5. CONDUCT AN APPROPRIATE INQUIRY OF AN APPLICANT, LICENSEE,
41 REGISTRANT OR OTHER PERSON IN AN INFORMAL INTERVIEW. THE BOARD MAY ORDER A
42 FORMAL HEARING TO BE CONDUCTED BASED IN WHOLE OR IN PART ON THE INFORMATION
43 ACQUIRED EITHER DURING OR ANCILLARY TO THE INFORMAL INTERVIEW.

1 6. IN ANY FORMAL HEARING CONDUCTED PURSUANT TO THIS CHAPTER OR CHAPTER
2 26 OF THIS TITLE, REVIEW, INVESTIGATE AND HEAR COMPLAINTS, ACT AS THE TRIER
3 OF FACT FROM EVIDENCE PRESENTED, MAKE FINDINGS, RENDER DECISIONS AND ISSUE
4 ORDERS.

5 7. RECEIVE AND HEAR EVIDENCE, ADMINISTER OATHS AND AFFIRMATIONS AND
6 COMPEL BY SUBPOENA THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF BOOKS,
7 PAPERS, RECORDS, DOCUMENTS AND OTHER INFORMATION RELATING TO AN INVESTIGATION
8 OR HEARING PERTAINING TO A LICENSEE OR REGISTRANT AND UNLICENSED ACTIVITY BY
9 ANY PERSON CLAIMING TO BE A PRIVATE INVESTIGATOR OR SECURITY GUARD.

10 8. ISSUE AND CAUSE TO BE SERVED A SUBPOENA FOR THE ATTENDANCE OF
11 WITNESSES SUBSTANTIALLY IN THE FORM SET FORTH IN RULE 84, FORM 9 OF THE
12 ARIZONA RULES OF CIVIL PROCEDURE. A SUBPOENA SHALL COMMAND EACH PERSON TO
13 WHOM IT IS DIRECTED TO DO ANY OF THE FOLLOWING AT A SPECIFIED TIME AND PLACE:

14 (a) ATTEND AND GIVE TESTIMONY AT A HEARING.

15 (b) PRODUCE AND PERMIT INSPECTION, COPYING, TESTING OR SAMPLING OF
16 DESIGNATED DOCUMENTS, ELECTRONICALLY STORED INFORMATION OR TANGIBLE THINGS IN
17 THAT PERSON'S POSSESSION, CUSTODY OR CONTROL.

18 (c) PERMIT THE INSPECTION OF PREMISES.

19 9. AT ITS SOLE OPTION AND DISCRETION, FOR ANY LICENSEE OR REGISTRANT
20 THAT THE BOARD FINDS TO BE IN VIOLATION OF THIS CHAPTER OR CHAPTER 26 OF THIS
21 TITLE:

22 (a) DISMISS THE CASE.

23 (b) TAKE EMERGENCY ACTION.

24 (c) ISSUE A LETTER OF CONCERN.

25 (d) ISSUE A LETTER TO CEASE AND DESIST.

26 (e) PLACE THE LICENSEE OR REGISTRANT ON PROBATION.

27 (f) REVOKE OR SUSPEND THE LICENSE OR REGISTRATION.

28 (g) ENTER INTO A STIPULATED ORDER OR CONSENT DECREE.

29 (h) DIRECT, ADMINISTER AND ENFORCE THE COLLECTION OF CIVIL PENALTIES,
30 FINES, FEES, COSTS, SANCTIONS, DAMAGES AND COSTS OF INVESTIGATION.

31 (i) REFER THE MATTER TO THE ATTORNEY GENERAL OR APPROPRIATE LAW
32 ENFORCEMENT AUTHORITY FOR INVESTIGATION OR PROSECUTION, OR BOTH.

33 (j) FILE SUIT IN THE SUPERIOR COURT TO OBTAIN JUDGMENT TO LEVY FINES,
34 FEES, COSTS, CIVIL PENALTIES, SANCTIONS AND DAMAGES OR TO ENJOIN, RESTRAIN OR
35 SEEK AN INJUNCTION AGAINST THE LICENSEE OR REGISTRANT.

36 10. INDEPENDENTLY CLAIM, LEVY AND SEIZE ANY BOND FILED WITH THE
37 DEPARTMENT FOR PAYMENT OF ANY FINES, FEES, COSTS, CIVIL PENALTIES, SANCTIONS,
38 DAMAGES, PENALTIES AND COSTS OF INVESTIGATION.

39 11. AT ITS SOLE OPTION AND DISCRETION, FOR ANY PERSON THAT THE BOARD
40 FINDS TO BE ENGAGED IN UNLICENSED ACTIVITY THAT IS IN VIOLATION OF THIS
41 CHAPTER OR CHAPTER 26 OF THIS TITLE:

42 (a) ISSUE A LETTER TO CEASE AND DESIST.

43 (b) ISSUE SANCTIONS AGAINST THE PERSON.

44 (c) ASSESS CIVIL PENALTIES AGAINST THE PERSON.

1 (d) DIRECT, ADMINISTER AND ENFORCE THE COLLECTION OF CIVIL PENALTIES,
2 FINES, FEES, COSTS, SANCTIONS, DAMAGES AND COSTS OF INVESTIGATION AGAINST THE
3 PERSON.

4 (e) REFER THE MATTER TO THE ATTORNEY GENERAL OR APPROPRIATE LAW
5 ENFORCEMENT AUTHORITY FOR INVESTIGATION OR PROSECUTION, OR BOTH, AGAINST THE
6 PERSON.

7 (f) FILE SUIT IN THE SUPERIOR COURT AGAINST THE PERSON TO OBTAIN
8 JUDGMENT TO LEVY FINES, FEES, COSTS, CIVIL PENALTIES, SANCTIONS AND DAMAGES
9 OR TO OTHERWISE ENJOIN, RESTRAIN OR SEEK AN INJUNCTION AGAINST THE PERSON.

10 12. RECEIVE, REVIEW AND DISCUSS CONFIDENTIAL DOCUMENTS AND INFORMATION
11 IN EXECUTIVE SESSION.

12 13. UPHOLD THE FINDINGS AND CONCLUSIONS OF THE DIRECTOR. AFTER A
13 REVIEW AND HEARING OF AN APPLICATION OR PETITION, THE BOARD MAY DIRECT THAT A
14 LICENSE OR REGISTRATION BE ISSUED TO AN APPLICANT. THE BOARD MAY CONTINUE A
15 HEARING TO ALLOW OR CAUSE SUFFICIENT FACTS TO BE GATHERED BEFORE MAKING A
16 FINDING, RENDERING A DECISION OR ISSUING AN ORDER. ANY DECISION OF THE BOARD
17 SHALL BE BY A MAJORITY VOTE IN PUBLIC SESSION.

18 14. DETERMINE GOOD CAUSE EXCEPTIONS PURSUANT TO SECTION 32-2412.

19 15. ADOPT RULES TO ESTABLISH GOOD CAUSE EXCEPTIONS FOR THE ISSUANCE OF
20 LICENSES OR REGISTRATIONS PURSUANT TO THIS CHAPTER AND CHAPTER 26 OF THIS
21 TITLE.

22 16. FURNISH A COPY OF ITS RULES, ON REQUEST, TO ALL APPLICANTS WHO
23 PETITION THE BOARD FOR A GOOD CAUSE EXCEPTION PURSUANT TO SECTION 32-2459,
24 32-2640 OR 32-2641.

25 C. THE DEPARTMENT SHALL BE THE REPOSITORY OF ALL RECORDS OF THE BOARD.
26 THE DEPARTMENT SHALL PLACE ALL RECORDS, EVIDENCE, FINDINGS AND CONCLUSIONS
27 AND ANY OTHER INFORMATION PERTINENT TO AN INVESTIGATION IN THE PUBLIC RECORDS
28 SECTION OF THE FILE MAINTAINED AT THE DEPARTMENT. THE DEPARTMENT SHALL
29 MAINTAIN A RECORD OF THE ACTS AND PROCEEDINGS OF THE BOARD, INCLUDING THE
30 ISSUANCE, DENIAL, RENEWAL, SUSPENSION OR REVOCATION OF LICENSES OR
31 REGISTRATIONS PURSUANT TO THIS CHAPTER OR CHAPTER 26 OF THIS TITLE. IF THE
32 BOARD DISMISSES A COMPLAINT, THE BOARD SHALL DELETE THE PUBLIC RECORD OF THE
33 COMPLAINT AFTER IT DISMISSES THE COMPLAINT. THE PUBLIC RECORDS OF THE BOARD,
34 AFTER THE REDACTION OF PERSONALLY IDENTIFYING INFORMATION PURSUANT TO SECTION
35 32-2402, ARE OPEN TO INSPECTION AT ALL TIMES DURING OFFICE HOURS.

36 32-2406. Hearings and special meetings; quorum

37 A. THE BOARD SHALL HOLD HEARINGS OR MEETINGS AT A TIME AND PLACE
38 DETERMINED BY THE CHAIRMAN OF THE BOARD. THE BOARD MAY HOLD SPECIAL MEETINGS
39 THAT THE CHAIRMAN DETERMINES NECESSARY TO CARRY OUT THE FUNCTIONS OF THE
40 BOARD.

41 B. A QUORUM CONSISTS OF FOUR BOARD MEMBERS IN ATTENDANCE.

42 C. AT THE CHAIRMAN'S DISCRETION, A BOARD HEARING OR MEETING MAY BE
43 CONDUCTED TELEPHONICALLY OR BY OTHER ELECTRONIC AUDIO OR AUDIOVISUAL MEANS.
44 THE ATTENDANCE OF A MEMBER BY THE USE OF TELEPHONIC OF OTHER ELECTRONIC AUDIO
45 OR AUDIOVISUAL MEANS COUNTS TOWARD THE QUORUM.

