

REFERENCE TITLE: **governor appointees; criminal records checks**

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

HB 2515

Introduced by
Representative Farnsworth E

AN ACT

AMENDING SECTIONS 12-3151, 23-422, 26-1026, 26-1067, 32-802, 32-901, 32-1203, 32-1502, 32-1602, 32-1672, 32-1702, 32-1801, 32-2502, 32-2902, 32-3252, 32-3402, 32-3502, 32-3902, 38-211, 38-848, 41-101, 41-1502, 41-1750, 41-1821 AND 41-5353, ARIZONA REVISED STATUTES; RELATING TO CRIMINAL RECORDS CHECKS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 12-3151, Arizona Revised Statutes, is amended to
3 read:

4 12-3151. Nominations; commissions on trial and appellate
5 court appointments; voting records

6 A. If the commission on appellate court appointments is required to
7 fill a vacancy in the office of a justice or judge of the supreme court or
8 an intermediate appellate court of record pursuant to article ~~6~~ VI,
9 section 37, Constitution of Arizona, the commission shall submit to the
10 governor the names of at least five persons nominated by it to fill the
11 vacancy, except that on a two-thirds vote, the commission may reject an
12 applicant and submit fewer than five names. If the commission submits
13 five or more nominees, not more than sixty ~~per cent~~ PERCENT of the
14 nominees shall be from the same political party. If the commission
15 submits fewer than five nominees, ~~no~~ NOT more than two nominees may be
16 from the same political party.

17 B. If the commission on trial court appointments is required to
18 fill a vacancy in the office of a judge of the superior court or a judge
19 of a court of record inferior to the superior court except for vacancies
20 occurring in the office of a judge of the superior court or a judge of a
21 court of record inferior to the superior court in a county having a
22 population of less than two hundred fifty thousand persons pursuant to
23 article ~~6~~ VI, section 37, Constitution of Arizona, the commission shall
24 submit to the governor the names of at least five persons nominated by it
25 to fill the vacancy, except that on a two-thirds vote, the commission may
26 reject an applicant and submit fewer than five names. If the commission
27 submits five or more nominees, not more than sixty ~~per cent~~ PERCENT of the
28 nominees shall be from the same political party. If the commission
29 submits fewer than five nominees, ~~no~~ NOT more than two nominees may be
30 from the same political party.

31 C. BEFORE APPOINTMENT BY THE GOVERNOR, THE NOMINEES WHOSE NAMES ARE
32 SUBMITTED TO THE GOVERNOR PURSUANT TO SUBSECTIONS A AND B OF THIS SECTION
33 SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE GOVERNOR FOR THE PURPOSE OF
34 OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION
35 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY
36 EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF INVESTIGATION.

37 ~~E.~~ D. The voting records of all members of the commission on
38 appellate court appointments and the commission on trial court
39 appointments shall be recorded in the minutes and made public. A voting
40 record shall include how each individual commissioner voted.

41 Sec. 2. Section 23-422, Arizona Revised Statutes, is amended to
42 read:

43 23-422. Review board

44 A. A review board is established within the commission to hear and
45 rule on appeals of administrative law judge decisions generated in this

1 article. The board shall consist of five members appointed by the
2 governor. The occupational safety and health advisory committee shall
3 submit to the governor a list of names of persons to be considered for
4 appointment to the board who by reason of training, education or
5 experience are qualified to carry out the powers and duties of the board.
6 One member shall be a representative of management, one member shall be a
7 representative of labor and three members shall be representatives of the
8 general public. The board shall elect a chairman from the board's
9 membership.

10 B. BEFORE APPOINTMENT BY THE GOVERNOR, A PROSPECTIVE MEMBER OF THE
11 BOARD SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE GOVERNOR FOR THE
12 PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT
13 TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY
14 MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF
15 INVESTIGATION.

16 ~~B.~~ C. Members of the board shall be appointed to five-year terms,
17 except that of the members first appointed, one each shall serve for a
18 term of one, two, three, four and five years. A vacancy occurring on the
19 board other than by expiration of a term shall be filled in the manner
20 original appointments were made, for the unexpired portion of the term.
21 THE GOVERNOR MAY REMOVE members of the board ~~may be removed by the~~
22 ~~GOVERNOR~~ for inefficiency, neglect of duty, malfeasance or nonfeasance in
23 office. The board shall meet as often as necessary to hold review
24 hearings as provided in section 23-423, at times and places as the
25 chairman may determine. One member from management, one member from labor
26 and one member from the general public shall be present in order to
27 conduct review hearings or other business. All decisions of the board
28 shall be determined by a majority decision.

29 ~~C.~~ D. The commission shall employ a staff necessary for the
30 efficient administration of the board's activities. All personnel of the
31 board shall be under the supervision of the director of the commission and
32 shall be paid from the general fund, subject to legislative appropriation.

33 ~~D.~~ E. Board members shall receive compensation pursuant to section
34 38-611, which shall be paid from the general fund, subject to legislative
35 appropriation.

36 ~~E.~~ F. The monies appropriated to carry out the purposes of
37 subsections ~~C and~~ D AND E of this section shall be appropriated to the
38 commission, shall not exceed twenty thousand dollars per year and are
39 exempt from the provisions of section 35-190 relating to lapsing of
40 appropriations. The monies shall be kept separate and apart from other
41 monies of the commission and shall be available only to the board.

42 ~~F.~~ G. A member of the board shall not participate on a matter with
43 which the member is personally associated. If a member is disqualified
44 pursuant to this subsection or is unable to participate for any other
45 reason on a particular matter, the governor shall appoint a person as a

1 temporary member to participate in the hearing. The occupational safety
2 and health advisory committee shall submit to the governor a list of names
3 of persons to be considered for a temporary appointment. The person shall
4 meet the qualifications of subsection A of this section, and shall be
5 representative of the same area as that of the member for whom the person
6 is serving as alternate.

7 Sec. 3. Section 26-1026, Arizona Revised Statutes, is amended to
8 read:

9 26-1026. Military judge of a general or special court-martial

10 A. A military judge shall be detailed to each general
11 court-martial. Subject to rules of the adjutant general, a military judge
12 may be detailed to any special court-martial. The adjutant general shall
13 adopt rules providing for the manner in which military judges are detailed
14 for the courts-martial and for the persons who are authorized to detail
15 military judges for the courts-martial. The military judge shall preside
16 over each open session of the court-martial to which the military judge
17 has been detailed.

18 B. A military judge must be a member in good standing of the state
19 bar of Arizona and a current or former member of the United States armed
20 forces or the armed forces of this state who is appointed as a military
21 judge by the governor after certification by the state judge advocate as
22 having met the qualifications.

23 C. BEFORE APPOINTMENT BY THE GOVERNOR, A PROSPECTIVE MILITARY JUDGE
24 SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE GOVERNOR FOR THE PURPOSE OF
25 OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION
26 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY
27 EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF INVESTIGATION.

28 ~~C.~~ D. The military judge of a general court-martial shall be
29 designated by the state judge advocate, or the state judge advocate's
30 designee, for detail in accordance with rules adopted under subsection A
31 of this section. Unless the court-martial was convened by the governor,
32 neither the convening authority nor any member of the convening
33 authority's staff shall prepare or review any report concerning the
34 effectiveness, fitness or efficiency of the military judge detailed, which
35 relates to the military judge's performance of duty as a military judge.
36 A commissioned officer who is certified to be qualified for duty as a
37 military judge of a general court-martial may perform duties of a judicial
38 or nonjudicial nature other than those relating to the officer's primary
39 duty as a military judge of a general court-martial if the duties are
40 assigned to the officer by or with the approval of the state judge
41 advocate or the state judge advocate's designee.

42 ~~D.~~ E. A person is not eligible to act as military judge in a case
43 if the person is the accuser or a witness or has acted as an investigating
44 officer or a counsel in the same case.

1 ~~E.~~ F. The military judge of a court-martial may not consult with
2 the members of the court except in the presence of the accused, trial
3 counsel and defense counsel, and the military judge may not vote with the
4 members of the court.

5 Sec. 4. Section 26-1067, Arizona Revised Statutes, is amended to
6 read:

7 26-1067. Court of military appeals: members: terms:
8 compensation; duties; review; procedures

9 A. The Arizona court of military appeals is established and is
10 located for administrative purposes only in the department of emergency
11 and military affairs. The court shall consist of five judges appointed by
12 the governor on the recommendation of the adjutant general with the advice
13 of the state judge advocate for a term of six years. Initial appointments
14 shall be staggered. The term of office for all successor judges is six
15 years, but any judge appointed to fill a vacancy occurring before the
16 expiration of the term for which the judge's predecessor was appointed
17 shall be appointed only for the unexpired term of the predecessor. Not
18 more than three judges of the court may be appointed from the same
19 political party. Judges may succeed themselves in office. A person is
20 eligible for appointment to this court who, in addition to the
21 requirements of article VI, section 22, Constitution of Arizona, has at
22 least five years' experience as a judge advocate in the national guard or
23 armed forces of the United States.

24 B. BEFORE APPOINTMENT BY THE GOVERNOR, A PROSPECTIVE JUDGE SHALL
25 SUBMIT A FULL SET OF FINGERPRINTS TO THE GOVERNOR FOR THE PURPOSE OF
26 OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION
27 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY
28 EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF INVESTIGATION.

29 ~~B.~~ C. The governor shall designate one of the judges to act as
30 chief judge. The chief judge has precedence and shall preside at any
31 session the judge attends. The other judges have precedence and shall
32 preside according to the seniority of their appointments. Judges whose
33 commissions bear the same date have precedence according to seniority in
34 age.

35 ~~C.~~ D. The court shall sit in panels of no less than three judges
36 to be selected by the presiding judge.

37 ~~D.~~ E. Judges of the Arizona court of military appeals may be
38 removed by the governor, on notice and hearing, for neglect of duty or
39 malfeasance in office or for mental or physical disability but for no
40 other cause.

41 ~~E.~~ F. The judges of the Arizona court of military appeals, while
42 actually sitting in review of a matter placed under their jurisdiction by
43 this chapter, and while traveling to and from such session, are eligible
44 to receive compensation equal to that compensation prescribed for the
45 judges of the Arizona court of appeals, as provided by law, together with

1 the actual cost of meals, lodging and travel expense or the amount set by
2 law if private transportation is utilized. Payment shall be made from
3 monies appropriated to the national guard.

4 ~~F.~~ G. The Arizona court of military appeals has exclusive
5 appellate and special action jurisdiction, in appeals filed by this state
6 pursuant to section 26-1062, or on petition of an accused, to hear and
7 review the record in all general and special court-martial cases and all
8 summary court-martial cases in which a sentence of confinement has been
9 adjudged.

10 ~~G.~~ H. The accused has thirty calendar days from the time of
11 receipt of actual notice of the final action on the case by the convening
12 authority under section 26-1060 to petition the Arizona court of military
13 appeals for review. The court shall act on a petition within sixty
14 calendar days after receipt. If the court fails or refuses to grant a
15 petition for review, the final action of the convening authority is deemed
16 approved. Notwithstanding any other provision of this chapter, if the
17 court grants a hearing of an appeal, the court may grant a stay or defer
18 service of the sentence of confinement or any other punishment until the
19 court's final decision on the case.

20 ~~H.~~ I. The Arizona court of military appeals may act only with
21 respect to the findings and sentence as finally approved and ordered
22 executed by the convening authority.

