

State of Arizona  
Senate  
Fifty-second Legislature  
Second Regular Session  
2016

# SENATE BILL 1238

AN ACT

AMENDING TITLE 8, CHAPTER 4, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-827; AMENDING SECTIONS 36-2902.01 AND 36-2902.02, ARIZONA REVISED STATUTES; RELATING TO AUTHORIZED TRIBES AND THE ARIZONA ADVISORY COUNCIL ON INDIAN HEALTH CARE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 8, chapter 4, article 9, Arizona Revised Statutes, is  
3 amended by adding section 8-827, to read:

4 8-827. Background checks of adults residing in potential  
5 emergency placement homes: disqualifying criminal  
6 offenses: definitions

7 A. IF A CHILD IS REMOVED FROM THE CUSTODY OF THE CHILD'S PARENT,  
8 GUARDIAN OR CUSTODIAN AND AN EMERGENCY PLACEMENT IS OFFERED BY AN AUTHORIZED  
9 TRIBE, AN AUTHORIZED TRIBE MAY REQUEST, IN ACCORDANCE WITH THE PROCEDURES  
10 PRESCRIBED IN 28 CODE OF FEDERAL REGULATIONS SECTIONS 901.1 THROUGH 901.4,  
11 THAT EACH PERSON WHO IS AT LEAST EIGHTEEN YEARS OF AGE AND WHO IS RESIDING IN  
12 A HOME WHERE THE POTENTIAL EMERGENCY PLACEMENT IS TO BE MADE CONSENT TO BOTH  
13 OF THE FOLLOWING:

14 1. A PRELIMINARY STATE AND FEDERAL NAME-BASED BACKGROUND CHECK.

15 2. WITHIN FIFTEEN DAYS AFTER THE DATE THE NAME-BASED BACKGROUND CHECK  
16 IS CONDUCTED, THE SUBMISSION OF A FULL SET OF THE PERSON'S FINGERPRINTS TO AN  
17 AUTHORIZED TRIBE FOR THE PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL  
18 RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE  
19 DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA WITH THE  
20 FEDERAL BUREAU OF INVESTIGATION.

21 B. AN ADULT WHO CONSENTS TO NAME-BASED AND FINGERPRINT BACKGROUND  
22 CHECKS PURSUANT TO SUBSECTION A OF THIS SECTION SHALL SUBMIT TO AN AUTHORIZED  
23 TRIBE A FULL SET OF FINGERPRINTS AND WRITTEN PERMISSION AUTHORIZING THE  
24 AUTHORIZED TRIBE TO SUBMIT THE FINGERPRINTS TO THE DEPARTMENT OF PUBLIC  
25 SAFETY FOR THE PROCESSING OF THE STATE AND FEDERAL CRIMINAL RECORDS CHECK.  
26 THE DEPARTMENT OF PUBLIC SAFETY SHALL PROVIDE THE RESULTS OF THE NAME-BASED  
27 AND FINGERPRINT BACKGROUND CHECKS TO THE AUTHORIZED TRIBE THAT SUBMITTED THE  
28 REQUEST.

29 C. IF A NAME-BASED BACKGROUND CHECK DEMONSTRATES THAT NONE OF THE  
30 ADULTS RESIDING IN THE HOME WHERE THE EMERGENCY PLACEMENT IS TO BE MADE HAS  
31 BEEN CONVICTED OF A DISQUALIFYING CRIMINAL OFFENSE, THE AUTHORIZED TRIBE MAY  
32 PLACE THE CHILD IN THE HOME PENDING THE OUTCOME OF THE FINGERPRINT BACKGROUND  
33 CHECK.

34 D. IF AN ADULT REFUSES TO CONSENT TO A REQUEST BY AN AUTHORIZED TRIBE  
35 FOR NAME-BASED AND FINGERPRINT BACKGROUND CHECKS, THE AUTHORIZED TRIBE MAY  
36 NOT PLACE THE CHILD IN A HOME IN WHICH THE ADULT RESIDES OR, IF THE CHILD WAS  
37 ALREADY PLACED IN THE HOME, THE AUTHORIZED TRIBE SHALL IMMEDIATELY REMOVE THE  
38 CHILD FROM THE HOME.