1 Sec. 6. Section 32-2407, Arizona Revised Statutes, is amended to read:
2 32-2407. Fees; renewal of license or registration certificate;
3 reinstatement

4 A. The department shall charge and collect reasonable fees as
5 determined by the director to cover the operational and equipment costs of
6 regulating the private investigator industry.

7 B. Except as provided in section 32-4301, the director may renew a
8 license or registration certificate granted under this chapter after
9 receiving an application on such forms as the department prescribes and
10 receipt of the fees prescribed pursuant to subsection A of this section. The
11 renewal of an agency license requires the filing of a surety bond as
12 prescribed in section 32-2423, subsections B and C. Renewal of a license or
13 registration shall not be granted more than ninety days after expiration. No
14 licensee or registrant may engage in any activity subject to this chapter
15 during any period between the date of expiration of the license or
16 registration and the renewal of the license or registration.

17 C. The ~~department~~ BOARD shall renew a suspended license or
18 registration certificate as provided in this article. Renewal of the license
19 or registration does not entitle the licensee or registrant, while the
20 license or registration remains suspended and until it is reinstated, to
21 engage in any activity regulated by this chapter, or in any other activity or
22 conduct in violation of the order or judgment by which the license or
23 registration was suspended.

24 D. The director shall not reinstate a revoked license or registration.
25 The director shall not accept an application for a license or registration
26 from a person whose license or registration has been revoked until at least
27 one year after the date of revocation.

28 E. AN APPLICANT WHO HAS HAD A LICENSE OR REGISTRATION REVOKED AND WHO
29 SEEKS REINSTATEMENT MUST COMPLETE THE APPLICATION PROCESS AND BE QUALIFIED AS
30 A NEW APPLICANT. A REVOKED LICENSE OR REGISTRATION SHALL NOT BE REINSTATED
31 EXCEPT THAT A NEW LICENSE OR REGISTRATION MAY BE ISSUED AT THE DETERMINATION
32 OF THE BOARD. IF THE FORMERLY LICENSED OR REGISTERED APPLICANT SEEKS A NEW
33 LICENSE OR REGISTRATION, AFTER COMPLETION OF ALL STEPS REQUIRED BY THE
34 DEPARTMENT AND BOARD FOR A NEW APPLICANT AND AFTER OBTAINING THE INITIAL
35 APPROVAL OF THE DEPARTMENT AS A QUALIFIED APPLICANT, THE APPLICANT SHALL HAVE
36 A HEARING BEFORE THE BOARD. THE BOARD SHALL MAKE A FINAL DETERMINATION IF
37 THE APPLICANT IS ISSUED ANOTHER LICENSE OR REGISTRATION. THE APPLICANT HAS
38 THE BURDEN OF PROVING THAT ANY INCIDENT AND CAUSE THAT RESULTED IN THE
39 REVOCATION OF THE LICENSE OR REGISTRATION HAS BEEN FULLY RESOLVED AND THAT
40 THE INCIDENT AND CAUSE WILL NOT OCCUR AGAIN. THE BOARD SHALL CONSIDER THE
41 BACKGROUND, HISTORY AND OVERALL CHARACTER OF THE APPLICANT, GIVING
42 SUBSTANTIAL CONSIDERATION TO THE PUBLIC WELFARE, SAFETY AND BENEFIT IN THE
43 BOARD'S DECISION WHETHER OR NOT TO GRANT THE LICENSE OR REGISTRATION TO THE
44 APPLICANT. THE BOARD MAY GRANT THE LICENSE OR REGISTRATION TO THE APPLICANT
45 UNDER PROBATIONARY TERMS. A LICENSE OR REGISTRATION SHALL NOT BE ISSUED IF

1 THERE IS NOT A GOOD CAUSE EXCEPTION UNDER SECTION 32-2412. IF A LICENSE OR
2 REGISTRATION IS ISSUED TO THE APPLICANT, ALL RECORDS UNDER THE REVOKED
3 LICENSE OR REGISTRATION SHALL BE INCORPORATED AND REFERENCED INTO THE RECORDS
4 OF THE NEW LICENSE OR REGISTRATION AND SHALL BE AVAILABLE AS ANY OTHER PUBLIC
5 RECORDS UNDER THIS CHAPTER.

6 Sec. 7. Section 32-2411, Arizona Revised Statutes, is amended to read:
7 32-2411. License required; violation; classification

8 A. A person shall not act or attempt to act as a private investigator
9 or represent that the person is a private investigator unless the person is
10 registered as a private investigator pursuant to this chapter and is acting
11 within the scope of the person's employment for an agency that is licensed
12 pursuant to article 2 of this chapter.

13 B. A REGISTRANT SHALL NOT ACT OR ATTEMPT TO ACT AS AN AGENCY OR
14 REPRESENT THAT THE PERSON IS AN AGENCY UNLESS THE PERSON IS LICENSED AS AN
15 AGENCY PURSUANT TO ARTICLE 2 OF THIS CHAPTER.

16 ~~B-~~ C. A person who knowingly violates this section is guilty of a
17 class ~~1 misdemeanor~~ 6 FELONY.

18 Sec. 8. Section 32-2412, Arizona Revised Statutes, is amended to read:
19 32-2412. Denial, suspension or revocation of license or
20 registration; good cause exceptions

21 A. THE FOLLOWING ARE GROUNDS FOR DENIAL OF ISSUANCE OF A LICENSE OR
22 REGISTRATION AND GROUNDS FOR SUMMARY SUSPENSION AND REVOCATION AFTER A
23 HEARING:

24 1. CONVICTION OR INDICTMENT FOR A FELONY.

25 2. WITHIN THE FIVE YEARS IMMEDIATELY PRECEDING THE APPLICATION FOR AN
26 AGENCY LICENSE, CONVICTION OF ANY MISDEMEANOR ACT INVOLVING:

27 (a) PERSONAL VIOLENCE OR FORCE AGAINST ANOTHER PERSON OR THREATENING
28 TO COMMIT ANY ACT OF PERSONAL VIOLENCE OR FORCE AGAINST ANOTHER PERSON.

29 (b) MISCONDUCT INVOLVING A DEADLY WEAPON AS PROVIDED IN SECTION
30 13-3102.

31 (c) DISHONESTY OR FRAUD.

32 (d) ARSON.

33 (e) THEFT.

34 (f) DOMESTIC VIOLENCE.

35 (g) A VIOLATION OF TITLE 13, CHAPTER 34 OR 34.1 OR AN OFFENSE THAT HAS
36 THE SAME ELEMENTS AS AN OFFENSE LISTED IN TITLE 13, CHAPTER 34 OR 34.1.

37 (h) SEXUAL MISCONDUCT.

38 3. THE APPLICANT, LICENSEE, REGISTRANT OR QUALIFYING PARTY OF AN
39 AGENCY:

40 (a) IS ON PAROLE, COMMUNITY SUPERVISION, WORK FURLOUGH, HOME ARREST,
41 RELEASE ON ANY OTHER BASIS OR IS NAMED IN AN OUTSTANDING ARREST WARRANT.

42 (b) IS SERVING A TERM OF PROBATION PURSUANT TO A CONVICTION FOR ANY
43 ACT OF PERSONAL VIOLENCE OR DOMESTIC VIOLENCE, AS DEFINED IN SECTION 13-3601,
44 OR AN OFFENSE THAT HAS THE SAME ELEMENTS AS AN OFFENSE LISTED IN SECTION
45 13-3601.

1 (c) IS ADJUDICATED MENTALLY INCOMPETENT OR IS FOUND TO CONSTITUTE A
2 DANGER TO SELF OR OTHERS PURSUANT TO SECTION 36-540.

3 (d) HAS A DISABILITY AS DEFINED IN SECTION 41-1461, UNLESS THAT PERSON
4 IS A QUALIFIED INDIVIDUAL AS DEFINED IN SECTION 41-1461.

5 (e) HAS BEEN CONVICTED OF ACTING OR ATTEMPTING TO ACT AS A PRIVATE
6 INVESTIGATION AGENCY OR A PRIVATE INVESTIGATOR WITHOUT A LICENSE IF A LICENSE
7 WAS REQUIRED.

8 ~~A-~~ B. The board may grant a good cause exception for a felony offense
9 if ten or more years have passed since the person completed all terms of
10 sentencing and if the person shows at a hearing to the board's satisfaction
11 that the person is not awaiting trial on or has not been convicted of
12 committing any of the offenses listed in section 41-1758.03, subsection
13 B. Before granting a good cause exception at a hearing the board shall
14 consider all of the following in accordance with board rule:

15 1. The extent of the person's criminal record.
16 2. The length of time that has elapsed since the offense was
17 committed.

18 3. The nature of the offense.
19 4. Evidence supporting any applicable mitigating circumstances.
20 5. Evidence supporting the degree to which the person participated in
21 the offense.

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

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

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

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

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

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

33 Sec. 9. Section 32-2421, Arizona Revised Statutes, is amended to read:

34 32-2421. Qualifying party

35 A. An applicant for an agency license must have a qualifying party.

36 B. For a sole proprietorship, the qualifying party shall be the agency
37 licensee.

38 C. For a partnership, corporation or limited liability company, the
39 qualifying party shall be the individual who is responsible for managing the
40 agency. All other partners or corporate officers shall register as
41 associates pursuant to article 3 of this chapter.