23 ~~I.~~ J. If the Arizona court of military appeals sets aside the
24 findings and sentence, it may order a rehearing, except if the setting
25 aside is based on lack of sufficient evidence in the record to support the
26 findings. If it sets aside the findings and sentence and does not order a
27 rehearing, it shall order that the charges be dismissed. After the
28 Arizona court of military appeals has acted on the case, the record shall
29 be returned to the state judge advocate who shall notify the convening
30 authority of the court's decision. If further action is required, the
31 state judge advocate shall instruct the convening authority to take action
32 in accordance with that decision. If the court has ordered a rehearing,
33 but the convening authority finds a rehearing impracticable, the state
34 judge advocate may dismiss the charges.

35 ~~J.~~ K. Decisions of the Arizona court of military appeals are
36 subject to review by the Arizona supreme court by a petition for review in
37 accordance with the Arizona rules of criminal procedure and the rules of
38 the supreme court of Arizona.

39 ~~K.~~ L. With monies appropriated to the national guard, the adjutant
40 general may employ persons necessary to assist the Arizona court of
41 military appeals in its duties.

42 ~~L.~~ M. The adjutant general with the approval of the governor shall
43 adopt rules necessary for the administration of the court. The accused
44 has a right to appointed military counsel for an appeal.

1 Sec. 5. Section 32-802, Arizona Revised Statutes, is amended to
2 read:

3 32-802. Board of podiatry examiners; compensation

4 A. ~~There shall be a~~ THE state board of podiatry examiners ~~which~~
5 ~~shall consist~~ IS ESTABLISHED CONSISTING of five members appointed by the
6 governor. Each member shall be appointed for a term of five years, to
7 begin and end on February 1.

8 B. BEFORE APPOINTMENT BY THE GOVERNOR, A PROSPECTIVE MEMBER OF THE
9 BOARD SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE GOVERNOR FOR THE
10 PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT
11 TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY
12 MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF
13 INVESTIGATION.

14 C. Three members of the board shall have practiced podiatry
15 continuously in this state for not less than two years immediately
16 preceding appointment and shall have valid licenses to practice podiatry.
17 Two members of the board shall be lay persons. All members of the board
18 shall be citizens of the United States.

19 D. A vacancy on the board occurring other than by the
20 expiration of a term shall be filled by appointment by the governor for
21 the unexpired term.

22 E. All appointments shall be made promptly, and in the case of
23 the vacancy of a professional member or members, appointment shall be made
24 no later than ninety days from the expiration of the term or vacancy.

25 F. The term of any member ~~may~~, at the discretion of the board,
26 ~~MAY~~ end and the office be declared vacant for failure to attend three
27 consecutive meetings of the board.

28 G. Members of the board shall receive compensation of fifty
29 dollars for each day of actual service in the business of the board.

30 H. The state board of podiatry examiners may hire practicing
31 podiatrists or other medical specialists, or both, as needed, in order to
32 assist the board in giving examinations. Such examiners shall receive the
33 same compensation as board members.

34 I. Subject to title 41, chapter 4, article 4, the board may
35 employ personnel, including trained investigators, as it deems necessary
36 to carry out the purposes of this chapter.

37 J. Members, personnel and examiners of the board are personally
38 immune from suit with respect to all acts done and actions taken in good
39 faith and in furtherance of the purposes of this chapter.

40 Sec. 6. Section 32-901, Arizona Revised Statutes, is amended to
41 read:

42 32-901. Board of chiropractic examiners; removal; immunity

43 A. The state board of chiropractic examiners is established
44 consisting of three licensed chiropractors and two consumer members who

1 are appointed by the governor. One member shall be appointed each year
2 for a term of five years, to begin and end on July 1.

3 B. BEFORE APPOINTMENT BY THE GOVERNOR, A PROSPECTIVE MEMBER OF THE
4 BOARD SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE GOVERNOR FOR THE
5 PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT
6 TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY
7 MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF
8 INVESTIGATION.

9 B. C. Each member of the board shall be a resident of this state,
10 and each of the licensed chiropractic members shall have practiced
11 chiropractic in this state for three years or more. The two consumer
12 members of the board shall not be in any manner connected with, or have an
13 interest in, any college or school of chiropractic or any person
14 practicing any form of healing or treatment of bodily or mental ailments.
15 A board member shall not receive compensation as an agent or employee of
16 or a contractor for an insurance company. This subsection does not
17 prevent a board member who is a licensed chiropractor from receiving
18 compensation from an insurance company for patient care as provided for in
19 a patient's insurance policy.

20 C. D. Before taking office, each board member shall take an oath
21 prescribed by law and shall affirm by oath that the board member meets the
22 qualifications as prescribed in this section.

23 D. E. THE GOVERNOR MAY REMOVE board members ~~may be removed by the~~
24 ~~governor~~ for neglect of duty, malfeasance or misfeasance in office.
25 Vacancies occurring on the board other than by expiration of a term shall
26 be filled for the unexpired portion of the term by appointment in the same
27 manner as regular appointments.

28 E. F. ~~No~~ A member of the board may NOT serve more than two
29 consecutive terms.

30 F. G. A board member who acts within the board member's authority
31 is personally immune from civil liability with respect to all actions
32 taken in good faith pursuant to this chapter.

33 Sec. 7. Section 32-1203, Arizona Revised Statutes, is amended to
34 read:

35 32-1203. State board of dental examiners: qualifications of
36 members; terms

37 A. The state board of dental examiners is established consisting of
38 six licensed dentists, two licensed dental hygienists, two public members
39 and one business entity member appointed by the governor for a term of
40 four years, to begin and end on January 1.

41 B. BEFORE APPOINTMENT BY THE GOVERNOR, A PROSPECTIVE MEMBER OF THE
42 BOARD SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE GOVERNOR FOR THE
43 PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT
44 TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY

1 MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF
2 INVESTIGATION.

3 ~~B.~~ C. The business entity member and the public members may
4 participate in all board proceedings and determinations, except in the
5 preparing, giving or grading of examinations for licensure. Dental
6 hygienist board members may participate in all board proceedings and
7 determinations, except in the preparing, giving and grading of
8 examinations that do not relate to dental hygiene procedures.

9 ~~C.~~ D. A board member shall not serve more than two consecutive
10 terms.

11 ~~D.~~ E. For the purposes of this section, business entity member
12 does not include a person who is licensed pursuant to this chapter.

13 Sec. 8. Section 32-1502, Arizona Revised Statutes, is amended to
14 read:

15 32-1502. *Naturopathic physicians medical board: appointment;*
16 *qualifications; term of office; immunity*

17 A. The naturopathic physicians medical board is established
18 consisting of the following members:

19 1. Four physician members appointed by the governor. Each
20 physician member shall be:

21 (a) A resident of this state for at least five years immediately
22 preceding the appointment.

23 (b) A doctor of naturopathic medicine with a degree from a
24 naturopathic school or college approved by the board who has engaged in
25 full-time practice of naturopathic medicine for at least five years
26 immediately preceding the appointment.

27 2. Three public members appointed by the governor. Each public
28 member shall:

29 (a) Be a resident of this state for at least five years immediately
30 preceding the appointment.

31 (b) Not be connected, in any manner, with or have any interest in a
32 school of medicine, ~~A~~ health care institution or any person practicing any
33 form of healing or treatment of bodily or mental ailments.

34 (c) Demonstrate an interest in the health problems in this state.

35 B. BEFORE APPOINTMENT BY THE GOVERNOR, A PROSPECTIVE MEMBER OF THE
36 BOARD SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE GOVERNOR FOR THE
37 PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT
38 TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY
39 MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF
40 INVESTIGATION.

41 ~~B.~~ C. The terms of office of the physician members and the public
42 members are five years to begin and end on June 30. Each physician member
43 and each public member continue to hold office until the appointment and
44 qualification of their successors, subject to the following exceptions:

1 1. A member of the board may be removed from office if the governor
2 finds the member was guilty of malfeasance, misfeasance or dishonorable
3 conduct.

4 2. The term of any member automatically ends on resignation,
5 permanent removal from this state or removal from this state for a period
6 of more than six months.

7 **~~C.~~ D.** There shall be no monetary liability on the part of and no
8 cause of action shall arise against the members of the board, the
9 secretary-treasurer or permanent or temporary personnel of the board for
10 any act done or proceeding undertaken or performed in good faith and in
11 furtherance of the purposes of this chapter.

12 Sec. 9. Section 32-1602, Arizona Revised Statutes, is amended to
13 read:

14 32-1602. Board of nursing; member terms; immunity

15 A. The **ARIZONA** state board of nursing is established consisting of
16 eleven members who are appointed by the governor. Six members shall be
17 registered nurses, including at least one registered nurse practitioner,
18 clinical nurse specialist or certified registered nurse anesthetist. One
19 member shall be a nursing assistant or a nursing assistant educator. Two
20 members shall represent the public and two members shall be licensed
21 practical nurses. Members shall be appointed for a term of five years, to
22 begin and end on June 30.

23 B. **BEFORE APPOINTMENT BY THE GOVERNOR, A PROSPECTIVE MEMBER OF THE
24 BOARD SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE GOVERNOR FOR THE
25 PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT
26 TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY
27 MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF
28 INVESTIGATION.**

29 **~~B.~~ C.** On or before May 1 each year and at any other time a vacancy
30 on the board occurs, the governor shall make an appointment or
31 appointments to the board. Appointment to fill a vacancy other than by
32 expiration shall be for the unexpired term. A person shall not serve more
33 than two consecutive terms as a member of the board.

34 **~~C.~~ D.** The governor may remove any person from the board for
35 neglect of any duty imposed by law or for incompetency or unprofessional
36 or dishonorable conduct.

37 **~~D.~~ E.** A board member's term automatically ends:

- 38 1. On the death of the member.
- 39 2. On the member's written resignation submitted to the board
40 president or to the governor.
- 41 3. On the member's failure to attend three consecutive board
42 meetings.

43 **~~E.~~ F.** A board member who acts within the scope of board duties,
44 without malice and in the reasonable belief that the member's action is
45 warranted by law is not subject to civil liability.

1 Sec. 10. Section 32-1672, Arizona Revised Statutes, is amended to
2 read:

3 32-1672. Board of dispensing opticians; members; qualifications; terms; removal; immunity

4
5 A. The state board of dispensing opticians is established
6 consisting of seven members appointed by the governor. Five members of
7 the board shall be licensees in good standing under this chapter. Two
8 members of the board shall be public members.

9
10 B. BEFORE APPOINTMENT BY THE GOVERNOR, A PROSPECTIVE MEMBER OF THE
11 BOARD SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE GOVERNOR FOR THE
12 PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT
13 TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY
14 MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF
INVESTIGATION.

15
16 C. Each member shall serve for a term of five years expiring on
17 the first day in January of the appropriate year. A member shall not
18 serve for more than two complete consecutive terms.

19
20 D. The board shall elect from among its membership a chairman
and such other officers as it deems necessary, who shall hold their
offices at the pleasure of the board.

21
22 E. Members of the board are eligible to receive compensation in
the amount of fifty dollars for each day of actual service in the business
23 of the board.

24
25 F. The governor may remove a board member from office if the
governor determines that the member is guilty of malfeasance, misfeasance
26 or dishonorable conduct.