39 E. IF AN AUTHORIZED TRIBE REQUESTS NAME-BASED AND FINGERPRINT  
40 BACKGROUND CHECKS PURSUANT TO THIS SECTION, THE AUTHORIZED TRIBE MAY NOT MAKE  
41 AN EMERGENCY PLACEMENT OR CONTINUE AN EMERGENCY PLACEMENT IN A HOME IN WHICH  
42 AN ADULT RESIDENT HAS BEEN CONVICTED OF A DISQUALIFYING CRIMINAL OFFENSE.

43 F. IF AN EMERGENCY PLACEMENT IS DENIED AS A RESULT OF A NAME-BASED  
44 BACKGROUND CHECK OF AN ADULT RESIDENT AND THE ADULT RESIDENT CONTESTS THE  
45 DENIAL, THE ADULT RESIDENT, WITHIN FIFTEEN CALENDAR DAYS AFTER THE DENIAL,

1 MAY SUBMIT TO THE AUTHORIZED TRIBE A COMPLETE SET OF FINGERPRINTS FOR THE  
2 PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO  
3 SECTION 41-1750 AND PUBLIC LAW 92-544.

4 G. FOR THE PURPOSES OF THIS SECTION:

5 1. "AUTHORIZED TRIBE" MEANS THE TRIBAL CHILD SAFETY UNIT, OR ITS  
6 DESIGNEE, THAT IS RESPONSIBLE FOR OVERSEEING FOSTER CARE LICENSING FOR AN  
7 INDIAN TRIBE LOCATED IN THIS STATE AND THAT HAS A VALID TRIBAL FINGERPRINT  
8 PROGRAM USER AGREEMENT WITH THE DEPARTMENT OF PUBLIC SAFETY.

9 2. "DISQUALIFYING CRIMINAL OFFENSE" MEANS AN OFFENSE LISTED IN SECTION  
10 41-1758.07, SUBSECTION B OR C.

11 3. "EMERGENCY PLACEMENT" MEANS AN INSTANCE IN WHICH AN AUTHORIZED  
12 TRIBE PROVIDES PROTECTIVE SERVICES AND PLACES A CHILD IN THE HOME OF PRIVATE  
13 INDIVIDUALS, INCLUDING FAMILY, NEIGHBORS OR FRIENDS OF THE CHILD.

14 Sec. 2. Section 36-2902.01, Arizona Revised Statutes, is amended to  
15 read:

16 36-2902.01. Arizona advisory council on Indian health care;  
17 membership; compensation; meetings

18 A. The ARIZONA advisory council on Indian health care is established  
19 ~~consisting~~ TO GIVE TRIBAL GOVERNMENTS, TRIBAL ORGANIZATIONS AND URBAN INDIAN  
20 HEALTH CARE ORGANIZATIONS IN THIS STATE REPRESENTATION IN SHAPING MEDICAID  
21 AND HEALTH CARE POLICIES AND LAWS THAT IMPACT THE POPULATIONS THEY SERVE.

22 B. THE COUNCIL CONSISTS of the following members:

23 ~~1. Twenty members appointed by the governor. Each Arizona Indian~~  
24 ~~tribe may submit recommendations to the governor. There shall be no more~~  
25 ~~than one representative from each Arizona Indian tribe. Each member shall~~  
26 ~~represent an Arizona Indian tribe and shall be nominated by his tribal~~  
27 ~~governing body. The governor shall make appointments from the following~~  
28 ~~areas:~~

29 ~~(a) Five tribal members who represent health care agencies. At least~~  
30 ~~one of the appointees shall have experience in serving elderly clients or~~  
31 ~~clients with physical disabilities.~~