42 D. If required, the qualifying party shall maintain workers'
43 compensation insurance in effect.

44 E. EACH LICENSEE AND REGISTRANT IS SUBJECT TO THE JURISDICTION OF THE
45 COURTS IN THIS STATE AND THE BOARD. IN LIEU OF A PHYSICAL PRESENCE IN THIS

1 STATE, A CORPORATION OR LIMITED LIABILITY COMPANY THAT HAS BEEN ISSUED A
2 LICENSE OR REGISTRATION SHALL MAINTAIN AN AGENT APPOINTED FOR SERVICE OF
3 LEGAL PROCESS WHO SHALL RECEIVE ALL LEGAL PROCESSES, NOTICES AND
4 COMMUNICATIONS FROM THE DIRECTOR.

5 Sec. 10. Section 32-2422, Arizona Revised Statutes, is amended to
6 read:

7 32-2422. Qualification of applicant for agency license;
8 substantiation of work experience

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

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

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

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

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

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

20 ~~(b) Misconduct involving a deadly weapon as provided in section~~
21 ~~13-3102.~~

22 ~~(c) Dishonesty or fraud.~~

23 ~~(d) Arson.~~

24 ~~(e) Theft.~~

25 ~~(f) Domestic violence.~~

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

28 ~~(h) Sexual misconduct.~~

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

32 ~~6. Not be serving a term of probation pursuant to a conviction for any~~
33 ~~act of personal violence or domestic violence, as defined in section 13-3601,~~
34 ~~or an offense that has the same elements as an offense listed in section~~
35 ~~13-3601.~~

36 ~~7. Not be either of the following:~~

37 ~~(a) Adjudicated mentally incompetent.~~

38 ~~(b) Found to constitute a danger to self or others pursuant to section~~
39 ~~36-540.~~

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

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

1 3. NOT BE DISQUALIFIED FROM THE ISSUANCE OF A LICENSE OR REGISTRATION
2 PURSUANT TO SECTION 32-2412.

3 ~~10-~~ 4. Have had a minimum of three years of full-time investigative
4 experience or the equivalent of three years of full-time investigative
5 experience that consists of actual work performed as an investigator for a
6 private concern, for the federal government or for a state, county or
7 municipal government.

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

12 C. Applicants for an agency license shall substantiate investigative
13 work experience claimed as years of qualifying experience and provide the
14 exact details as to the character and nature of the experience on a form
15 prescribed by the department and certified by the employers. On written
16 request, an employer shall submit to the employee a written certification of
17 prior work experience within thirty days. The written certification is
18 subject to independent verification by the director OR BOARD. If an employer
19 goes out of business, the employer shall provide all employees with a
20 complete and accurate record of their work history. If applicants are unable
21 to supply written certification from an employer in whole or in part,
22 applicants may offer written certification from persons other than an
23 employer covering the same subject matter for consideration by the
24 department. The burden of proving the minimum years of experience is on the
25 applicant. AN APPLICANT WHO IS UNABLE TO SUPPLY THE WRITTEN CERTIFICATION
26 MAY PETITION THE BOARD FOR AN EXCEPTION. THE BOARD MAY DIRECT THE APPLICANT
27 PETITIONER TO PROVIDE ADDITIONAL INFORMATION BEFORE MAKING ANY DETERMINATION
28 RELATING TO THE ISSUANCE OF A LICENSE.

29 D. The ~~department~~ DIRECTOR OR BOARD may deny an agency license if the
30 department determines that the applicant does not meet the requirements of
31 this section.

32 E. THE BOARD MAY UPHOLD THE FINDINGS AND CONCLUSIONS OF THE DIRECTOR.
33 AFTER A REVIEW AND HEARING OF THE APPLICATION, THE BOARD MAY ORDER THAT A
34 LICENSE BE ISSUED TO AN APPLICANT.

35 Sec. 11. Section 32-2443, Arizona Revised Statutes, is amended to
36 read:

37 32-2443. Employee identification card required; denial

38 A. Each employee of an agency licensed under this chapter shall obtain
39 an identification card, except those employees engaged exclusively in
40 clerical and office work.

41 ~~B. The department may issue an identification card to an applicant
42 who, on initial application for a registration certificate, complies with the
43 application requirements of section 32-2442, subsection D and who on the face
44 of the application appears to meet the requirements of section 32-2441. On
45 completion of the investigation of the applicant's qualifications, the~~

1 ~~department may deny the applicant's registration as prescribed in section~~
2 ~~32-2459.~~

3 B. THE DIRECTOR SHALL ISSUE THE IDENTIFICATION CARD TO THE APPLICANT
4 ONLY AFTER COMPLETION OF THE INVESTIGATION OF THE APPLICANT'S QUALIFICATIONS
5 AND ISSUANCE OF THE LICENSE OR REGISTRATION.

6 C. On termination of a registered employee from a licensed agency, the
7 employee shall immediately surrender the identification card to the agency's
8 qualifying party or designee. The qualifying party or designee shall forward
9 the registrant's identification card to the department within five business
10 days of receipt. If the employee fails or refuses to surrender the card to
11 the qualifying party or designee, the qualifying party or designee shall
12 notify the director within five business days of the termination of the
13 employment with the licensee.

14 Sec. 12. Section 32-2456, Arizona Revised Statutes, is amended to
15 read:

16 32-2456. Authority to investigate complaint; filing; response;
17 retention of records

18 A. The department ON ITS OWN INITIATIVE may investigate, AND AT THE
19 BOARD'S REQUEST SHALL INVESTIGATE, any licensee, registrant, associate,
20 employee or person if that licensee, registrant, associate, employee or
21 person is advertising as providing or is engaged in performing services that
22 require licensure or registration under this chapter.

23 B. The department shall investigate if a licensee or registrant is
24 engaged in activities that do not comply with or are prohibited by this
25 chapter. THE DEPARTMENT SHALL FORWARD A SUMMARY OF ALL COMPLAINTS TO THE
26 BOARD.

27 C. The department OR THE BOARD shall enforce this chapter without
28 regard to the place or location in which a violation may have occurred.

29 D. On the complaint of any person or on its own initiative, THE BOARD
30 MAY INVESTIGATE OR CAUSE TO BE INVESTIGATED AND the department may
31 investigate any suspected violation of this chapter or the business and
32 business methods of any licensee, registrant or employee of a licensee or
33 applicant for licensure or registration under this chapter.

34 E. Complaints filed against any licensee, associate, registrant or
35 employee of a licensee OR AGAINST ANY UNLICENSED PERSON shall be in writing
36 on such forms as the department prescribes and shall be filed with the
37 department.

38 F. In any investigation undertaken by the department OR AT THE BOARD'S
39 REQUEST, each licensee, associate, registrant, applicant, agency or employee,
40 on request of the department OR BOARD, shall provide records and shall
41 truthfully respond to questions concerning activities regulated under this
42 chapter. These records shall be maintained for five years at the principal
43 place of business of the licensee, or at another location for a person whose
44 license has been terminated, cancelled or revoked. On request by the
45 department OR BOARD during normal business hours or at another time

1 acceptable to the parties, the records shall be made available immediately to
2 the department OR BOARD unless the department determines that an extension
3 may be granted. The licensee shall provide copies of any records requested
4 by the department OR BOARD IN CONNECTION WITH ANY INVESTIGATION.

5 Sec. 13. Section 32-2457, Arizona Revised Statutes, is amended to
6 read:

7 32-2457. Grounds for disciplinary action; emergency summary
8 suspension; judicial review

9 A. The following constitute grounds for which disciplinary action
10 specified in subsection B of this section may be taken against a licensee or
11 registrant or, if the licensee is other than an individual, against the
12 licensee's qualifying party or any of its associates, directors or managers:

13 1. Fraud or wilful misrepresentation in applying for an original
14 license or registration or the renewal of an existing license or
15 registration.

16 2. Using any letterhead, advertisement or other printed matter in any
17 manner or representing that the licensee, associate, registrant or employee
18 of the licensee is an instrumentality of the federal government, a state or
19 any political subdivision of a state.

20 3. Using a name that is different from that under which the licensee,
21 associate, registrant or employee of the licensee is currently licensed for
22 any advertisement, solicitation or contract to secure business unless the
23 name is an authorized fictitious name.

24 4. Impersonating, permitting or aiding and abetting an employee to
25 impersonate a law enforcement officer or employee of the United States, any
26 state or a political subdivision of a state.

27 5. Knowingly violating, or advising, encouraging or assisting the
28 violation of, any statute, court order, warrant or injunction in the course
29 of a business regulated under this chapter.

30 6. Falsifying fingerprints, photographs or other documents while
31 operating under this chapter.

32 7. Conviction of a felony.

33 8. Conviction of any act involving a weapon pursuant to section
34 13-3102.

35 9. Conviction of any act of personal violence or force against any
36 person or conviction of threatening to commit any act of personal violence or
37 force against any person.

38 10. Soliciting business for an attorney in return for compensation.

39 11. Conviction of any act constituting dishonesty or fraud.

40 12. Being on parole, on community supervision, on work furlough, on
41 home arrest, on release on any other basis or named in an outstanding arrest
42 warrant.

1 13. Serving a term of probation pursuant to a conviction for any act of
2 personal violence or domestic violence as defined in section 13-3601 or an
3 offense that has the same elements as a domestic violence offense listed in
4 section 13-3601, subsection A.

5 14. Committing or knowingly permitting any employee to commit any
6 violation of this chapter or rules adopted pursuant to this chapter.

7 15. Wilfully failing or refusing to render to a client services or a
8 report as agreed between the parties and for which compensation has been paid
9 or tendered ~~in accordance with~~ PURSUANT TO the agreement of the parties.

10 16. The unauthorized release of information acquired on behalf of a
11 client by a licensee, associate or registrant as a result of activities
12 regulated under this chapter.

13 17. Failing or refusing to cooperate with or refusing access to an
14 authorized representative of the department engaged in an official
15 investigation pursuant to this chapter.