27
28 G. The board, the secretary-treasurer of the board and
29 permanent and temporary board personnel are immune from civil liability
30 for any act the board, its officers and board personnel perform in good
faith and in furtherance of this chapter.

31 Sec. 11. Section 32-1702, Arizona Revised Statutes, is amended to
32 read:

33 32-1702. Board of optometry; appointment; qualifications; term; removal

34
35 A. The state board of optometry is established consisting of the
36 following members who are appointed by the governor to staggered four-year
37 terms that end on July 1:

38
39 1. Five members who have been licensed and engaged in the active
40 practice of optometry in this state for at least three years immediately
before the appointment.

41
42 2. Two public members who do not have a direct or indirect interest
in the practice of optometry, opticianry or medicine.

43
44 B. BEFORE APPOINTMENT BY THE GOVERNOR, A PROSPECTIVE MEMBER OF THE
45 BOARD SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE GOVERNOR FOR THE
PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT

1 TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY
2 MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF
3 INVESTIGATION.

4 ~~B.~~ C. The governor may remove any professional member for
5 incompetency or unprofessional conduct or if the member's license has been
6 revoked or suspended or if the member has been censured or placed on
7 probation. The governor may remove any member for neglect of duty or
8 improper conduct. The unexcused absence of a member for more than two
9 consecutive meetings is justification for removal. Appointment by the
10 governor to fill a vacancy caused other than by expiration of a term is
11 for the unexpired portion of the term.

12 ~~C.~~ D. A member of the board is ineligible to serve more than two
13 consecutive full terms. The completion of the unexpired portion of a full
14 term does not constitute a full term for purposes of this subsection.

15 ~~D.~~ E. The board shall conduct regular meetings at least six times
16 each year at times and places designated by the board or the governor.
17 Special meetings may be called that the president determines are necessary
18 to carry out the functions of the board, including meetings using
19 communications equipment that allows all members participating in the
20 meetings to hear each other.

21 ~~E.~~ F. A majority of the members of the board constitutes a quorum
22 and a majority vote of a quorum present at any meeting governs all actions
23 taken by the board.

24 Sec. 12. Section 32-1801, Arizona Revised Statutes, is amended to
25 read:

26 32-1801. Arizona board of osteopathic examiners in medicine
27 and surgery

28 A. ~~There shall be an~~ THE Arizona board of osteopathic examiners in
29 medicine and surgery ~~which shall consist~~ IS ESTABLISHED CONSISTING of
30 seven members appointed by the governor. One member of the board shall be
31 appointed each year for a term of five years, to begin and end on
32 April 15.

33 B. BEFORE APPOINTMENT BY THE GOVERNOR, A PROSPECTIVE MEMBER OF THE
34 BOARD SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE GOVERNOR FOR THE
35 PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT
36 TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY
37 MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF
38 INVESTIGATION.

39 ~~B.~~ C. Two members of the board shall be public members who shall
40 not be in any manner connected with, or have an interest in, any school of
41 medicine or any person practicing any form of healing or treatment of
42 bodily or mental ailments and who has demonstrated an interest in the
43 health problems of the state. The other five members of the board shall
44 have engaged in the practice of medicine as an osteopathic physician in
45 this state for at least five years preceding their appointments, hold

1 active licenses in good standing and, at the time of appointment, be
2 practicing medicine with direct patient contact. In making appointments
3 of each professional member of the board, the governor shall consider a
4 list of qualified persons submitted by the Arizona osteopathic medical
5 association and recommendations by any other person. Members of the board
6 shall continue in office until their successors are appointed and
7 qualified. Each board member, ~~prior to~~ BEFORE entering ~~upon~~ ON his
8 duties, shall take an oath prescribed by law and in addition thereto shall
9 make an oath as to his qualifications as prescribed in this section. No
10 board member may serve more than two consecutive five year terms.

11 ~~C. D. THE GOVERNOR MAY REMOVE~~ board members ~~may be removed by the~~
12 ~~governor~~ if they fail to attend three or more board meetings within twelve
13 months. This does not include telephonic meetings of the board. The
14 governor may also remove board members for malfeasance, misfeasance or
15 incompetence in their office, unprofessional or dishonorable conduct in
16 their office or unprofessional or dishonorable conduct. The governor
17 shall appoint a qualified replacement to fill a vacant position for the
18 unexpired portion of the term.

19 Sec. 13. Section 32-2502, Arizona Revised Statutes, is amended to
20 read:

21 32-2502. Arizona regulatory board of physician assistants:
22 membership; appointment; terms; immunity

23 A. The Arizona regulatory board of physician assistants is
24 established consisting of the following members:

25 1. Five physician assistants who hold a current regular license
26 pursuant to this chapter. The governor may appoint these members from a
27 list of qualified candidates submitted by the Arizona state association of
28 physician assistants. The governor may seek additional input and
29 nominations before the governor makes the physician assistant
30 appointments.

31 2. Two public members who are appointed by the governor.

32 3. Two physicians who are actively engaged in the practice of
33 medicine and who are licensed pursuant to chapter 17 of this title, one of
34 whom supervises a physician assistant at the time of appointment, and who
35 are appointed by the governor.

36 4. Two physicians who are actively engaged in the practice of
37 medicine and who are licensed pursuant to chapter 13 of this title, one of
38 whom supervises a physician assistant at the time of appointment, and who
39 are appointed by the governor.

40 B. BEFORE APPOINTMENT BY THE GOVERNOR, A PROSPECTIVE MEMBER OF THE
41 BOARD SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE GOVERNOR FOR THE
42 PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT
43 TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY
44 MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF
45 INVESTIGATION.

B. C. The term of office of members of the board is four years to begin and end on July 1.

c. D. Each board member is eligible for appointment to not more than two full terms, except that the term of office for a member appointed to fill a vacancy that is not caused by the expiration of a full term is for the unexpired portion of that term and the governor may reappoint that member to not more than two additional full terms. Each board member may continue to hold office until the appointment and qualification of that member's successor. However, the governor may remove a member after notice and a hearing, on a finding of continued neglect of duty, incompetence or unprofessional or dishonorable conduct. That member's term ends when the finding is made.

E. A board member's term automatically ends:

1. On written resignation submitted to the board chairperson or to the governor.

2. If the member is absent from this state for more than six months during a one-year period.

3. If the member fails to attend three consecutive regular board meetings.

4. Five years after retirement from active practice.

F. Board members are immune from civil liability for all good faith actions they take pursuant to this chapter.

Sec. 14. Section 32-2902, Arizona Revised Statutes, is amended to read:

32-2902. Board of homeopathic and integrated medicine examiners; membership; terms; removal; immunity

A. The board of homeopathic and integrated medicine examiners is established consisting of the following members appointed by the governor:

1. Two public members.

2. Until January 1, 2017, four members who are licensed pursuant to section 32-2912, subsection A.

3. Beginning January 1, 2017, five members who are licensed pursuant to this chapter, one of whom is licensed pursuant to section 32-2912, subsection B.

B. BEFORE APPOINTMENT BY THE GOVERNOR, A PROSPECTIVE MEMBER OF THE BOARD SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE GOVERNOR FOR THE PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF INVESTIGATION.

B. C. Board members serve staggered ~~three year~~ THREE-YEAR terms ending on June 30. Board members shall not serve more than three consecutive terms. A board member may continue to serve until that member's replacement takes office.

1 ~~E.~~ D. Board members shall be residents of this state for at least
2 three consecutive years immediately before their appointment.

3 ~~D.~~ E. The governor may remove a board member from office because
4 of that member's neglect of duty, malfeasance, misfeasance, incompetence
5 or unprofessional or dishonorable conduct.

6 ~~E.~~ F. A board member's term of office automatically ends if that
7 member is absent from this state for more than six months or if that
8 member fails to attend three consecutive regularly scheduled board
9 meetings.

10 ~~F.~~ G. Board members and board employees are immune from civil
11 liability for any good faith action they take to implement this chapter.

12 Sec. 15. Section 32-3252, Arizona Revised Statutes, is amended to
13 read:

14 32-3252. Board of behavioral health examiners; appointment;
15 qualifications; terms; compensation; immunity;
16 training program

17 A. The board of behavioral health examiners is established
18 consisting of the following members appointed by the governor:

19 1. The following professional members:

20 (a) Two members who are licensed in social work pursuant to this
21 chapter, at least one of whom is a licensed clinical social worker.

22 (b) Two members who are licensed in counseling pursuant to this
23 chapter, at least one of whom is a licensed professional counselor.

24 (c) Two members who are licensed in marriage and family therapy
25 pursuant to this chapter, at least one of whom is a licensed marriage and
26 family therapist.

27 (d) Two members who are licensed in substance abuse counseling
28 pursuant to this chapter, at least one of whom is a licensed independent
29 substance abuse counselor.

30 2. Four public members.

31 B. BEFORE APPOINTMENT BY THE GOVERNOR, A PROSPECTIVE MEMBER OF THE
32 BOARD SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE GOVERNOR FOR THE
33 PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT
34 TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY
35 MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF
36 INVESTIGATION.

37 ~~B.~~ C. Each professional board member shall:

38 1. Be a resident of this state for not less than one year before
39 appointment.

40 2. Be an active licensee in good standing.

41 3. Have at least five years of experience in an area of behavioral
42 health licensed pursuant to this chapter.

43 ~~C.~~ D. Each public member shall:

44 1. Be a resident of this state for not less than one year before
45 appointment.

1 2. Be at least twenty-one years of age.
2 3. Not be licensed or eligible for licensure pursuant to this
3 chapter unless the public member has been retired from active practice for
4 at least five years.

5 4. Not currently have a substantial financial interest in an entity
6 that directly provides behavioral health services.

7 5. Not have a household member who is licensed or eligible for
8 licensure pursuant to this chapter unless the household member has been
9 retired from active practice for at least five years.

10 ~~D.~~ E. The term of office of board members is three years to begin
11 and end on the third Monday in January. A member shall not serve more
12 than two full consecutive terms.

13 ~~E.~~ F. The board shall annually elect a chairman and
14 secretary-treasurer from its membership.

15 ~~F.~~ G. Board members are eligible to receive compensation of not
16 more than eighty-five dollars for each day actually and necessarily spent
17 in the performance of their duties.

18 ~~G.~~ H. Board members and personnel are personally immune from suit
19 with respect to all acts done and actions taken in good faith and in
20 furtherance of the purposes of this chapter.

21 ~~H.~~ I. Each board member must complete a twelve-hour training
22 program that emphasizes responsibilities for administrative management,
23 licensure, judicial processes and temperament within one year after
24 appointment to the board.

25 Sec. 16. Section 32-3402, Arizona Revised Statutes, is amended to
26 read:

27 32-3402. Board of occupational therapy examiners; members;
28 qualifications; terms; compensation; civil
29 immunity

30 A. The board of occupational therapy examiners is established and
31 consists of five members appointed by the governor. Each board member
32 shall be a resident of the state at the time of appointment. The governor
33 shall appoint two persons who are not engaged, directly or indirectly, in
34 the provision of health care services to serve as public members. The
35 other three members shall have at least three years of experience in
36 occupational therapy or teaching in an accredited occupational therapy
37 education program in this state immediately before appointment and shall
38 be licensed under this chapter. The governor may select board members
39 from a list of licensees submitted by the Arizona occupational therapy
40 association, inc. or any other appropriate organization.