32 ~~(b) Five tribal members who represent social service agencies. At~~  
33 ~~least one of the appointees shall have experience in serving elderly clients~~  
34 ~~or clients with physical disabilities.~~

35 ~~(c) Five tribal members who represent agencies serving the persons~~  
36 ~~with developmental disabilities.~~

37 ~~(d) Two tribal members who represent tribal organizations or~~  
38 ~~metropolitan Indian centers.~~

39 ~~(e) Three tribal members serving at large.~~

40 1. TWENTY-TWO REPRESENTATIVES OF THE FEDERALLY RECOGNIZED AMERICAN  
41 INDIAN TRIBES IN THIS STATE WHO ARE APPOINTED BY THE GOVERNOR. EACH  
42 FEDERALLY RECOGNIZED AMERICAN INDIAN TRIBE IN THIS STATE MAY RECOMMEND TO THE  
43 GOVERNOR NAMES OF PERSONS TO REPRESENT THE TRIBE ON AND FOR APPOINTMENT TO  
44 THE COUNCIL. REPRESENTATIVES SHALL BE APPOINTED FROM THOSE NAMES SUBMITTED

1 BY THE TRIBES. RECOMMENDED REPRESENTATIVES MAY HAVE EXPERIENCE SERVING THE  
2 ELDERLY, YOUTH, CHILDREN OR FAMILIES OR PERSONS WITH DISABILITIES.

3 2. ONE REPRESENTATIVE FROM THE INTER TRIBAL COUNCIL OF ARIZONA WHO IS  
4 RECOMMENDED BY THE PRESIDENT OF THE INTER TRIBAL COUNCIL OF ARIZONA AND WHO  
5 IS APPOINTED BY GOVERNOR.

6 3. ONE REPRESENTATIVE FROM AN URBAN INDIAN HEALTH ORGANIZATION IN THIS  
7 STATE THAT RECEIVES INDIAN HEALTH SERVICES FUNDING PURSUANT TO 25 UNITED  
8 STATES CODE CHAPTER 18 WHO IS RECOMMENDED JOINTLY BY THE URBAN INDIAN HEALTH  
9 ORGANIZATIONS AND WHO IS APPOINTED BY THE GOVERNOR.

10 ~~2-~~ 4. One representative from the Arizona health care cost  
11 containment system WHO IS appointed by the director.

12 ~~3-~~ 5. One representative from the department of health services WHO  
13 IS appointed by the director of the department of health services.

14 ~~4-~~ 6. One representative from the department of economic security WHO  
15 IS appointed by the director of the department of economic security.

16 7. ONE REPRESENTATIVE FROM THE ARIZONA EARLY CHILDHOOD DEVELOPMENT AND  
17 HEALTH BOARD WHO IS APPOINTED BY THE EXECUTIVE DIRECTOR OF THE ARIZONA EARLY  
18 CHILDHOOD DEVELOPMENT AND HEALTH BOARD.

19 C. A MAJORITY OF THE COUNCIL MEMBERS SHALL BE MEMBERS OF FEDERALLY  
20 RECOGNIZED AMERICAN INDIAN TRIBES IN THIS STATE. THE COUNCIL SHALL CONTACT  
21 EACH TRIBE TO SOLICIT NAMES OF PERSONS TO RECOMMEND FOR EXPIRED TERMS UNDER  
22 SUBSECTION B, PARAGRAPH 1.

23 ~~B-~~ D. THE COUNCIL SHALL INVITE federal representatives of the centers  
24 for medicare and medicaid services, the Indian health service, the ~~bureau of~~  
25 ~~Indian affairs,~~ UNITED STATES SOCIAL SECURITY ADMINISTRATION AND the United  
26 States department of veterans affairs ~~and the executive office of management~~  
27 ~~and budget shall be invited by the governor~~ to serve as technical advisors to  
28 the council. THESE REPRESENTATIVES SHALL BE EX OFFICIO MEMBERS AND MAY SERVE  
29 A THREE-YEAR TERM ON THE COUNCIL.