16 18. Employing or contracting with any unregistered or improperly
17 registered person or unlicensed or improperly licensed person or agency to
18 conduct activities regulated under this chapter if the licensure or
19 registration status was known or could have been ascertained by reasonable
20 inquiry.

21 19. Permitting, authorizing, aiding or in any way assisting a
22 registered employee to conduct services as described in this chapter on an
23 independent contractor basis and not under the authority of the licensed
24 agency.

25 20. Failing to maintain in full force and effect workers' compensation
26 insurance, if applicable.

27 21. Conducting private investigation services regulated by this chapter
28 on an expired, revoked or suspended license or registration.

29 22. Accepting employment, contracting or in any way engaging in
30 employment that has an adverse impact on investigations being conducted on
31 behalf of clients.

32 23. Advertising in a false, deceptive or misleading manner.

33 24. Failing to display on request the identification card issued by the
34 department as required under section 32-2451, ~~subsection B.~~

35 25. Committing any act of unprofessional conduct.

36 26. COMMITTING ANY ACT THAT IS PROHIBITED BY THIS CHAPTER.

37 27. BEING SUBJECT TO DISQUALIFICATION FROM THE ISSUANCE OF A LICENSE OR
38 REGISTRATION PURSUANT TO SECTION 32-2412.

39 28. FAILING TO NOTIFY THE QUALIFYING PARTY OR DEPARTMENT OF AN ARREST,
40 CHARGE OR DISCIPLINE AS REQUIRED PURSUANT TO SECTION 32-2462.

41 29. VIOLATION OF ANY RULE ADOPTED BY THE DEPARTMENT OR BOARD.

42 B. On completion of an investigation, the director:

43 ~~1. May dismiss the case.~~

44 ~~2. May take emergency action.~~

45 ~~3. May issue a letter of concern, if applicable.~~

1 ~~4.~~ 1. ~~May~~ SHALL forward the findings to the board for review and
2 possible disciplinary action.

3 ~~5.~~ 2. Shall place all records, evidence, findings and conclusions and
4 any other information pertinent to the investigation in the public records
5 section of the file maintained at the department.

6 C. ON RECEIPT OF THE FINDINGS OF THE INVESTIGATION FROM THE DIRECTOR,
7 THE BOARD SHALL EXERCISE ITS POWERS PURSUANT TO THIS CHAPTER.

8 ~~C.~~ D. A letter of concern is a public document and may be used in
9 future disciplinary actions against a licensee.

10 ~~D.~~ E. If the department OR BOARD finds, based on its investigation,
11 that the public health, safety or welfare requires emergency action, the
12 director may order a summary suspension of a license or registration pending
13 proceedings for revocation or other action. If the director issues this
14 order, the department shall serve the licensee or registrant with a written
15 notice of complaint and formal hearing, setting forth the charges made
16 against the licensee or registrant and the licensee's or registrant's right
17 to a formal hearing before the board pursuant to title 41, chapter 6,
18 article 10.

19 ~~E.~~ F. If the department finds, based on its investigation, that a
20 violation of subsection A of this section occurred, a hearing by the board
21 may be scheduled pursuant to title 41, chapter 6, article 10. The department
22 shall send notice of the hearing by certified mail, return receipt requested,
23 to the licensee's or registrant's last known address in the department's
24 records.

25 ~~F.~~ G. Based on information the board receives during a hearing
26 pursuant to title 41, chapter 6, article 10, it ~~may recommend to the director~~
27 ~~that the director:~~ SHALL EXERCISE ITS POWERS PURSUANT TO THIS CHAPTER.

28 ~~1. Dismiss the complaint if the board believes it is without merit.~~

29 ~~2. Fix a period and terms of probation best adapted to protect the~~
30 ~~public health and safety and to rehabilitate or educate the licensee or~~
31 ~~registrant.~~

32 ~~3. Place the license or registration on suspension for a period of not~~
33 ~~more than twelve months.~~

34 ~~4. Revoke the license or registration.~~

35 ~~G.~~ H. On a finding by the board and review ~~and concurrence by the~~
36 ~~director~~ that a licensee or registrant committed a violation of subsection A
37 of this section, the probation, suspension or revocation applies to all
38 licenses or registrations held by a licensee or registrant under this
39 chapter.

40 ~~H.~~ I. Except as provided in section 41-1092.08, subsection H, a
41 person may appeal a final administrative decision made pursuant to this
42 section to the superior court pursuant to title 12, chapter 7, article 6.

1 Sec. 14. Section 32-2459, Arizona Revised Statutes, is amended to
2 read:

3 32-2459. Grounds for refusal to issue agency license; associate
4 and employee registration and identification;
5 judicial review; good cause exceptions

6 A. Except as provided in subsection F of this section, the department
7 OR BOARD may deny an agency license or the renewal of an agency license if
8 the applicant: ~~WOULD BE DENIED A LICENSE OR REGISTRATION ISSUANCE OR RENEWAL~~
9 PURSUANT TO SECTION 32-2412.

10 ~~1. Committed any act that, if committed by a licensee, would be~~
11 ~~grounds for the probation of a licensee or the suspension or revocation of a~~
12 ~~license under this chapter.~~

13 ~~2. Does not meet the requirements prescribed in section 32-2422.~~

14 ~~3. While not licensed under this chapter, committed, or aided and~~
15 ~~abetted the commission of, any act for which a license is required by this~~
16 ~~chapter or has acted or attempted to act as a private investigator service or~~
17 ~~private investigator.~~

18 ~~4. Knowingly made a false statement in the application.~~

19 ~~5. Has been denied an agency license under this chapter.~~

20 ~~6. Has been an associate of an agency that has had a license revoked.~~

21 ~~7. Failed to provide adequate verification of required investigative~~
22 ~~experience.~~

23 B. The department may deny the issuance of an identification card to
24 an applicant for an associate or employee registration if the applicant:

25 1. Fails to meet the qualifications under section 32-2441.

26 ~~2. Has committed any act that would be grounds for suspension or~~
27 ~~revocation of registration pursuant to this chapter.~~

28 ~~3. Has knowingly made any false statement on the application.~~

29 2. WOULD BE DENIED A LICENSE OR REGISTRATION ISSUANCE OR RENEWAL
30 PURSUANT TO SECTION 32-2412.

31 C. The denial of the issuance of an identification card or license
32 under this article shall be in writing and shall describe the basis for the
33 denial. A hearing to contest a denial shall be held in accordance with title
34 41, chapter 6, article 10.

35 D. Except as provided in section 41-1092.08, subsection H, final
36 decisions of the director are subject to judicial review pursuant to title
37 12, chapter 7, article 6.

38 E. ~~An applicant may petition a denial to the board for a good cause~~
39 ~~exception~~ IF AN APPLICANT IS DENIED A LICENSE OF REGISTRATION, THE APPLICANT
40 MAY PETITION THE BOARD FOR A GOOD CAUSE EXCEPTION.

41 F. If the board granted a licensee or a registrant a good cause
42 exception pursuant to section 32-2412, the department may not deny the
43 licensee's or the registrant's renewal application based on factors already
44 reviewed by the board when granting the good cause exception.

1 Sec. 15. Title 32, chapter 24, article 4, Arizona Revised Statutes, is
2 amended by adding section 32-2462, to read:

3 32-2462. Notification of arrest, charge and discipline; penalty

4 A. WITHIN FORTY-EIGHT HOURS AFTER BEING ARRESTED OR FORMALLY CHARGED,
5 A LICENSEE OR REGISTRANT SHALL NOTIFY THE QUALIFYING PARTY OF THE ARREST.
6 WITHIN TWENTY-FOUR HOURS AFTER RECEIVING NOTICE OF THE ARREST, THE QUALIFYING
7 PARTY SHALL NOTIFY THE DEPARTMENT OF THE ARREST. IF NO QUALIFYING PARTY
8 EXISTS, THE LICENSEE OR REGISTRANT SHALL NOTIFY THE DEPARTMENT OF THE ARREST
9 WITHIN FORTY-EIGHT HOURS AFTER BEING ARRESTED. THE DEPARTMENT SHALL NOTIFY
10 THE BOARD OF THE ARREST AND DISPOSITION. THE BOARD SHALL TAKE ACTIONS IT
11 DEEMS NECESSARY PURSUANT TO SECTION 32-2405.

12 B. ANY LICENSEE OR REGISTRANT WHO IS LICENSED OR REGISTERED IN ANOTHER
13 STATE AND WHO IS DISCIPLINED IN THAT STATE SHALL IMMEDIATELY REPORT THE
14 DISCIPLINARY ACTION TO THE BOARD, INCLUDING THE DATE, VIOLATION AND
15 DISPOSITION OF THE DISCIPLINARY MATTER. ANY LICENSEE OR REGISTRANT WHO IS
16 SUSPENDED OR REVOKED IN ANOTHER STATE SHALL BE SUSPENDED OR REVOKED IN THIS
17 STATE.

18 C. ANY LICENSEE OR REGISTRANT WHO FAILS TO REPORT DISCIPLINARY ACTION
19 IN ANOTHER STATE SHALL HAVE THE LICENSE OR REGISTRATION SUMMARILY SUSPENDED
20 PENDING A DISCIPLINARY HEARING BEFORE THE BOARD, WHICH MAY RESULT IN
21 REVOCATION OF THE LICENSE OR REGISTRATION AND DENIAL OF FUTURE LICENSE OR
22 REGISTRATION.

23 Sec. 16. Section 32-2601, Arizona Revised Statutes, is amended to
24 read:

25 32-2601. Definitions

26 In this chapter, unless the context otherwise requires:

27 1. "Advertising" means submitting bids, contracting or making known by
28 any public notice, publication or solicitation of business **THROUGH ELECTRONIC**
29 **OR OTHER MEDIA**, directly or indirectly, that services regulated under this
30 chapter are available for consideration.