41 B. BEFORE APPOINTMENT BY THE GOVERNOR, A PROSPECTIVE MEMBER OF THE
42 BOARD SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE GOVERNOR FOR THE
43 PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT
44 TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY

1 MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF
2 INVESTIGATION.

3 ~~B.~~ C. The term of office of board members is three years to begin
4 and end on the third Monday in January. A member shall not serve more
5 than two consecutive terms.

6 ~~C.~~ D. The board, at its first regular meeting after the start of
7 each calendar year and as necessary, shall elect a chairperson and other
8 officers from among its members. The board shall meet at least once each
9 quarter in compliance with the open meeting requirements of title 38,
10 chapter 3, article 3.1 and shall keep an official record of these
11 meetings. Other meetings may be convened at the call of the chairperson
12 or the written request of any two board members. A majority of the
13 members of the board shall constitute a quorum.

14 ~~D.~~ E. Each member of the board is eligible to receive compensation
15 in the amount of one hundred dollars for each regular or special board
16 meeting the member attends and is eligible for reimbursement for all
17 expenses necessarily and properly incurred in attending board meetings.

18 ~~E.~~ F. A board member is immune from civil liability for any
19 actions that are within the scope of the board member's duties if they are
20 taken without malice and in the reasonable belief that they are warranted
21 by law.

22 Sec. 17. Section 32-3502, Arizona Revised Statutes, is amended to
23 read:

24 32-3502. Board of respiratory care examiners: membership,
25 appointment, qualifications

26 A. The board of respiratory care examiners is established
27 consisting of seven members appointed by the governor. Each board member
28 shall be a resident of this state at the time of appointment. The
29 governor shall appoint:

30 1. Three licensed respiratory care practitioners, at least one of
31 whom is a technical director of a respiratory care department or
32 respiratory care corporation or an officer or faculty member of a college,
33 school or institution engaged in respiratory therapy education and at
34 least one of whom is involved in direct patient care.

35 2. A physician who is licensed pursuant to chapter 13 or 17 of this
36 title and who is knowledgeable in respiratory care.

37 3. Two public members who are not engaged, directly or indirectly,
38 in the provision of health care services.

39 4. One hospital administrator.

40 B. BEFORE APPOINTMENT BY THE GOVERNOR, A PROSPECTIVE MEMBER OF THE
41 BOARD SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE GOVERNOR FOR THE
42 PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT
43 TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY
44 MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF
45 INVESTIGATION.

1 ~~B.~~ C. The respiratory care practitioner members shall:

2 1. Have at least five years of experience in respiratory care or
3 respiratory therapy education.

4 2. Have been employed actively in direct patient care, respiratory
5 therapy education or management or supervision of respiratory care for at
6 least three years immediately preceding appointment.

7 3. Be licensed pursuant to this chapter.

8 ~~C.~~ D. The governor may appoint the licensed respiratory care
9 practitioners from a list of seven qualified persons submitted to the
10 governor by the Arizona society for respiratory care.

11 ~~D.~~ E. The governor may appoint the physician member from a list of
12 three qualified persons submitted to the governor by the Arizona medical
13 association and the Arizona osteopathic medical association.

14 ~~E.~~ F. The governor may appoint the hospital administrator member
15 from a list of three qualified persons submitted to the governor by the
16 Arizona hospital association.

17 ~~F.~~ G. The term of office of each member is three years, to begin
18 and end on June 30. A member shall not serve for more than two
19 consecutive terms.

20 ~~G.~~ H. The governor may remove board members for neglect of duty,
21 malfeasance or misfeasance.

22 Sec. 18. Section 32-3902, Arizona Revised Statutes, is amended to
23 read:

24 32-3902. *Acupuncture board of examiners: members; qualifications; terms; removal; compensation*

25 A. The acupuncture board of examiners is established consisting of
26 the following members appointed by the governor:

27 1. Four members who are licensed to practice acupuncture pursuant
28 to this chapter and who have practiced acupuncture in this state for at
29 least three years. Not more than two of these members shall be graduates
30 of the same school or college of acupuncture. The governor may make these
31 appointments from a list of names submitted by a statewide acupuncture
32 society. The initial appointees need not be licensed pursuant to this
33 chapter at the time of selection but shall meet all of the qualifications
34 for licensure as prescribed by this chapter.

35 2. Three consumers who:

36 (a) Are not employed in a health profession.

37 (b) Do not have any pecuniary interest in a school of medicine or
38 health care institution.

39 (c) Demonstrate an interest in health issues in this state.

40 3. Two members who are licensed pursuant to chapter 8, 13, 14, 17
41 or 29 of this title. These members shall not be licensed pursuant to the
42 same chapter.

B. BEFORE APPOINTMENT BY THE GOVERNOR, A PROSPECTIVE MEMBER OF THE BOARD SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE GOVERNOR FOR THE PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF INVESTIGATION.

B. C. Board members shall be residents of this state for at least three years immediately preceding their appointment.

C. D. Board members serve three-year terms to begin and end on the third Monday in January. A member shall not serve more than two consecutive terms.

~~D.~~ E. The board shall meet in January of each year to elect a chairperson and secretary.

F. The board shall meet quarterly and at the call of the chairperson or a majority of board members.

F. G. Board members are eligible to receive compensation in an amount not to exceed fifty dollars per day for each day of actual service in the business of the board and are eligible for reimbursement of expenses necessarily and properly incurred in attending board meetings.

~~G.~~ H. The governor may remove a board member from office for malfeasance, dishonorable conduct or unprofessional management of board duties.

~~H.~~ I. The term of any member automatically ends on resignation or absence from this state for a period of at least six months. The governor shall fill vacancies for an unexpired portion of a term in the same manner as regular appointments.

~~J.~~ J. Board members and board employees are not subject to civil liability for any act done or proceeding undertaken or performed in good faith and in furtherance of the purposes of this chapter.

Sec. 19. Section 38-211, Arizona Revised Statutes, is amended to read:

38-211. Nominations by governor: consent of senate: appointment

A. When it is provided by law that a state officer shall be appointed pursuant to this section, the governor shall nominate and with the consent of the senate appoint such officer as prescribed in this section.

B. If the term of any state office ~~which~~ THAT is appointive pursuant to this section expires, begins or becomes vacant during a regular legislative session, the governor shall during such session nominate a person who meets the requirements of law for such office and shall promptly transmit the nomination to the president of the senate. If the incumbent is capable of continuing to serve until his successor has qualified, a nominee to that position shall not assume and discharge the duties of the office, pending senate confirmation. If the incumbent is

1 unable to continue to discharge the duties of office, the nominee shall
2 assume and discharge the duties of the office pending senate confirmation.
3 If the senate consents to the nomination, the governor shall then appoint
4 the nominee to serve for the term or, in the case of a vacancy, for the
5 unexpired term in which the vacancy occurred. If the senate rejects the
6 nomination the nominee shall not be appointed and the governor shall
7 promptly nominate another person who meets the requirements for such
8 office. If the senate takes no formal action on the nomination during
9 such legislative session, or if a nomination other than one that is
10 required to be sent to the senate during the first week of the legislative
11 session is not received during the session, the governor shall after the
12 close of such legislative session appoint the nominee to serve, and the
13 nominee shall discharge the duties of office, subject to confirmation
14 during the next legislative session.

15 C. If the term of any state office ~~which~~ THAT is appointive
16 pursuant to this section expires, begins or becomes vacant during a time
17 in which the legislature is not in regular session, the governor shall
18 nominate a person who meets the requirements of law for such office and
19 shall transmit the nomination to the president of the senate during the
20 first week of the next regular session. The nominee shall assume and
21 discharge the duties of the office until rejection of the nomination or
22 inaction of the senate.

23 D. Every officer who is subject to confirmation as provided in this
24 section and whose term is not fixed by law shall hold office at the
25 pleasure of the appointing power.

26 E. In no event shall a nominee serve longer than one year after
27 nomination without senate consent.

28 F. Nominations made by the governor shall be in writing,
29 designating the residence of the nominee and the office for which
30 nominated.

31 G. When the senate consents to a nomination, its secretary shall
32 deliver a copy of the resolution of consent, certified by the president of
33 the senate, to the secretary of state, who shall notify the
34 governor. When the senate rejects a nomination, its secretary shall
35 inform the governor promptly.

36 H. BEFORE NOMINATION OR APPOINTMENT BY THE GOVERNOR PURSUANT TO
37 THIS SECTION, THE PROSPECTIVE NOMINEE SHALL SUBMIT A FULL SET OF
38 FINGERPRINTS TO THE GOVERNOR FOR THE PURPOSE OF OBTAINING A STATE AND
39 FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC LAW
40 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT
41 DATA WITH THE FEDERAL BUREAU OF INVESTIGATION.

1 Sec. 20. Section 38-848, Arizona Revised Statutes, is amended to
2 read:

3 **38-848. Board of trustees: powers and duties; independent**
4 **trust fund; administrator; agents and employees;**
5 **advisory committee**

6 A. Beginning January 1, 2017, the board of trustees shall consist
7 of nine members and shall have the rights, powers and duties that are set
8 forth in this section. The term of office of members shall be five years
9 to expire on the third Monday in January of the appropriate year. The
10 board shall select a chairperson from among its members each calendar
11 year. Members are eligible to receive compensation in an amount of fifty
12 dollars a day, but not to exceed one thousand dollars in any one fiscal
13 year, and are eligible for reimbursement of expenses pursuant to chapter
14 4, article 2 of this title. Beginning January 1, 2017, the board consists
15 of the following members appointed as follows:

16 1. Two members representing law enforcement, one of whom is
17 appointed by the president of the senate and one of whom is appointed by
18 the governor. A statewide association representing law enforcement in
19 this state shall forward nominations to the appointing elected officials,
20 providing at least three nominees for each position. At least one of the
21 members appointed under this paragraph shall be an elected local board
22 member.

23 2. Two members representing firefighters, one of whom is appointed
24 by the speaker of the house of representatives and one of whom is
25 appointed by the governor. A statewide association representing
26 firefighters in this state shall forward nominations to the appointing
27 elected officials, providing at least three nominees for each position.
28 At least one of the members appointed under this paragraph shall be an
29 elected local board member.

30 3. Three members representing cities and towns in this state, one
31 of whom is appointed by the president of the senate, one of whom is
32 appointed by the speaker of the house of representatives and one of whom
33 is appointed by the governor. An association representing cities and
34 towns in this state shall forward nominations to the appointing elected
35 officials, providing at least three nominees for each position. These
36 nominees shall represent taxpayers or employers and may not be members of
37 the system.

38 4. One member who represents counties in this state and who is
39 appointed by the governor. An association representing county supervisors
40 in this state shall forward nominations to the governor, providing at
41 least three nominees for the position. These nominees shall represent
42 taxpayers or employers and may not be members of the system.

43 5. One member who is appointed by the governor from a list of three
44 nominees forwarded by the board. The board shall select the nominees to

1 forward to the governor from a list of at least five nominees received
2 from the advisory committee.