30 ~~C-~~ E. Except as provided in subsection ~~A- B~~, paragraphs ~~2, 3 and~~ 4,  
31 5, 6 AND 7 OF THIS SECTION, ~~no~~ A member of the council may NOT be an employee  
32 of this state.

33 ~~D-~~ F. Members of the council are not eligible to receive  
34 compensation, but ~~members appointed pursuant to subsection A, paragraphs 1~~  
35 ~~and 2~~ are eligible for reimbursement of expenses pursuant to title 38,  
36 chapter 4, article 2.

37 ~~E-~~ G. Members WHO ARE appointed pursuant to subsection ~~A- B~~,  
38 ~~paragraph~~ PARAGRAPHS 1, 2 AND 3 shall serve staggered ~~two-year~~ THREE-YEAR  
39 terms. A ~~tribal~~ member who is absent without notice from three consecutive  
40 meetings vacates ~~his~~ THE INDIVIDUAL'S membership. The governor ~~shall~~ MAY  
41 appoint a new member within thirty days ~~from~~ AFTER the third unexcused  
42 absence. Vacancies occurring on the council shall be filled for the balance  
43 of the term.

1           ~~F.~~ H. The council shall elect, FROM PERSONS APPOINTED PURSUANT TO  
2 SUBSECTION B, PARAGRAPH 1, 2 OR 3 OF THIS SECTION, a ~~chairman and~~  
3 ~~vice chairman from its membership~~ CHAIRPERSON AND VICE CHAIRPERSON. The  
4 ~~chairman and vice chairman~~ CHAIRPERSON AND VICE CHAIRPERSON shall be members  
5 of a federally recognized ~~Arizona~~ AMERICAN Indian tribe IN THIS STATE. The  
6 election shall be held the ~~first~~ SECOND Monday in ~~October of each~~ JULY EVERY  
7 OTHER year. The term of office shall be ~~one year~~ TWO YEARS. The council  
8 shall meet at least six times a year and may meet more often at the call of  
9 the ~~chairman or vice chairman~~ CHAIRPERSON OR VICE CHAIRPERSON. A majority of  
10 ~~the~~ SEATED council MEMBERS constitutes a quorum.

11           ~~G.~~ I. ~~A~~ AN EX OFFICIO member serving pursuant to subsection ~~B~~ D OF  
12 THIS SECTION is not eligible to vote and is not a member for purposes of  
13 determining whether a quorum is present.

14           ~~H.~~ J. Meetings are open to the public and minutes of each meeting are  
15 open for public inspection.

16           Sec. 3. Section 36-2902.02, Arizona Revised Statutes, is amended to  
17 read:

18           36-2902.02. Arizona advisory council on Indian health care;  
19 duties; appropriation request

20           A. The ARIZONA advisory council on Indian health care shall:

21           1. Hire and employ a director who shall hire and employ staff, subject  
22 to legislative appropriation, for purposes relating to the functions of the  
23 ~~advisory~~ council. The staff shall provide technical assistance to tribal  
24 governments on tribal health care initiatives. The director, on behalf of  
25 the council, shall annually notify the director of the Arizona health care  
26 cost containment system administration of the amount of appropriation  
27 required by the council for the following fiscal year.