31 2. "Agency license" means a certificate that is authenticated by the
32 department and that attests that a qualifying party is authorized to conduct
33 the business of private security guard service in this state.

34 3. "Applicant" means a person who has submitted a completed
35 application and all required application and fingerprint processing fees.

36 4. "Armed security guard" means a registered security guard who wears,
37 carries, possesses or has access to a firearm at any time during the course
38 of employment.

39 5. "Associate" means a person who is a partner or corporate officer in
40 a security guard agency.

41 6. "Board" means the private investigator and security guard hearing
42 board established pursuant to section 32-2404.

43 7. "Conviction" means an adjudication of guilt by a federal, state or
44 local court resulting from trial or plea, including a plea of no contest,

1 regardless of whether or not the adjudication of guilt was set aside or
2 vacated.

3 8. "Department" means the department of public safety.

4 9. "Director" means the director of the department of public safety.

5 10. "Emergency action" means a summary suspension of a license pending
6 revocation, suspension or probation in order to protect the public health,
7 safety or welfare.

8 11. "Employee" means an individual who works for an employer, is listed
9 on the employer's payroll records and is under the employer's direction and
10 control.

11 12. "Employer" means a person who is licensed pursuant to this chapter,
12 who employs an individual for wages or salary, who lists the individual on
13 the employer's payroll records and who withholds all legally required
14 deductions and contributions.

15 13. "Identification card" means a card issued by the department to a
16 qualified applicant for an agency license, to an associate or to a
17 registrant.

18 14. "Letter of concern" means ~~an advisory letter~~ A WRITTEN INFORMAL
19 DISCIPLINE SANCTION ISSUED TO A LICENSEE OR REGISTRANT AND RETAINED IN THE
20 LICENSEE'S OR REGISTRANT'S FILE to notify a licensee or registrant that:

21 (a) While there is insufficient evidence to support probation,
22 suspension or revocation of a license or registration the ~~department~~ BOARD
23 believes the licensee or registrant should modify or eliminate certain
24 practices. ~~and that~~

25 (b) Continuation of the activities that led to the information being
26 submitted to the ~~department~~ BOARD may result in further disciplinary action
27 against the person's license or registration.

28 15. "Licensee" means a person to whom an agency license is granted
29 pursuant to article 2 of this chapter.

30 16. "NEGLIGENCE" MEANS DEVIATION FROM THE STANDARD OF CARE THAT A
31 REASONABLE LICENSEE OR REGISTRANT WOULD EXERCISE IN THE SITUATION.

32 ~~16.~~ 17. "Private Security guard service" means any agency, individual
33 or employer in the business or furnishing to the public for service for hire,
34 fee or reward dogs, watchmen, patrol ~~service~~ SERVICES, private security
35 guards or other persons to protect human life or to prevent the theft of the
36 misappropriation or concealment of goods, wares, merchandise, money, bonds,
37 stocks, notes, choses in action or other property, valuable documents, papers
38 and articles of value.

39 18. "PROBATION" MEANS A WRITTEN FORMAL DISCIPLINE SANCTION THAT FINDS A
40 LICENSEE OR REGISTRANT HAS VIOLATED THIS CHAPTER BUT THAT ALLOWS THE LICENSEE
41 OR REGISTRANT TO PRACTICE IN THE PROFESSION OR OCCUPATION UNDER SPECIFIED
42 CONDITIONS FOR A SPECIFIC PERIOD OF TIME.

43 ~~17.~~ 19. "Proprietary company" means a company that employs security
44 guards or armed security guards solely for use of and service to itself and
45 not for others.

1 ~~18.~~ 20. "Qualifying party" means the individual who meets the
2 qualifications under this chapter for an agency license.

3 ~~19.~~ 21. "Registrant" means an employee of a licensed agency who is
4 qualified to perform the services of a security guard.

5 ~~20.~~ 22. "Registration certificate" means a certificate that is
6 authenticated by the department and that attests that an employee of a
7 business holding an agency license has satisfactorily complied with article 3
8 of this chapter.

9 ~~21.~~ 23. "Restructuring" means any change in a business' legal status.

10 24. "REVOCAION" OR "REVOKE" MEANS A WRITTEN FORMAL DISCIPLINE SANCTION
11 FINDING THAT A LICENSEE OR REGISTRANT IS IN VIOLATION OF THIS CHAPTER, AND
12 THE LICENSE OR REGISTRATION TO PRACTICE IN THE PROFESSION OR OCCUPATION IS
13 RESCINDED.

14 25. "SANCTION" MEANS AN EXPLICIT AND OFFICIAL ACTION RESULTING FROM AN
15 INFORMAL OR FORMAL DISCIPLINARY ACTION FINDING THAT A LICENSEE OR REGISTRANT
16 IS IN VIOLATION OF THIS CHAPTER.

17 ~~22.~~ 26. "Security guard":

18 (a) Means any person employed by a private security guard service or
19 proprietary company as a watchman, patrolman, bodyguard, personal protection
20 guard, private security guard or other person who performs security guard
21 services, but does not include any regularly commissioned police or peace
22 officer or railroad police appointed pursuant to section 40-856.

23 ~~23.~~ 27. "Unprofessional conduct" means any of the following:

24 (a) Engaging or offering to engage by fraud or misrepresentation in
25 activities regulated by this chapter.

26 (b) Aiding or abetting a person who is not licensed or registered
27 pursuant to this chapter in representing that person as a security guard in
28 this state.

29 (c) Gross negligence in the practice of a security guard.

30 (d) Failing or refusing to maintain adequate records on a client
31 containing at least sufficient information to identify the client, the dates
32 of service, the fee for service and the payments for service.

33 (e) Committing a felony or a misdemeanor involving any crime that is
34 grounds for denial, suspension or revocation of a security guard agency
35 license or employee registration certificate. In all cases, conviction by a
36 court of competent jurisdiction or a plea of no contest is conclusive
37 evidence of the commission.

38 (f) Making a fraudulent or false statement to the department, the
39 board or the department's investigators, staff or consultants.

40 Sec. 17. Section 32-2602, Arizona Revised Statutes, is amended to
41 read:

42 32-2602. Administration by director; duty to keep records;
43 rules; criminal history records checks

44 A. The director of the department of public safety shall administer
45 this chapter.

1 B. The department shall keep a record of:
2 1. All applications for licenses or registration under this chapter.
3 2. Whether a license, registration certificate, renewal license or
4 renewal registration certificate has been issued under each application.
5 3. If a license or registration certificate is revoked or suspended,
6 the date of filing the order for revocation or suspension.
7 4. A list of all individuals, qualifying parties, firms, partnerships,
8 associations or corporations that have had licenses or registrations revoked
9 or suspended and a written record of complaints filed against any licensees
10 or registrants.
11 5. All insurance policies required to be filed under this chapter.
12 C. The department shall maintain all records kept pursuant to
13 subsection B of this section for at least five years. The records, except
14 the financial statement of licensees, are open to inspection as public
15 records.
16 D. The ~~department shall~~ BOARD MAY adopt ~~and enforce~~ rules that are not
17 in conflict with the laws of this state and that are necessary to enforce
18 this chapter. **THE DIRECTOR SHALL ADMINISTER AND ENFORCE THE RULES.**
19 E. The director may conduct periodic criminal history records checks
20 pursuant to section 41-1750 for the purpose of updating the licensing and
21 registration status of current license and registration holders.
22 Sec. 18. Section 32-2607, Arizona Revised Statutes, is amended to
23 read:
24 32-2607. Fees; renewal of license or registration certificate;
25 reinstatement
26 A. The department shall charge and collect reasonable fees as
27 determined by the director to cover the operational and equipment costs of
28 regulating the security guard industry.
29 B. An agency license granted under this chapter may be renewed after
30 receiving an application on such form as the department prescribes, receipt
31 of the fees prescribed pursuant to subsection A of this section and proof of
32 required liability insurance and workers' compensation. Except as provided
33 in section 32-4301, in no event shall renewal be granted more than ninety
34 days after the expiration date of a license. No person, firm, company,
35 partnership or corporation may carry on any business subject to this article
36 during any period that may exist between the date of expiration of a license
37 and the renewal of the license.
38 C. A security guard or armed security guard registration certificate
39 granted under this article may be issued after application on such form as
40 the department prescribes, the payment of fees prescribed pursuant to
41 subsection A of this section and proof of the completion of training as
42 required by this chapter.
43 D. A security guard or armed security guard registration certificate
44 granted under this article may be renewed after application on such form as
45 the department prescribes and the payment of renewal fees.

1 E. Except as provided in section 32-4301, the department shall not
2 renew an agency license or registration certificate more than ninety calendar
3 days after expiration. A licensee or registrant shall not engage in any
4 activity regulated by this chapter during any period between the date of
5 expiration of the license or registration and the renewal of the license or
6 registration.

7 F. The ~~department~~ BOARD may renew a suspended license or registration
8 as provided in this chapter. While suspended, the renewal of the license or
9 registration does not entitle the licensee, security guard or armed security
10 guard to engage in any activity regulated by this chapter or in any other
11 activity or conduct in violation of the order or judgment that suspended the
12 license or registration certificate.

13 G. The department shall not renew a revoked license or registration
14 certificate. The department shall not accept an application for a license or
15 registration from a person whose license or registration has been revoked
16 until at least one year after the date of revocation.