3 B. Each appointment made pursuant to subsection A of this section
4 shall be chosen from the list of nominees provided to the appointing
5 elected official. FOR ANY APPOINTMENT MADE BY THE GOVERNOR PURSUANT TO
6 SUBSECTION A OF THIS SECTION, BEFORE APPOINTMENT BY THE GOVERNOR, A
7 PROSPECTIVE MEMBER OF THE BOARD SHALL SUBMIT A FULL SET OF FINGERPRINTS TO
8 THE GOVERNOR FOR THE PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL
9 RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE
10 DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA WITH THE
11 FEDERAL BUREAU OF INVESTIGATION. A board member may be reappointed.
12 Notwithstanding section 38-295, a board member may be removed from office
13 only for cause by the appointing power or because the board member has
14 vacated the member's seat on the board. A board member who is removed for
15 cause shall be provided written notice and an opportunity for a response.
16 The appointing power may remove a board member based on written findings
17 that specify the reason for removal. Any vacancy that occurs other than
18 by expiration of a term shall be filled for the balance of the term. All
19 vacancies shall be filled in the same manner as the initial appointment.
20 A board member vacates the office if the member either:

21 1. Is absent without excuse from three consecutive regular meetings
22 of the board.

23 2. Resigns, dies or becomes unable to perform board member duties.

24 C. The members of the board who are appointed pursuant to
25 subsection A of this section and who are not members of the system shall
26 be independent, qualified professionals who are responsible for the
27 performance of fiduciary duties and other responsibilities required to
28 preserve and protect the fund and shall have at least ten years'
29 substantial experience as any one or a combination of the following:

30 1. A portfolio manager acting in a fiduciary capacity.

31 2. A securities analyst.

32 3. A senior executive or principal of a trust institution,
33 investment organization or endowment fund acting either in a management or
34 an investment-related capacity.

35 4. A chartered financial analyst in good standing as determined by
36 the chartered financial analyst institute.

37 5. A current or former professor or instructor at the college or
38 university level in the field of economics, finance, actuarial science,
39 accounting or pension-related subjects.

40 6. An economist.

41 7. Any other senior executive engaged in the field of public or
42 private finances or with experience with public pension systems.

43 8. A senior executive in insurance, banking, underwriting,
44 auditing, human resources or risk management.

1 D. All monies in the fund shall be deposited and held in a public
2 safety personnel retirement system depository. Monies in the fund shall
3 be disbursed from the depository separate and apart from all monies or
4 funds of this state and the agencies, instrumentalities and subdivisions
5 of this state, except that the board may commingle the assets of the fund
6 and the assets of all other plans entrusted to its management in one or
7 more group trusts, subject to the crediting of receipts and earnings and
8 charging of payments to the appropriate employer, system or plan. The
9 monies shall be secured by the depository in which they are deposited and
10 held to the same extent and in the same manner as required by the general
11 depository law of this state. For purposes of making the decision to
12 invest in securities owned by the fund or any plan or trust administered
13 by the board, the fund and assets of the plans and the plans' trusts are
14 subject to the sole management of the board for the purpose of this
15 article except that, on the board's election to invest in a particular
16 security or make a particular investment, the assets comprising the
17 security or investment may be chosen and managed by third parties approved
18 by the board. The board may invest in portfolios of securities chosen and
19 managed by a third party. The board's decision to invest in securities
20 such as mutual funds, commingled investment funds, exchange traded funds,
21 private equity or venture capital limited partnerships, real estate
22 limited partnerships or limited liability companies and real estate
23 investment trusts whose assets are chosen and managed by third parties
24 does not constitute an improper delegation of the board's investment
25 authority.

26 E. All contributions under this system and other retirement plans
27 that the board administers shall be forwarded to the board and shall be
28 held, invested and reinvested by the board as provided in this article.
29 All property and monies of the fund and other retirement plans that the
30 board administers, including income from investments and from all other
31 sources, shall be retained for the exclusive benefit of members, as
32 provided in the system and other retirement plans that the board
33 administers, and shall be used to pay benefits to members or their
34 beneficiaries or to pay expenses of operation and administration of the
35 system and fund and other retirement plans that the board administers.

36 F. The board shall have the full power in its sole discretion to
37 invest and reinvest, alter and change the monies accumulated under the
38 system and other retirement plans and trusts that the board administers as
39 provided in this article. In addition to its power to make investments
40 managed by others, the board may delegate the authority the board deems
41 necessary and prudent to investment management pursuant to section
42 38-848.03, as well as to the administrator, employed by the board pursuant
43 to subsection M, paragraph 6 of this section, and any assistant
44 administrators to invest the monies of the system and other retirement
45 plans and trusts that the board administers if the administrator,

1 investment management and any assistant administrators follow the
2 investment policies that are adopted by the board. The board may commingle
3 securities and monies of the fund, the elected officials' retirement plan,
4 the corrections officer retirement plan and other plans or monies
5 entrusted to its care, subject to the crediting of receipts and earnings
6 and charging of payments to the account of the appropriate employer,
7 system or plan. In making every investment, the board shall exercise the
8 judgment and care under the circumstances then prevailing that persons of
9 ordinary prudence, discretion and intelligence exercise in the management
10 of their own affairs, not in regard to speculation but in regard to the
11 permanent disposition of their funds, considering the probable income from
12 their funds as well as the probable safety of their capital, provided:

13 1. That not more than eighty percent of the combined assets of the
14 system or other plans that the board manages shall be invested at any
15 given time in corporate stocks, based on cost value of such stocks
16 irrespective of capital appreciation.

17 2. That no more than five percent of the combined assets of the
18 system or other plans that the board manages shall be invested in
19 corporate stock issued by any one corporation, other than corporate stock
20 issued by corporations chartered by the United States government or
21 corporate stock issued by a bank or insurance company.

22 3. That not more than five percent of the voting stock of any one
23 corporation shall be owned by the system and other plans that the board
24 administers, except that this limitation does not apply to membership
25 interests in limited liability companies.

26 4. That corporate stocks and exchange traded funds eligible for
27 direct purchase shall be restricted to stocks and exchange traded funds
28 that, except for bank stocks, insurance stocks, stocks acquired for
29 coinvestment in connection with the system's or the plans' or trusts'
30 commingled investments and interests in limited liability companies and
31 mutual funds, are either:

32 (a) Listed or approved on issuance for listing on an exchange
33 registered under the securities exchange act of 1934, as amended (15
34 United States Code sections 78a through 78pp).

35 (b) Designated or approved on notice of issuance for designation on
36 the national market system of a national securities association registered
37 under the securities exchange act of 1934, as amended (15 United States
38 Code sections 78a through 78pp).

39 (c) Listed or approved on issuance for listing on an exchange
40 registered under the laws of this state or any other state.

41 (d) Listed or approved on issuance for listing on an exchange of a
42 foreign country with which the United States is maintaining diplomatic
43 relations at the time of purchase, except that no more than twenty percent
44 of the combined assets of the system and other plans that the board

1 manages shall be invested in foreign securities, based on the cost value
2 of the stocks irrespective of capital appreciation.

3 (e) An exchange traded fund that is recommended by the chief
4 investment officer of the system, that is registered under the investment
5 company act of 1940 (15 United States Code sections 80a-1 through 80a-64)
6 and that is both traded on a public exchange and based on a publicly
7 recognized index.

8 G. Notwithstanding any other law, the board shall not be required
9 to invest in any type of investment that is dictated or required by any
10 entity of the federal government and that is intended to fund economic
11 development projects, public works or social programs, but may consider
12 such economically targeted investments pursuant to its fiduciary
13 responsibility. The board, on behalf of the system and all other plans or
14 trusts the board administers, may invest in, lend monies to or guarantee
15 the repayment of monies by a limited liability company, limited
16 partnership, joint venture, partnership, limited liability partnership or
17 trust in which the system and plans or trusts have a financial interest,
18 whether the entity is closely held or publicly traded and that, in turn,
19 may be engaged in any lawful activity, including venture capital, private
20 equity, the ownership, development, management, improvement or operation
21 of real property and any improvements or businesses on real property or
22 the lending of monies.

23 H. Conference call meetings of the board that are held for
24 investment purposes only are not subject to chapter 3, article 3.1 of this
25 title, except that the board shall maintain minutes of these conference
26 call meetings and make them available for public inspection within
27 twenty-four hours after the meeting. The board shall review the minutes
28 of each conference call meeting and shall ratify all legal actions taken
29 during each conference call meeting at the next scheduled meeting of the
30 board.

31 I. The board shall not be held liable for the exercise of more than
32 ordinary care and prudence in the selection of investments and performance
33 of its duties under the system and shall not be limited to so-called
34 "legal investments for trustees", but all monies of the system and other
35 plans that the board administers shall be invested subject to all of the
36 conditions, limitations and restrictions imposed by law.

37 J. Except as provided in subsection F of this section, the board
38 may:

39 1. Invest and reinvest the principal and income of all assets that
40 the board manages without distinction between principal and income.

41 2. Sell, exchange, convey, transfer or otherwise dispose of any
42 investments made on behalf of the system or other plans the board
43 administers in the name of the system or plans by private contract or at
44 public auction.

1 3. Also:

2 (a) Vote on any stocks, bonds or other securities.

3 (b) Give general or special proxies or powers of attorney with or
4 without power of substitution.

5 (c) Exercise any conversion privileges, subscription rights or
6 other options and make any payments incidental to the exercise of the
7 conversion privileges, subscription rights or other options.

8 (d) Consent to or otherwise participate in corporate
9 reorganizations or other changes affecting corporate securities, delegate
10 discretionary powers and pay any assessments or charges in connection
11 therewith.

12 (e) Generally exercise any of the powers of an owner with respect
13 to stocks, bonds, securities or other investments held in or owned by the
14 system or other plans whose assets the board administers.

15 4. Make, execute, acknowledge and deliver any other instruments
16 that may be necessary or appropriate to carry out the powers granted in
17 this section.

18 5. Register any investment held by the system or other plans whose
19 assets the board administers in the name of the system or plan or in the
20 name of a nominee or trust.

21 6. At the expense of the system or other plans that the board
22 administers, enter into an agreement with any bank or banks for the
23 safekeeping and handling of securities and other investments coming into
24 the possession of the board. The agreement shall be entered into under
25 terms and conditions that secure the proper safeguarding, inventory,
26 withdrawal and handling of the securities and other investments. No
27 access to and no deposit or withdrawal of the securities from any place of
28 deposit selected by the board shall be permitted or made except as the
29 terms of the agreement may provide.

30 7. Appear before local boards and the courts of this state and
31 political subdivisions of this state through counsel or appointed
32 representative to protect the fund or the assets of other plans that the
33 board administers. The board is not responsible for the actions or
34 omissions of the local boards under this system but may seek a review or
35 rehearing of actions or omissions of local boards. The board does not
36 have a duty to review actions of the local boards but may do so in its
37 discretion in order to protect the fund. No limitations period precludes
38 the board or administrator from contesting, or requires the board or
39 administrator to implement or comply with, a local board decision that
40 violates the internal revenue code or that threatens to impair the tax
41 qualified status of the system or any plan administered by the board or
42 administrator.

43 8. Empower the fund administrator to take actions on behalf of the
44 board that are necessary for the protection and administration of the fund

1 or the assets of other plans that the board administers pursuant to the
2 guidelines of the board.

3 9. Do all acts, whether or not expressly authorized, that may be
4 deemed necessary or proper for the protection of the investments held in
5 the fund or owned by other plans or trusts that the board administers.

6 10. Settle threatened or actual litigation against any system or
7 plan that the board administers.

8 K. Investment expenses and operation and administrative expenses of
9 the board shall be accounted for separately and allocated against
10 investment income.

11 L. The board, as soon as possible within a period of six months
12 following the close of any fiscal year, shall transmit to the governor and
13 the legislature a comprehensive annual financial report on the operation
14 of the system and other plans that the board administers containing, among
15 other things:

16 1. A balance sheet.