28           2. ~~ASSIST TRIBES AND URBAN INDIAN HEALTH ORGANIZATIONS TO~~ develop ~~a~~  
29 comprehensive MEDICAL AND PUBLIC health care delivery and financing ~~system~~  
30 ~~for American Indians, specific to each Arizona Indian tribe, with a focus on~~  
31 ~~creating Indian health care demonstration projects pursuant to title XIX of~~  
32 ~~the social security act~~ SYSTEMS TO MEET THE NEEDS OF AMERICAN INDIAN TRIBES  
33 IN THIS STATE. In performing this duty, the ~~advisory~~ council shall:

34           ~~(a) Develop a comprehensive health care delivery and financing system,~~  
35 ~~specific to each Arizona Indian tribe, that uses title XIX funds and builds~~  
36 ~~on currently available private, state and federal funds.~~

37           ~~(b)~~ (a) ~~Develop~~ RECOMMEND new title XIX AND XXI PROGRAMS, SERVICES,  
38 FUNDING OPTIONS, POLICIES AND demonstration projects, ~~specific to each~~  
39 ~~Arizona~~ TO MEET THE NEEDS OF AMERICAN Indian ~~tribe~~ TRIBES AND URBAN INDIAN  
40 HEALTH ORGANIZATIONS, both on and off reservations, in cooperation with this  
41 state and the federal government.

42           ~~(c)~~ (b) Facilitate communications, planning, ADVOCACY and discussion  
43 among tribes, ~~AND URBAN INDIAN HEALTH ORGANIZATIONS IN THIS STATE AND WITH~~  
44 this state and federal agencies regarding operations, financing, policy and  
45 legislation relating to Indian MEDICAL AND PUBLIC health care.

1           ~~(d)~~ (c) Recommend and advocate tribal, state and federal policy and  
2 legislation that ~~supports~~ SUPPORT the design and implementation of MEDICAL  
3 AND PUBLIC health care delivery and financing systems ~~specific to each~~  
4 ~~Arizona Indian tribe~~ FOR TRIBES AND URBAN INDIAN HEALTH ORGANIZATIONS IN THIS  
5 STATE.

6           (d) CONDUCT AND COMMISSION STUDIES AND RESEARCH TO FURTHER THE PURPOSE  
7 OF THE COUNCIL AND TO ADDRESS IDENTIFIED INDIAN HEALTH CARE DISPARITIES IN  
8 THIS STATE.

9           (e) CONDUCT PERIODIC PUBLIC HEARINGS TO GATHER INPUT AND  
10 RECOMMENDATIONS FROM TRIBAL POPULATIONS ON THEIR HEALTH CARE ISSUES AND  
11 CONCERNS.

12           (f) APPLY FOR AND SEEK GRANTS, CONTRACTS AND FUNDING TO FURTHER THE  
13 PURPOSE OF THE COUNCIL. THE FUNDING SHALL SUPPLEMENT AND NOT DIMINISH ANNUAL  
14 APPROPRIATIONS FOR THE COUNCIL.

15           ~~(e)~~ (g) Notwithstanding section 36-2903.01, subsection B, in  
16 conjunction with the administration AND A TRIBE THAT OPERATES A TEMPORARY  
17 ASSISTANCE FOR NEEDY FAMILIES PROGRAM, request a federal waiver from the  
18 United States department of health and human services that allows tribal  
19 governments that perform eligibility determinations for temporary assistance  
20 for needy families programs to perform the medicaid eligibility  
21 determinations for persons who apply for services pursuant to section  
22 36-2901, paragraph 6, subdivision (a). If the waiver is approved, the state  
23 shall provide the state matching monies for the administrative costs  
24 associated with the medicaid eligibility based on federal guidelines. As  
25 part of the waiver, the administration shall recoup from a tribal government  
26 all federal fiscal sanctions that result from inaccurate eligibility  
27 determinations.

28           ~~(f)~~ (h) Perform other duties as requested by the legislature.

29           B. The director, on notification by the ~~advisory~~ council, shall  
30 include the amount of the COUNCIL'S appropriation request in the  
31 ~~administration's~~ AGENCY'S annual appropriations request.

32           Sec. 4. Retention of members

33           Notwithstanding section 36-2902.01, Arizona Revised Statutes, as  
34 amended by this act, all persons serving as members of the Arizona advisory  
35 council on Indian health care on the effective date of this act may continue  
36 to serve until the expiration of their normal terms. The governor shall make  
37 all subsequent appointments as prescribed by statute.