17 H. AN APPLICANT WHO HAS HAD A LICENSE OR REGISTRATION REVOKED AND WHO
18 SEEKS REINSTATEMENT MUST COMPLETE THE APPLICATION PROCESS AND BE QUALIFIED AS
19 A NEW APPLICANT. A REVOKED LICENSE OR REGISTRATION SHALL NOT BE REINSTATED
20 EXCEPT THAT A NEW LICENSE OR REGISTRATION MAY BE ISSUED AT THE DETERMINATION
21 OF THE BOARD. IF THE FORMERLY LICENSED OR REGISTERED APPLICANT SEEKS A NEW
22 LICENSE OR REGISTRATION, AFTER COMPLETION OF ALL STEPS REQUIRED BY THE
23 DEPARTMENT AND BOARD FOR A NEW APPLICANT AND AFTER OBTAINING THE INITIAL
24 APPROVAL OF THE DEPARTMENT AS A QUALIFIED APPLICANT, THE APPLICANT SHALL HAVE
25 A HEARING BEFORE THE BOARD. THE BOARD SHALL MAKE A FINAL DETERMINATION IF
26 THE APPLICANT IS ISSUED ANOTHER LICENSE OR REGISTRATION. THE APPLICANT HAS
27 THE BURDEN OF PROVING THAT ANY INCIDENT AND CAUSE THAT RESULTED IN THE
28 REVOCATION OF THE LICENSE OR REGISTRATION HAS BEEN FULLY RESOLVED AND THAT
29 THE INCIDENT AND CAUSE WILL NOT OCCUR AGAIN. THE BOARD SHALL CONSIDER THE
30 BACKGROUND, HISTORY AND OVERALL CHARACTER OF THE APPLICANT, GIVING
31 SUBSTANTIAL CONSIDERATION TO THE PUBLIC WELFARE, SAFETY AND BENEFIT IN THE
32 BOARD'S DECISION WHETHER OR NOT TO GRANT THE LICENSE OR REGISTRATION TO THE
33 APPLICANT. THE BOARD MAY GRANT THE LICENSE OR REGISTRATION TO THE APPLICANT
34 UNDER PROBATIONARY TERMS. A LICENSE OR REGISTRATION SHALL NOT BE ISSUED IF
35 THERE IS NOT A GOOD CAUSE EXCEPTION UNDER SECTION 32-2412. IF A LICENSE OR
36 REGISTRATION IS ISSUED TO THE APPLICANT, ALL RECORDS UNDER THE REVOKED
37 LICENSE OR REGISTRATION SHALL BE INCORPORATED AND REFERENCED INTO THE RECORDS
38 OF THE NEW LICENSE OR REGISTRATION AND SHALL BE AVAILABLE AS ANY OTHER PUBLIC
39 RECORDS UNDER THIS CHAPTER.

40 Sec. 19. Section 32-2608, Arizona Revised Statutes, is amended to
41 read:

42 32-2608. License or registration required; violation;
43 classification

44 A. A person, except a regularly commissioned peace officer, shall not
45 act or attempt to act AS, or represent that the person is, a security guard

1 unless the person is registered as a security guard pursuant to this chapter
2 and is acting within the scope of the person's employment for an agency
3 licensed pursuant to article 2 of this chapter.

4 B. A person who knowingly violates this section is guilty of a class
5 ~~1 misdemeanor~~ 6 FELONY.

6 Sec. 20. Section 32-2609, Arizona Revised Statutes, is amended to
7 read:

8 32-2609. Denial, suspension or revocation of license or
9 registration; good cause exceptions

10 A. THE FOLLOWING ARE GROUNDS FOR DENIAL OF ISSUANCE OF A LICENSE OR
11 REGISTRATION AND GROUNDS FOR SUMMARY SUSPENSION AND REVOCATION AFTER A
12 HEARING:

13 1. CONVICTION OR INDICTMENT FOR A FELONY.

14 2. WITHIN THE FIVE YEARS IMMEDIATELY PRECEDING THE APPLICATION FOR AN
15 AGENCY LICENSE, CONVICTION OF ANY MISDEMEANOR ACT INVOLVING:

16 (a) PERSONAL VIOLENCE OR FORCE AGAINST ANOTHER PERSON OR THREATENING
17 TO COMMIT ANY ACT OF PERSONAL VIOLENCE OR FORCE AGAINST ANOTHER PERSON.

18 (b) MISCONDUCT INVOLVING A DEADLY WEAPON AS PROVIDED IN SECTION
19 13-3102.

20 (c) DISHONESTY OR FRAUD.

21 (d) ARSON.

22 (e) THEFT.

23 (f) DOMESTIC VIOLENCE.

24 (g) A VIOLATION OF TITLE 13, CHAPTER 34 OR 34.1 OR AN OFFENSE THAT HAS
25 THE SAME ELEMENTS AS AN OFFENSE LISTED IN TITLE 13, CHAPTER 34 OR 34.1.

26 (h) SEXUAL MISCONDUCT.

27 3. THE APPLICANT, LICENSEE, REGISTRANT OR QUALIFYING PARTY OF AN
28 AGENCY:

29 (a) IS ON PAROLE, COMMUNITY SUPERVISION, WORK FURLOUGH, HOME ARREST,
30 RELEASE ON ANY OTHER BASIS OR IS NAMED IN AN OUTSTANDING ARREST WARRANT.

31 (b) IS SERVING A TERM OF PROBATION PURSUANT TO A CONVICTION FOR ANY
32 ACT OF PERSONAL VIOLENCE OR DOMESTIC VIOLENCE, AS DEFINED IN SECTION 13-3601,
33 OR AN OFFENSE THAT HAS THE SAME ELEMENTS AS AN OFFENSE LISTED IN SECTION
34 13-3601.

35 (c) IS ADJUDICATED MENTALLY INCOMPETENT OR IS FOUND TO CONSTITUTE A
36 DANGER TO SELF OR OTHERS PURSUANT TO SECTION 36-540.

37 (d) HAS A DISABILITY AS DEFINED IN SECTION 41-1461, UNLESS THAT PERSON
38 IS A QUALIFIED INDIVIDUAL AS DEFINED IN SECTION 41-1461.

39 (e) HAS BEEN CONVICTED OF ACTING OR ATTEMPTING TO ACT AS A PRIVATE
40 INVESTIGATION AGENCY OR A PRIVATE INVESTIGATOR WITHOUT A LICENSE IF A LICENSE
41 WAS REQUIRED.

42 ~~A.~~ B. The board may grant a good cause exception for a felony offense
43 if ten or more years have passed since the person completed all terms of
44 sentencing and if the person shows at a hearing to the board's satisfaction
45 that the person is not awaiting trial on or has not been convicted of

1 committing any of the offenses listed in section 41-1758.03, subsection B.
2 Before granting a good cause exception at a hearing the board shall consider
3 all of the following in accordance with board rule:

- 4 1. The extent of the person's criminal record.
- 5 2. The length of time that has elapsed since the offense was
6 committed.
- 7 3. The nature of the offense.
- 8 4. Evidence supporting any applicable mitigating circumstances.
- 9 5. Evidence supporting the degree to which the person participated in
10 the offense.
- 11 6. Evidence supporting the extent of the person's rehabilitation,
12 including:
 - 13 (a) Completion of probation, parole or community supervision.
 - 14 (b) Whether the person paid restitution or other compensation for the
15 offense.
 - 16 (c) Evidence of positive action to change criminal behavior, such as
17 completion of a drug treatment program or counseling.
 - 18 (d) Personal references attesting to the person's rehabilitation.

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

22 Sec. 21. Section 32-2612, Arizona Revised Statutes, is amended to
23 read:

24 32-2612. Qualifications of applicant for agency license;
25 substantiation of work experience

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

- 29 1. Be at least twenty-one years of age.
- 30 2. Be a citizen or a legal resident of the United States who is
31 authorized to seek employment in the United States.
- 32 ~~3. Not have been convicted of any felony or currently be under~~
33 ~~indictment for a felony.~~
- 34 ~~4. Within the five years immediately preceding the application for an~~
35 ~~agency license, not have been convicted of any misdemeanor act involving:~~
 - 36 ~~(a) Personal violence or force against another person or threatening~~
37 ~~to commit any act of personal violence or force against another person.~~
 - 38 ~~(b) Misconduct involving a deadly weapon as provided in section~~
39 ~~13-3102.~~
 - 40 ~~(c) Dishonesty or fraud.~~
 - 41 ~~(d) Arson.~~
 - 42 ~~(e) Theft.~~
 - 43 ~~(f) Domestic violence.~~
 - 44 ~~(g) A violation of title 13, chapter 34 or 34.1 or an offense that has~~
45 ~~the same elements as an offense listed in title 13, chapter 34 or 34.1.~~

- 1 ~~(h) Sexual misconduct.~~
- 2 ~~5. Not be on parole, on community supervision, on work furlough, on~~
- 3 ~~home arrest, on release on any other basis or named in an outstanding arrest~~
- 4 ~~warrant.~~
- 5 ~~6. Not be serving a term of probation pursuant to a conviction for any~~
- 6 ~~act of personal violence or domestic violence, as defined in section 13-3601,~~
- 7 ~~or an offense that has the same elements as an offense listed in section~~
- 8 ~~13-3601.~~
- 9 ~~7. Not be either of the following:~~
- 10 ~~(a) Adjudicated mentally incompetent.~~
- 11 ~~(b) Found to constitute a danger to self or others or to be~~
- 12 ~~persistently or acutely disabled or gravely disabled pursuant to section~~
- 13 ~~36-540.~~
- 14 ~~8. Not have a disability as defined in section 41-1461, unless that~~
- 15 ~~person is a qualified individual as defined in section 41-1461.~~
- 16 ~~9. Not have been convicted of acting or attempting to act as a~~
- 17 ~~security guard or a security guard agency without a license if a license was~~
- 18 ~~required.~~

19 3. NOT BE DISQUALIFIED FROM THE ISSUANCE OF A LICENSE OR REGISTRATION
20 PURSUANT TO SECTION 32-2609.