17 2. A statement of income and expenditures for the year.

18 3. A report on an actuarial valuation of its assets and
19 liabilities.

20 4. A list of investments owned.

21 5. The total rate of return, yield on cost, and percent of cost to
22 market value of the fund and the assets of other plans that the board
23 administers.

24 6. Any other statistical and financial data that may be necessary
25 for the proper understanding of the financial condition of the system and
26 other plans that the board administers and the results of their
27 operations. A synopsis of the annual report shall be published for the
28 information of members of the system, the elected officials' retirement
29 plan or the corrections officer retirement plan.

30 7. An analysis of the long-term level percent of employer
31 contributions and compensation structure and whether the funding
32 methodology is sufficient to pay one hundred percent of the unfunded
33 accrued liability under the elected officials' retirement plan.

34 8. An estimate of the aggregate employer contribution rate for the
35 public safety personnel retirement system for the next ten fiscal years
36 and an estimate of the aggregate employer contribution rate for the
37 corrections officer retirement plan for the next ten fiscal years.

38 9. An estimate of the employer contribution rates for the next ten
39 fiscal years for each of the following employers within the public safety
40 personnel retirement system:

41 (a) Department of liquor licenses and control.

42 (b) Department of public safety.

43 (c) Northern Arizona university.

44 (d) University of Arizona.

45 (e) Arizona state university.

(f) Arizona game and fish department.

(g) Department of law.

(h) Department of emergency and military affairs.

(i) Arizona state parks board.

10. An estimate of the employer contribution rates for the next ten fiscal years for each of the following employers within the corrections officer retirement plan:

(a) State department of corrections.

(b) Department of public safety.

(c) The judiciary.

(d) Department of juvenile corrections.

11. An estimate of the aggregate fees paid for private equity investments, including management fees and performance fees.

M. The board shall:

1. Maintain the accounts of the system and other plans that the board administers and issue statements to each employer annually and to each member who may request it.

2. Report the results of the actuarial valuations to the local boards and employers.

3. Contract on a fee basis with an independent investment counsel to advise the board in the investment management of the fund and assets of other plans that the board administers and with an independent auditing firm to audit the board's accounting.

4. Permit the auditor general to make an annual audit and transmit the results to the governor and the legislature.

5. Contract on a fee basis with an actuary who shall make actuarial valuations of the system and other plans that the board administers, be the technical adviser of the board on matters regarding the operation of the funds created by the provisions of the system, the elected officials' retirement plan, the corrections officer retirement plan and the public safety cancer insurance policy program and perform other duties required in connection therewith. The actuary must be a member of a nationally recognized association or society of actuaries.

6. Employ, as administrator, a person, state department or other body to serve at the pleasure of the board.

7. Establish procedures and guidelines for contracts with actuaries, auditors, investment counsel and legal counsel and for safeguarding of securities.

N. The administrator, under the direction of the board, shall:

1. Administer this article.

2. Be responsible for the recruitment, hiring and day-to-day management of employees.

3. Invest the monies of the system and other plans that the board administers as the board deems necessary and prudent as provided in

1 subsections F and J of this section and subject to the investment policies
2 and fund objectives adopted by the board.

3 4. Establish and maintain an adequate system of accounts and
4 records for the system and other plans that the board administers, which
5 shall be integrated with the accounts, records and procedures of the
6 employers so that the system and other plans that the board administers
7 operates most effectively and at minimum expense and that duplication of
8 records and accounts is avoided.

9 5. In accordance with the board's governance policy and procedures
10 and the budget adopted by the board, hire such employees and services the
11 administrator deems necessary and prescribe their duties, including the
12 hiring of one or more assistant administrators to manage the system's
13 operations, investments and legal affairs.

14 6. Be responsible for income, the collection of the income and the
15 accuracy of all expenditures.

16 7. Recommend to the board annual contracts for the system's
17 actuary, auditor, investment counsel, legal counsel and safeguarding of
18 securities.

19 8. Perform additional duties and powers prescribed by the board and
20 delegated to the administrator.

21 0. The system is an independent trust fund and the board is not
22 subject to title 41, chapter 6. Contracts for goods and services approved
23 by the board are not subject to title 41, chapter 23. As an independent
24 trust fund whose assets are separate and apart from all other ~~MORRIES~~ FUNDS
25 of this state, the system and the board are not subject to the
26 restrictions prescribed in section 35-154 or article IX, sections 5 and 8,
27 Constitution of Arizona. Loans, guarantees, investment management
28 agreements and investment contracts that are entered into by the board are
29 contracts memorializing obligations or interests in securities that the
30 board has concluded, after thorough due diligence, do not involve
31 investments in Sudan or Iran or otherwise provide support to terrorists or
32 in any way facilitate illegal immigration into the United States. These
33 contracts do not involve the procurement, supply or provision of goods,
34 equipment, labor, materials or services that would require the warranties
35 required by section 41-4401.

36 P. The board, the administrator, the assistant administrators and
37 all persons employed by them are subject to title 41, chapter 4, article
38 4. The administrator, assistant administrators and other employees of the
39 board are entitled to receive compensation pursuant to section 38-611.

40 Q. In consultation with the director of the department of
41 administration, the board may enter into employment agreements and
42 establish the terms of those agreements with persons holding any of the
43 following system positions:

44 1. Administrator.
45 2. Deputy or assistant administrator.

- 1 3. Chief investment officer.
- 2 4. Deputy chief investment officer.
- 3 5. Fiduciary or investment counsel.

4 R. The attorney general or an attorney approved by the attorney
5 general and paid by the fund shall be the attorney for the board and shall
6 represent the board in any legal proceeding or forum that the board deems
7 appropriate. The board, administrator, assistant administrators and
8 employees of the board are not personally liable for any acts done in
9 their official capacity in good faith reliance on the written opinions of
10 the board's attorney.

11 S. At least once in each five-year period after the effective date,
12 the actuary shall make an actuarial investigation into the mortality,
13 service and compensation experience of the members and beneficiaries of
14 the system and other plans that the board administers and shall make a
15 special valuation of the assets and liabilities of the monies of the
16 system and plans. Taking into account the results of the investigation
17 and special valuation, the board shall adopt for the system and other
18 plans that the board administers those mortality, service and other tables
19 deemed necessary.

20 T. On the basis of the tables the board adopts, the actuary shall
21 make a valuation of the assets and liabilities of the funds of the system
22 and other plans that the board administers not less frequently than every
23 year. By November 1 of each year the board shall provide a preliminary
24 report and by December 15 of each year provide a final report to the
25 governor, the speaker of the house of representatives and the president of
26 the senate on the contribution rate for the ensuing fiscal year.

27 U. Neither the board nor any member or employee of the board shall
28 directly or indirectly, for himself or as an agent, in any manner use the
29 monies or deposits of the fund except to make current and necessary
30 payments, nor shall the board or any member or employee become an endorser
31 or surety or in any manner an obligor for monies loaned by or borrowed
32 from the fund or the assets of any other plans that the board administers.

33 V. Financial or commercial information that is provided to the
34 board, employees of the board and attorneys of the board in connection
35 with investments in which the board has invested or investments the board
36 has considered for investment is confidential, proprietary and not a
37 public record if the information is information that would customarily not
38 be released to the public by the person or entity from whom the
39 information was obtained.

40 W. A person who is a dealer as defined in section 44-1801 and who
41 is involved in securities or investments related to the board's
42 investments is not eligible to serve on the board.

43 X. Beginning January 1, 2017, the public safety personnel
44 retirement system advisory committee is established and shall serve as a
45 liaison between the board and the members and employers of the system.

1 The committee shall be appointed by the chairperson of the board from
2 names submitted to the chairperson by associations representing law
3 enforcement, firefighters, state government, counties, cities and towns
4 and tribal governments. The committee shall select a chairperson from
5 among its members each calendar year. The committee shall consist of the
6 following ten members:

- 7 1. A member who is a law enforcement officer.
- 8 2. A member who is a firefighter.
- 9 3. A member of the elected officials' retirement plan.
- 10 4. A member of the corrections officer retirement plan.
- 11 5. A retiree from the public safety personnel retirement system.
- 12 6. A representative from a city or town in this state.
- 13 7. A representative from a county in this state.
- 14 8. A representative from a fire district in this state.
- 15 9. A representative from a state employer.
- 16 10. A representative from a tribal government located in this
17 state.

18 Sec. 21. Section 41-101, Arizona Revised Statutes, is amended to
19 read:

20 41-101. Powers and duties; attestation of acts of governor;
21 salary

22 A. The governor has the powers and shall perform the duties as
23 prescribed in this article. The governor:

24 1. Shall supervise the official conduct of all executive and
25 ministerial officers.

26 2. Shall see that all offices are filled and the duties performed
27 or, in default, invoke such remedy as the law allows.

28 3. Shall appoint a private secretary to the governor and shall
29 appoint all officers of this state not made elective, unless otherwise
30 provided.

31 4. Shall be the sole official means of communication between this
32 state and the government of any other state or the United States.

33 5. May direct the attorney general to appear on behalf of this
34 state when any action or legal proceeding is pending ~~which~~ THAT affects
35 the title of this state to any property or ~~which~~ THAT may result in a
36 claim against this state.

37 6. May require the attorney general, or any county attorney, to
38 inquire into the affairs or management of any corporation doing business
39 in this state.

40 7. May require the attorney general to aid a county attorney in the
41 discharge of his duties.

42 8. May offer rewards for escaped insane persons, not exceeding five
43 hundred dollars.

44 9. May require any officer or board to make special reports to him
45 ~~upon~~ ON demand in writing.

1 10. May convene the legislature at some other place when the seat of
2 government becomes dangerous from disease or a common enemy.

3 11. May enter into intergovernmental agreements with officers,
4 agencies or departments of the United States to provide funding or other
5 resources available from any related state agency, board or commission for
6 the purpose of operating federal parks located in this state during any
7 period when such parks would otherwise be subject to shutdown due to a
8 lack of federal appropriation and as deemed necessary to promote tourism,
9 this state's economic well-being, or the health, safety or welfare of the
10 state's citizens. The governor shall not provide general fund
11 appropriations from any related state agency, board or commission to
12 operate a federal park pursuant to this paragraph for more than twenty-one
13 days without the approval of the legislature. The joint legislative
14 budget committee shall review any expenditure of funds or other resources
15 pursuant to this paragraph.

16 12. Has such powers and shall perform such other duties as devolve
17 ~~upon~~ ON him by law.

18 B. All official acts of the governor, except approval of the laws,
19 shall be attested by the secretary of state.

20 C. The governor is eligible to receive an annual salary pursuant to
21 section 41-1904.

22 D. BEFORE AN INDIVIDUAL IS HIRED AS AN EMPLOYEE OF THE OFFICE OF
23 THE GOVERNOR, THAT INDIVIDUAL SHALL SUBMIT A FULL SET OF FINGERPRINTS TO
24 THE GOVERNOR FOR THE PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL
25 RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE
26 DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA WITH THE
27 FEDERAL BUREAU OF INVESTIGATION.

28 Sec. 22. Section 41-1502, Arizona Revised Statutes, is amended to
29 read:

30 41-1502. Arizona commerce authority; board of directors;
31 conduct of office; audit

32 A. The Arizona commerce authority is established. The mission of
33 the authority is to provide private sector leadership in growing and
34 diversifying the economy of this state, creating high quality employment
35 in this state through expansion, attraction and retention of businesses
36 and marketing this state for the purpose of expansion, attraction and
37 retention of businesses.