21 4. NOT BE A PEACE OFFICER, INCLUDING A RESERVE PEACE OFFICER.

22 B. The qualifying party for an agency license and the resident
23 manager, if a resident manager is required pursuant to section 32-2616, shall
24 have at least three years of full-time experience as a manager, supervisor or
25 administrator of a security guard agency or three years of full-time
26 supervisory experience with any federal, United States military, state,
27 county or municipal law enforcement agency. The qualifying party for an
28 agency license and the resident manager, if a resident manager is required
29 pursuant to section 32-2616, must substantiate managerial work experience
30 claimed as years of qualifying experience and provide the exact details as to
31 the character and nature of the experience on a form prescribed by the
32 department and certified by the employer. On written request, an employer
33 shall submit to the employee a written certification of prior work experience
34 within thirty calendar days. The written certification is subject to
35 independent verification by the department. If an employer goes out of
36 business, the employer shall provide registered employees with a complete and
37 accurate record of their work history. If an applicant is unable to supply
38 written certification from an employer in whole or in part, the applicant may
39 offer written certification from persons other than an employer covering the
40 same subject matter for consideration by the department. The burden of
41 proving the minimum years of experience is on the applicant.

42 C. The department OR BOARD may deny an agency license if the
43 department OR BOARD determines that the applicant is unfit based on a
44 conviction, citation or encounter with law enforcement for a statutory
45 violation OR FOR ANY OTHER REASON SET FORTH IN SECTION 32-2609.

1 Sec. 22. Section 32-2622, Arizona Revised Statutes, is amended to
2 read:

3 32-2622. Qualifications of applicant for associate, security
4 guard or armed security guard registration
5 certificate

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

8 1. Be at least eighteen years of age.

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

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

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

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

18 ~~(b) Misconduct involving a deadly weapon as provided in section~~
19 ~~13-3102.~~

20 ~~(c) Dishonesty or fraud.~~

21 ~~(d) Arson.~~

22 ~~(e) Theft.~~

23 ~~(f) Domestic violence.~~

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

26 ~~(h) Sexual misconduct.~~

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

30 ~~6. Not be serving a term of probation pursuant to a conviction for any~~
31 ~~act of personal violence or domestic violence, as defined in section 13-3601,~~
32 ~~or an offense that has the same elements as an offense listed in section~~
33 ~~13-3601.~~

34 ~~7. Not be either of the following:~~

35 ~~(a) Adjudicated mentally incompetent.~~

36 ~~(b) Found to constitute a danger to self or others pursuant to section~~
37 ~~36-540.~~

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

40 ~~9. Not have been convicted of acting or attempting to act as an~~
41 ~~associate security guard or armed security guard without a license if a~~
42 ~~license was required.~~

43 3. NOT BE DISQUALIFIED FROM THE ISSUANCE OF A LICENSE OR REGISTRATION
44 PURSUANT TO SECTION 32-2609.

1 B. An applicant for an armed security guard registration certificate
2 issued pursuant to this chapter shall:

3 1. Meet the requirements of subsection A of this section.

4 2. Successfully complete all background screening and training
5 requirements.

6 3. Not be a prohibited possessor as defined in section 13-3101 or as
7 described in 18 United States Code section 922.

8 4. Not have been discharged from the armed services of the United
9 States under other than honorable conditions.

10 ~~5. Not have been convicted of any crime involving domestic violence as~~
11 ~~defined in section 13-3601.~~

12 Sec. 23. Section 32-2636, Arizona Revised Statutes, is amended to
13 read:

14 32-2636. Grounds for disciplinary action; emergency summary
15 suspension; judicial review

16 A. The following constitute grounds for disciplinary action against a
17 licensee or registrant, or if the licensee is other than an individual,
18 against its qualifying party or any of its associates, directors or managers:

19 1. Using any letterhead, advertisement or other printed matter to
20 represent, or in any other manner representing, that the licensee,
21 registrant, qualifying party or associate, director or manager is an
22 instrumentality of the federal government or any state or political
23 subdivision of a state.

24 2. Using a name that is different from that under which the licensee,
25 registrant, qualifying party or associate, director or manager is currently
26 licensed or registered for any advertisement, solicitation or contract to
27 secure business under this chapter unless the name is an authorized
28 fictitious name.

29 3. Falsifying fingerprints, photographs or other documents while
30 operating pursuant to this chapter.

31 4. Impersonating, or permitting or aiding and abetting an employee to
32 impersonate, a law enforcement officer or employee of the United States or
33 any state or political subdivision of a state.

34 5. Knowingly violating, or advising, encouraging or assisting in the
35 violation of, any statute, court order, warrant or injunction in the course
36 of business as a licensee or registrant under this chapter.

37 6. Committing or knowingly permitting any employee to commit any
38 violation of this chapter or rules adopted pursuant to this chapter.

39 7. Committing an act of misconduct involving a weapon pursuant to
40 section 13-3102.

41 8. Conviction of a felony.

42 9. Conviction of any act of personal violence or force against any
43 person or conviction of threatening to commit any act of personal violence or
44 force against any person.

- 1 10. Fraud or wilful misrepresentation in applying for an original
2 license or registration or the renewal of an existing license or
3 registration.
- 4 11. Soliciting business for an attorney in return for compensation.
- 5 12. Conviction of any act constituting fraud.
- 6 13. Being on parole, on community supervision, on work furlough, on
7 home arrest, on release on any other basis or named in an outstanding arrest
8 warrant.
- 9 14. Serving a term of probation pursuant to a conviction for any act of
10 personal violence or domestic violence as defined in section 13-3601 or an
11 offense that has the same elements as a domestic violence offense listed in
12 section 13-3601, subsection A.
- 13 15. Wilfully failing or refusing to render client services or a report
14 as agreed between the parties and for which compensation has been paid or
15 tendered pursuant to the agreement of the parties.
- 16 16. The unauthorized release of information acquired on behalf of a
17 client by a licensee, associate or registrant as a result of activities
18 regulated under this chapter.
- 19 17. Failing or refusing to cooperate with or refusing access to an
20 authorized representative of the department engaged in an official
21 investigation pursuant to this chapter.
- 22 18. Employing or contracting with any unregistered or improperly
23 registered person or unlicensed or improperly licensed person or agency to
24 conduct activities regulated under this chapter if the licensure or
25 registration status was known or could have been ascertained by reasonable
26 inquiry.
- 27 19. Permitting, authorizing, aiding or in any way assisting a
28 registered employee to conduct services as described in this chapter on an
29 independent contractor basis and not under the authority of the licensed
30 agency.
- 31 20. Failing to maintain in full force and effect workers' compensation
32 insurance, if applicable.
- 33 21. Conducting security guard services regulated by this chapter on an
34 expired, revoked or suspended license or registration.
- 35 22. Accepting employment, contracting or in any way engaging in
36 employment that has an adverse impact on security guard services being
37 conducted on behalf of clients.
- 38 23. Advertising in a false, deceptive or misleading manner.
- 39 24. Failing to display on request the identification card issued by the
40 department pursuant to section 32-2624.
- 41 25. Committing any act of unprofessional conduct.
- 42 26. Being arrested for any offense listed in this chapter that would
43 disqualify the licensee, registrant, qualifying party or any of its
44 associates, directors or managers from obtaining a license or registration.

1 27. BEING SUBJECT TO DISQUALIFICATION FROM THE ISSUANCE OF A LICENSE OR
2 REGISTRATION PURSUANT TO SECTION 32-2609.

3 28. FAILING TO NOTIFY THE QUALIFYING PARTY OR DEPARTMENT OF AN ARREST,
4 CHARGE OR DISCIPLINE AS REQUIRED PURSUANT TO SECTION 32-2462.

5 29. VIOLATION OF ANY RULE ADOPTED BY THE DEPARTMENT OR BOARD.

6 B. An officer, director, associate, partner, qualifying party,
7 employee or manager of the holder of an agency license issued pursuant to
8 this chapter who is found in violation of this chapter shall be denied the
9 privilege of operating under such a license. The remaining officers,
10 directors, associates, partners, employees or managers of such licensee who
11 are innocent of such violations may carry on the business.

12 C. Any person aggrieved by a decision of the director may request a
13 hearing pursuant to title 41, chapter 6, article 10. Except as provided in
14 section 41-1092.08, subsection H, final decisions of the director are subject
15 to judicial review pursuant to title 12, chapter 7, article 6.

16 D. On completion of an investigation, the director:

17 ~~1. May dismiss the case.~~

18 ~~2. May take emergency action.~~

19 ~~3. May issue a letter of concern, if applicable.~~

20 ~~4.~~ 1. May SHALL forward the findings to the board for review and
21 possible disciplinary action.

22 ~~5.~~ 2. Shall place all records, evidence, findings and conclusions and
23 any other information pertinent to the investigation in the public records
24 section of the file maintained at the department.

25 ~~6.~~ 3. Shall suspend the license or registration of a person who is
26 arrested for an offense listed in this chapter that would disqualify the
27 person from obtaining a license or registration.

28 ~~E. A letter of concern is a public document and may be used in future
29 disciplinary actions against a licensee or registrant.~~

30 E. THE BOARD MAY UPHOLD THE FINDINGS AND CONCLUSIONS OF THE DIRECTOR
31 AND EXERCISE ITS POWERS PURSUANT TO SECTION 32-2405.

32 F. If the department finds, based on its investigation, that the
33 public health, safety or welfare requires emergency action, the director may
34 order a summary suspension of a license or registration pending proceedings
35 for revocation or other action. If the director issues this order, the
36 department shall serve the licensee or registrant with a written notice of
37 complaint and formal hearing, setting forth the charges made against the
38 licensee or registrant and the licensee's or registrant's right to a formal
39 hearing before the board pursuant to title 41, chapter 6, article 10.

40 G. If the department finds, based on its investigation, that a
41 violation of subsection A of this section occurred, a hearing by the board
42 may be scheduled pursuant to title 41, chapter 6, article 10. Notice of the
43 hearing shall be sent by certified mail, return receipt requested, to the
44 licensee's or registrant's last known address in the department's files.

1 H. Based on information the board receives during a hearing pursuant
2 to title 41, chapter 6, article 10, ~~it may recommend to the director that the~~
3 ~~director.~~ THE BOARD SHALL EXERCISE ITS POWERS PURSUANT TO SECTION 32-2405.

4 ~~1. Dismiss the complaint if the board believes it is without merit.~~

5 ~~2. Fix a period and terms of probation best adapted to protect the~~
6 ~~public health and safety and to rehabilitate or educate the licensee or~~
7 ~~registrant.~~

8 ~~3. Place the license or registration on suspension for a period of not~~
9 ~~more than twelve months.~~

10 ~~4. Revoke the license or registration.~~

11 I. The director shall review the records of a finding by the board
12 involving a disciplinary action and may affirm, reverse, adopt, modify,
13 supplement, amend or reject the recommendation of the board. On a finding by
14 the board and review and concurrence by the director that a licensee or
15 registrant committed a violation of subsection A of this section, the
16 probation, suspension or revocation applies to all licenses or registrations
17 held by a licensee or registrant under this chapter.

18 Sec. 24. Section 32-2639, Arizona Revised Statutes, is amended to
19 read:

20 32-2639. Authority to investigate complaint; filing and
21 response to complaints; retention of records

22 A. The department OR BOARD may investigate any licensee, registrant,
23 associate, employee or person if that licensee, registrant, associate,
24 employee or person advertises as providing or performs services that require
25 licensure or registration under this chapter.

26 B. The department shall investigate whether a licensee or registrant
27 is engaged in activities that do not comply with or are prohibited by this
28 chapter. THE DEPARTMENT SHALL FORWARD A SUMMARY OF ALL COMPLAINTS TO THE
29 BOARD.

30 C. The department shall enforce this chapter without regard to the
31 place or location in which a violation may have occurred.

32 D. On the complaint of any person or on its own initiative, THE BOARD
33 MAY INVESTIGATE OR CAUSE TO BE INVESTIGATED AND the department may
34 investigate any suspected violation of this chapter or the business and
35 business methods of any licensee, registrant or employee of a licensee or
36 applicant for licensure or registration under this chapter.

37 E. A complaint filed against any licensee, associate, registrant or
38 employee of a licensee OR AGAINST ANY UNLICENSED PERSON must be in writing,
39 on a form prescribed by the department and filed with the department.

40 F. In any investigation by the department, each licensee, associate,
41 registrant, applicant, agency or employee, on request of the department,
42 shall provide records and truthfully respond to questions concerning
43 activities regulated under this chapter. The licensee shall maintain these
44 records for five years at the licensee's principal place of business or at
45 another location for a person whose license has been terminated, canceled or

1 revoked. At the department's request, the licensee shall make the records
2 available immediately to the department during normal business hours or at
3 another time acceptable to the parties, unless the department grants an
4 extension. The licensee shall provide copies of any records requested by the
5 department OR BOARD IN CONNECTION WITH ANY INVESTIGATION.

6 Sec. 25. Section 32-2640, Arizona Revised Statutes, is amended to
7 read:

8 32-2640. Grounds for refusal to issue or renew an agency
9 license; judicial review; good cause exceptions

10 A. Except as provided in subsection E of this section, the department
11 may deny the issuance or renewal of an agency license if the individual
12 applicant or, if the applicant is other than an individual, any qualifying
13 party:

14 1. Does not meet the requirements prescribed in section 32-2612.

15 ~~2. Has committed any act that, if committed by a licensee, would be~~
16 ~~grounds for the suspension or revocation of a license pursuant to this~~
17 ~~chapter.~~

18 ~~3. Has been refused a license under this chapter, or had such a~~
19 ~~license revoked or has been an associate of any applicant or licensee who has~~
20 ~~been refused a license under this chapter or who has had a license revoked.~~

21 ~~4. While not licensed under this chapter, has committed or aided and~~
22 ~~abetted the commission of any act for which a registration certificate is~~
23 ~~required by this chapter or has acted, or attempted to act, as a private~~
24 ~~security guard service or a security guard.~~

25 ~~5. Has knowingly made any false statement in the application.~~

26 ~~6. Failed to provide adequate verification of required experience.~~

27 2. WOULD BE DENIED ISSUANCE OF A LICENSE OR REGISTRATION PURSUANT TO
28 SECTION 32-2609.

29 B. The denial of the issuance of an agency license or identification
30 card under this chapter shall be in writing and shall describe the basis for
31 the denial. The denial notice shall inform the applicant that if the
32 applicant desires a hearing by the board to contest the denial, the applicant
33 shall submit the request in writing to the department within thirty calendar
34 days after service of the denial. Service is complete on the mailing of the
35 denial to the address listed on the application.

36 C. Except as provided in section 41-1092.08, subsection H, final
37 decisions of the director AND BOARD are subject to judicial review pursuant
38 to title 12, chapter 7, article 6.

39 D. If an applicant is denied an agency license, the applicant may
40 petition the board for a good cause exception.

41 E. If the board granted a licensee a good cause exception pursuant to
42 section 32-2609, the department may not deny the licensee's renewal
43 application based on factors already reviewed by the board when granting the
44 good cause exception.

1 Sec. 26. Section 32-2641, Arizona Revised Statutes, is amended to
2 read:

3 32-2641. Grounds for refusal to issue a security guard
4 identification card or registration certificate:
5 judicial review; good cause exceptions

6 A. Except as provided in subsection F of this section, the department
7 may deny the issuance of an identification card to an applicant for a
8 security guard registration certificate or an armed security guard
9 registration certificate if the applicant:

10 1. Does not meet the requirements prescribed in section 32-2622 for
11 the appropriate type of certificate.

12 ~~2. Has committed any act which would be grounds for the suspension or~~
13 ~~revocation of a security guard registration pursuant to this chapter.~~

14 ~~3. Has knowingly made any statement which is false in the application.~~

15 2. **WOULD BE DENIED ISSUANCE OF A LICENSE OR REGISTRATION PURSUANT TO**
16 **SECTION 32-2609.**

17 B. If the director determines that an applicant's criminal history
18 contains open arrest information, the director shall:

19 1. Issue a notice to the applicant allowing forty-five days for the
20 applicant to provide documentation concerning the disposition of the arrest
21 or arrests.

22 2. Send to the applicant at the applicant's last known residential
23 address sufficient information to assist the applicant in complying with the
24 director's request under paragraph 1 of this subsection.

25 C. The denial of the issuance of a registration certificate under this
26 article shall be in writing and shall describe the basis for the denial. The
27 denial notice shall inform the applicant that if the applicant desires a
28 hearing by the board to contest the denial the applicant shall submit the
29 request in writing to the department within thirty calendar days after
30 service of the denial notice. Service is complete on the mailing of the
31 denial to the address listed on the application.

32 D. Except as provided in section 41-1092.08, subsection H, final
33 decisions of the director **AND BOARD** are subject to judicial review pursuant
34 to title 12, chapter 7, article 6.

35 E. If an applicant is denied a registration certificate, the applicant
36 may petition the board for a good cause exception.

37 F. If the board granted an applicant for a security guard registration
38 certificate or an armed security guard registration certificate a good cause
39 exception pursuant to section 32-2609, the department may not deny the
40 person's renewal application based on factors already reviewed by the board
41 when granting the good cause exception.

1 Sec. 27. Section 32-2642, Arizona Revised Statutes, is amended to
2 read:
3 32-2642. Notice of arrest, charge and discipline; penalty
4 A. Within forty-eight hours after being arrested OR FORMALLY CHARGED,
5 a security guard or an armed security guard shall notify the employer of the
6 arrest. Within twenty-four hours after receiving notice of the arrest, the
7 employer shall notify the department of the arrest. THE DEPARTMENT SHALL
8 NOTIFY THE BOARD OF THE ARREST AND DISPOSITION. THE BOARD SHALL TAKE ACTIONS
9 IT DEEMS NECESSARY PURSUANT TO SECTION 32-2405.
10 B. ANY LICENSEE OR REGISTRANT WHO IS LICENSED OR REGISTERED IN ANOTHER
11 STATE AND WHO IS DISCIPLINED IN THAT STATE SHALL IMMEDIATELY REPORT THE
12 DISCIPLINARY ACTION TO THE BOARD, INCLUDING THE DATE, VIOLATION AND
13 DISPOSITION OF THE DISCIPLINARY MATTER. ANY LICENSEE OR REGISTRANT WHO IS
14 SUSPENDED OR REVOKED IN ANOTHER STATE SHALL BE SUSPENDED OR REVOKED IN THIS
15 STATE.
16 C. ANY LICENSEE OR REGISTRANT WHO FAILS TO REPORT DISCIPLINARY ACTION
17 IN ANOTHER STATE SHALL HAVE THE LICENSE OR REGISTRATION SUMMARILY SUSPENDED
18 PENDING A DISCIPLINARY HEARING BEFORE THE BOARD, WHICH MAY RESULT IN
19 REVOCATION OF THE LICENSE OR REGISTRATION AND DENIAL OF FUTURE LICENSE OR
20 REGISTRATION.