38 B. The authority shall be governed by a board of directors
39 consisting of:

- 40 1. The governor, who serves as chairperson.
- 41 2. The chief executive officer.

42 3. Seventeen private sector business leaders who are chief
43 executive officers of private, for-profit enterprises. None of these
44 members may be an elected official of any government entity. These
45 members must be appointed from geographically diverse areas of this state

1 and not all from the same county. These members shall serve staggered
2 three-year terms of office beginning and ending on the third Monday in
3 January. These members shall be appointed as follows:

- 4 (a) Nine members who are appointed by the governor.
- 5 (b) Four members who are appointed by the president of the senate.
- 6 (c) Four members who are appointed by the speaker of the house of
7 representatives.

8 4. The following as ex officio members without the power to vote:

- 9 (a) The president of the senate.
- 10 (b) The speaker of the house of representatives.
- 11 (c) The president of the Arizona board of regents.
- 12 (d) The president of each state university under the jurisdiction
13 of the Arizona board of regents.

14 (e) One president of a community college who is appointed by a
15 statewide organization of community college presidents.

16 (f) The chairperson of the governor's council on small business, or
17 its successor.

18 (g) The chairperson of the workforce Arizona council, ~~if~~
19 established by executive order pursuant to section 41-5401.

20 (h) One member of the rural business development advisory council
21 established by section 41-1505 who is appointed by the governor.

22 (i) The president of a statewide organization of incorporated
23 cities and towns who is appointed by the governor.

24 (j) The president of a statewide organization of county boards of
25 supervisors who is appointed by the governor.

26 C. FOR MEMBERS WHO ARE APPOINTED BY THE GOVERNOR PURSUANT TO
27 SUBSECTION B OF THIS SECTION, BEFORE APPOINTMENT BY THE GOVERNOR, A
28 PROSPECTIVE MEMBER OF THE BOARD OF DIRECTORS SHALL SUBMIT A FULL SET OF
29 FINGERPRINTS TO THE GOVERNOR FOR THE PURPOSE OF OBTAINING A STATE AND
30 FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC LAW
31 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT
32 DATA WITH THE FEDERAL BUREAU OF INVESTIGATION.

33 ~~C.~~ D. The following shall serve as technical advisors to the board
34 to enhance collaboration among state agencies to meet infrastructure needs
35 and facilitate growth opportunities throughout this state:

- 36 1. The director of environmental quality.
- 37 2. The state land commissioner.
- 38 3. The director of the department of revenue.
- 39 4. The director of the office of tourism.
- 40 5. The director of the department of transportation.
- 41 6. The director of water resources.
- 42 7. The director of the department of financial institutions.
- 43 8. The director of the Arizona-Mexico commission in the governor's
44 office.
- 45 9. The director of the office of economic opportunity.

1 ~~D.~~ E. The governor shall appoint a cochairperson of the board of
2 directors from among the voting members. The board may establish an
3 executive committee consisting of the chairperson, the cochairperson, the
4 chief executive officer, and additional voting members of the board
5 elected by the board. The chairperson may appoint subcommittees as
6 necessary.

7 ~~E.~~ F. The board may request assistance from representatives of
8 other state agencies to maximize economic development opportunities by
9 leveraging their access to strategic assets and planning processes.

10 ~~F.~~ G. Board members serve without compensation but are eligible
11 for reimbursement of expenses pursuant to section 41-1504, subsection E,
12 paragraph 1.

13 ~~G.~~ H. A majority of the voting members, which must include the
14 chairperson and the chief executive officer, constitute a quorum for the
15 purpose of an official meeting for conducting business. An affirmative
16 vote of a majority of the members present at an official meeting is
17 sufficient for any action to be taken.

18 ~~H.~~ I. The board of directors shall keep and maintain a complete
19 and accurate record of all of its proceedings. Public access to the
20 board's records is subject to section 41-1504, subsection L.

21 ~~I.~~ J. The board of directors, executive committee, subcommittees
22 and advisory councils are subject to title 38, chapter 3, article 3.1,
23 relating to public meetings, except as follows:

24 1. In addition to section 38-431.03, the board of directors,
25 executive committee and subcommittees may meet in executive session for
26 discussion about potential business development opportunities and
27 strategies, which, if made public, could potentially harm the applicant's,
28 the potential applicant's or this state's competitive position.

29 2. Social and travel events related to the expansion, attraction
30 and retention of businesses are not public meetings if no legal action
31 involving a final vote or decision is taken.

32 3. Activities and events held in public for the purpose of
33 announcing the expansion, attraction and retention of projects are not
34 public meetings.

35 ~~J.~~ K. The board of directors and the officers and employees of the
36 authority are subject to title 38, chapter 3, article 8, relating to
37 conflicts of interest.

38 ~~K.~~ L. The board of directors shall adopt written policies,
39 procedures and guidelines for standards of conduct, including a gift
40 policy, for members of the board and for officers and employees of the
41 authority.

42 ~~L.~~ M. The compensation of all officers and employees is considered
43 a public record pursuant to title 39, chapter 1.

1 ~~H.~~ **N.** The authority shall operate on the state fiscal year. The
2 board of directors shall cause an annual audit to be conducted on or
3 before October 31 of each of the authority's public funds established by
4 this chapter by an independent certified public accountant. The board
5 shall immediately file a certified copy of the audit with the auditor
6 general. The auditor general may make such further audits and
7 examinations as necessary and may take appropriate action relating to the
8 audit or examination pursuant to chapter 7, article 10.1 of this title.
9 If the auditor general takes no further action within thirty days after
10 the audit is filed, the audit is considered to be sufficient.

11 ~~H.~~ **O.** All state agencies shall cooperate with the authority and
12 make available data pertaining to the functions of the authority as
13 requested by the authority.

14 Sec. 23. Section 41-1750, Arizona Revised Statutes, is amended to
15 read:

16 **41-1750. Central state repository; department of public**
17 **safety; duties; funds; accounts; definitions**

18 A. The department is responsible for the effective operation of the
19 central state repository in order to collect, store and disseminate
20 complete and accurate Arizona criminal history records and related
21 criminal justice information. The department shall:

22 1. Procure from all criminal justice agencies in this state
23 accurate and complete personal identification data, fingerprints, charges,
24 process control numbers and dispositions and such other information as may
25 be pertinent to all persons who have been charged with, arrested for,
26 convicted of or summoned to court as a criminal defendant for a felony
27 offense or an offense involving domestic violence as defined in section
28 13-3601 or a violation of title 13, chapter 14 or title 28, chapter 4.

29 2. Collect information concerning the number and nature of offenses
30 known to have been committed in this state and of the legal steps taken in
31 connection with these offenses, such other information that is useful in
32 the study of crime and in the administration of criminal justice and all
33 other information deemed necessary to operate the statewide uniform crime
34 reporting program and to cooperate with the federal government uniform
35 crime reporting program.

36 3. Collect information concerning criminal offenses that manifest
37 evidence of prejudice based on race, color, religion, national origin,
38 sexual orientation, gender or disability.

39 4. Cooperate with the central state repositories in other states
40 and with the appropriate agency of the federal government in the exchange
41 of information pertinent to violators of the law.

42 5. Ensure the rapid exchange of information concerning the
43 commission of crime and the detection of violators of the law among the
44 criminal justice agencies of other states and of the federal government.

1 6. Furnish assistance to peace officers throughout this state in
2 crime scene investigation for the detection of latent fingerprints and in
3 the comparison of latent fingerprints.

4 7. Conduct periodic operational audits of the central state
5 repository and of a representative sample of other agencies that
6 contribute records to or receive criminal justice information from the
7 central state repository or through the Arizona criminal justice
8 information system.

9 8. Establish and enforce the necessary physical and system
10 safeguards to ensure that the criminal justice information maintained and
11 disseminated by the central state repository or through the Arizona
12 criminal justice information system is appropriately protected from
13 unauthorized inquiry, modification, destruction or dissemination as
14 required by this section.

15 9. Aid and encourage coordination and cooperation among criminal
16 justice agencies through the statewide and interstate exchange of criminal
17 justice information.

18 10. Provide training and proficiency testing on the use of criminal
19 justice information to agencies receiving information from the central
20 state repository or through the Arizona criminal justice information
21 system.

22 11. Operate and maintain the Arizona automated fingerprint
23 identification system established by section 41-2411.

24 12. Provide criminal history record information to the
25 fingerprinting division for the purpose of screening applicants for
26 fingerprint clearance cards.

27 B. The director may establish guidelines for the submission and
28 retention of criminal justice information as deemed useful for the study
29 or prevention of crime and for the administration of criminal justice.

30 C. The chief officers of criminal justice agencies of this state or
31 its political subdivisions shall provide to the central state repository
32 fingerprints and information concerning personal identification data,
33 descriptions, crimes for which persons are arrested, process control
34 numbers and dispositions and such other information as may be pertinent to
35 all persons who have been charged with, arrested for, convicted of or
36 summoned to court as criminal defendants for felony offenses or offenses
37 involving domestic violence as defined in section 13-3601 or violations of
38 title 13, chapter 14 or title 28, chapter 4 that have occurred in this
39 state.

40 D. The chief officers of law enforcement agencies of this state or
41 its political subdivisions shall provide to the department such
42 information as necessary to operate the statewide uniform crime reporting
43 program and to cooperate with the federal government uniform crime
44 reporting program.

1 E. The chief officers of criminal justice agencies of this state or
2 its political subdivisions shall comply with the training and proficiency
3 testing guidelines as required by the department to comply with the
4 federal national crime information center mandates.

5 F. The chief officers of criminal justice agencies of this state or
6 its political subdivisions also shall provide to the department
7 information concerning crimes that manifest evidence of prejudice based on
8 race, color, religion, national origin, sexual orientation, gender or
9 disability.

10 G. The director shall authorize the exchange of criminal justice
11 information between the central state repository, or through the Arizona
12 criminal justice information system, whether directly or through any
13 intermediary, only as follows:

14 1. With criminal justice agencies of the federal government, Indian
15 tribes, this state or its political subdivisions and other states, on
16 request by the chief officers of such agencies or their designated
17 representatives, specifically for the purposes of the administration of
18 criminal justice and for evaluating the fitness of current and prospective
19 criminal justice employees.

20 2. With any noncriminal justice agency pursuant to a statute,
21 ordinance or executive order that specifically authorizes the noncriminal
22 justice agency to receive criminal history record information for the
23 purpose of evaluating the fitness of current or prospective licensees,
24 employees, contract employees or volunteers, on submission of the
25 subject's fingerprints and the prescribed fee. Each statute, ordinance,
26 or executive order that authorizes noncriminal justice agencies to receive
27 criminal history record information for these purposes shall identify the
28 specific categories of licensees, employees, contract employees or
29 volunteers, and shall require that fingerprints of the specified
30 individuals be submitted in conjunction with such requests for criminal
31 history record information.

32 3. With the board of fingerprinting for the purpose of conducting
33 good cause exceptions pursuant to section 41-619.55 and central registry
34 exceptions pursuant to section 41-619.57.

35 4. With any individual for any lawful purpose on submission of the
36 subject of record's fingerprints and the prescribed fee.

37 5. With the governor, if the governor elects to become actively
38 involved in the investigation of criminal activity or the administration
39 of criminal justice in accordance with the governor's constitutional duty
40 to ensure that the laws are faithfully executed or as needed to carry out
41 the other responsibilities of the governor's office.

42 6. With regional computer centers that maintain authorized
43 computer-to-computer interfaces with the department, that are criminal
44 justice agencies or under the management control of a criminal justice
45 agency and that are established by a statute, ordinance or executive order

1 to provide automated data processing services to criminal justice agencies
2 specifically for the purposes of the administration of criminal justice or
3 evaluating the fitness of regional computer center employees who have
4 access to the Arizona criminal justice information system and the national
5 crime information center system.

6 7. With an individual who asserts a belief that criminal history
7 record information relating to the individual is maintained by an agency
8 or in an information system in this state that is subject to this section.
9 On submission of fingerprints, the individual may review this information
10 for the purpose of determining its accuracy and completeness by making
11 application to the agency operating the system. Rules adopted under this
12 section shall include provisions for administrative review and necessary
13 correction of any inaccurate or incomplete information. The review and
14 challenge process authorized by this paragraph is limited to criminal
15 history record information.

16 8. With individuals and agencies pursuant to a specific agreement
17 with a criminal justice agency to provide services required for the
18 administration of criminal justice pursuant to that agreement if the
19 agreement specifically authorizes access to data, limits the use of data
20 to purposes for which given and ensures the security and confidentiality
21 of the data consistent with this section.

22 9. With individuals and agencies for the express purpose of
23 research, evaluative or statistical activities pursuant to an agreement
24 with a criminal justice agency if the agreement specifically authorizes
25 access to data, limits the use of data to research, evaluative or
26 statistical purposes and ensures the confidentiality and security of the
27 data consistent with this section.

28 10. With the auditor general for audit purposes.

29 11. With central state repositories of other states for noncriminal
30 justice purposes for dissemination in accordance with the laws of those
31 states.

32 12. On submission of the fingerprint card, with the department of
33 child safety and a tribal social services agency to provide criminal
34 history record information on prospective adoptive parents for the purpose
35 of conducting the preadoption certification investigation under title 8,
36 chapter 1, article 1 if the department of economic security is conducting
37 the investigation, or with an agency or a person appointed by the court,
38 if the agency or person is conducting the investigation. Information
39 received under this paragraph shall only be used for the purposes of the
40 preadoption certification investigation.

41 13. With the department of child safety, a tribal social services
42 agency and the superior court for the purpose of evaluating the fitness of
43 custodians or prospective custodians of juveniles, including parents,
44 relatives and prospective guardians. Information received under this

1 paragraph shall only be used for the purposes of that evaluation. The
2 information shall be provided on submission of either:

3 (a) The fingerprint card.
4 (b) The name, date of birth and social security number of the
5 person.

6 14. On submission of a fingerprint card, provide criminal history
7 record information to the superior court for the purpose of evaluating the
8 fitness of investigators appointed under section 14-5303 or 14-5407,
9 guardians appointed under section 14-5206 or 14-5304 or conservators
10 appointed under section 14-5401.

11 15. With the supreme court to provide criminal history record
12 information on prospective fiduciaries pursuant to section 14-5651.

13 16. With the department of juvenile corrections to provide criminal
14 history record information pursuant to section 41-2814.

15 17. On submission of the fingerprint card, provide criminal history
16 record information to the Arizona peace officer standards and training
17 board or a board certified law enforcement academy to evaluate the fitness
18 of prospective cadets.

19 18. With the internet sex offender website database established
20 pursuant to section 13-3827.

21 19. With licensees of the United States nuclear regulatory
22 commission for the purpose of determining whether an individual should be
23 granted unescorted access to the protected area of a commercial nuclear
24 generating station on submission of the subject of record's fingerprints
25 and the prescribed fee.

26 20. With the department of education for the purpose of evaluating
27 the fitness of a certificated teacher or administrator or an applicant for
28 a teaching or an administrative certificate provided that the department
29 of education or its employees or agents have reasonable suspicion that the
30 certificated person engaged in conduct that would be a criminal violation
31 of the laws of this state or was involved in immoral or unprofessional
32 conduct or that the applicant engaged in conduct that would warrant
33 disciplinary action if the applicant were certificated at the time of the
34 alleged conduct. The information shall be provided on the submission of
35 either:

36 (a) The fingerprint card.
37 (b) The name, date of birth and social security number of the
38 person.

39 21. With each school district and charter school in this state.
40 The state board of education and the state board for charter schools shall
41 provide the department of public safety with a current list of e-mail
42 addresses for each school district and charter school in this state and
43 shall periodically provide the department of public safety with updated
44 e-mail addresses. If the department of public safety is notified that a
45 person who is required to have a fingerprint clearance card to be employed

1 by or to engage in volunteer activities at a school district or charter
2 school has been arrested for or convicted of an offense listed in section
3 41-1758.03, subsection B or has been arrested for or convicted of an
4 offense that amounts to unprofessional conduct under section 15-550, the
5 department of public safety shall notify each school district and charter
6 school in this state that the person's fingerprint clearance card has been
7 suspended or revoked.

8 22. With a tribal social services agency and the department of
9 child safety as provided by law, which currently is the Adam Walsh child
10 protection and safety act of 2006 (42 United States Code section 16961),
11 for the purposes of investigating or responding to reports of child abuse,
12 neglect or exploitation. Information received pursuant to this paragraph
13 from the national crime information center, the interstate identification
14 index and the Arizona criminal justice information system network shall
15 only be used for the purposes of investigating or responding as prescribed
16 in this paragraph. The information shall be provided on submission to the
17 department of public safety of either:

18 (a) The fingerprints of the person being investigated.
19 (b) The name, date of birth and social security number of the
20 person.

21 23. With a nonprofit organization that interacts with children or
22 vulnerable adults for the lawful purpose of evaluating the fitness of all
23 current and prospective employees, contractors and volunteers of the
24 organization. The criminal history record information shall be provided
25 on submission of the applicant fingerprint card and the prescribed fee.

26 24. With the superior court for the purpose of determining an
27 individual's eligibility for substance abuse and treatment courts in a
28 family or juvenile case.

29 25. WITH THE GOVERNOR TO PROVIDE CRIMINAL HISTORY RECORD
30 INFORMATION ON PROSPECTIVE GUBERNATORIAL NOMINEES, APPOINTEES AND
31 EMPLOYEES AS PROVIDED BY LAW.

32 H. The director shall adopt rules necessary to execute this
33 section.

34 I. The director, in the manner prescribed by law, shall remove and
35 destroy records that the director determines are no longer of value in the
36 detection or prevention of crime.

37 J. The director shall establish a fee in an amount necessary to
38 cover the cost of federal noncriminal justice fingerprint processing for
39 criminal history record information checks that are authorized by law for
40 noncriminal justice employment, licensing or other lawful purposes. An
41 additional fee may be charged by the department for state noncriminal
42 justice fingerprint processing. Fees submitted to the department for
43 state noncriminal justice fingerprint processing are not refundable.

1 K. The director shall establish a fee in an amount necessary to
2 cover the cost of processing copies of department reports, eight by ten
3 inch black and white photographs or eight by ten inch color photographs of
4 traffic accident scenes.

5 L. Except as provided in subsection O of this section, each agency
6 authorized by this section may charge a fee, in addition to any other fees
7 prescribed by law, in an amount necessary to cover the cost of state and
8 federal noncriminal justice fingerprint processing for criminal history
9 record information checks that are authorized by law for noncriminal
10 justice employment, licensing or other lawful purposes.

11 M. A fingerprint account within the records processing fund is
12 established for the purpose of separately accounting for the collection
13 and payment of fees for noncriminal justice fingerprint processing by the
14 department. Monies collected for this purpose shall be credited to the
15 account, and payments by the department to the United States for federal
16 noncriminal justice fingerprint processing shall be charged against the
17 account. Monies in the account not required for payment to the United
18 States shall be used by the department in support of the department's
19 noncriminal justice fingerprint processing duties. At the end of each
20 fiscal year, any balance in the account not required for payment to the
21 United States or to support the department's noncriminal justice
22 fingerprint processing duties reverts to the state general fund.

23 N. A records processing fund is established for the purpose of
24 separately accounting for the collection and payment of fees for
25 department reports and photographs of traffic accident scenes processed by
26 the department. Monies collected for this purpose shall be credited to
27 the fund and shall be used by the department in support of functions
28 related to providing copies of department reports and photographs. At the
29 end of each fiscal year, any balance in the fund not required for support
30 of the functions related to providing copies of department reports and
31 photographs reverts to the state general fund.

32 O. The department of child safety may pay from appropriated monies
33 the cost of federal fingerprint processing or federal criminal history
34 record information checks that are authorized by law for employees and
35 volunteers of the department, guardians pursuant to section 8-453,
36 subsection A, paragraph 6, the licensing of foster parents or the
37 certification of adoptive parents.

38 P. The director shall adopt rules that provide:
39 1. The collection and disposition of fees pursuant to this section.
40 2. The refusal of service to those agencies that are delinquent in
41 paying these fees.

42 Q. The director shall ensure that the following limitations are
43 observed regarding dissemination of criminal justice information obtained
44 from the central state repository or through the Arizona criminal justice
45 information system:

1 1. Any criminal justice agency that obtains criminal justice
2 information from the central state repository or through the Arizona
3 criminal justice information system assumes responsibility for the
4 security of the information and shall not secondarily disseminate this
5 information to any individual or agency not authorized to receive this
6 information directly from the central state repository or originating
7 agency.

8 2. Dissemination to an authorized agency or individual may be
9 accomplished by a criminal justice agency only if the dissemination is for
10 criminal justice purposes in connection with the prescribed duties of the
11 agency and not in violation of this section.

12 3. Criminal history record information disseminated to noncriminal
13 justice agencies or to individuals shall be used only for the purposes for
14 which it was given. Secondary dissemination is prohibited unless
15 otherwise authorized by law.

16 4. The existence or nonexistence of criminal history record
17 information shall not be confirmed to any individual or agency not
18 authorized to receive the information itself.

19 5. Criminal history record information to be released for
20 noncriminal justice purposes to agencies of other states shall only be
21 released to the central state repositories of those states for
22 dissemination in accordance with the laws of those states.

23 6. Criminal history record information shall be released to
24 noncriminal justice agencies of the federal government pursuant to the
25 terms of the federal security clearance information act (P.L. 99-169).

26 R. This section and the rules adopted under this section apply to
27 all agencies and individuals collecting, storing or disseminating criminal
28 justice information processed by manual or automated operations if the
29 collection, storage or dissemination is funded in whole or in part with
30 monies made available by the law enforcement assistance administration
31 after July 1, 1973, pursuant to title I of the crime control act of 1973,
32 and to all agencies that interact with or receive criminal justice
33 information from or through the central state repository and through the
34 Arizona criminal justice information system.

35 S. This section does not apply to criminal history record
36 information contained in:

37 1. Posters, arrest warrants, announcements or lists for identifying
38 or apprehending fugitives or wanted persons.

39 2. Original records of entry such as police blotters maintained by
40 criminal justice agencies, compiled chronologically and required by law or
41 long-standing custom to be made public if these records are organized on a
42 chronological basis.

43 3. Transcripts or records of judicial proceedings if released by a
44 court or legislative or administrative proceedings.

45 4. Announcements of executive clemency or pardon.

1 5. Computer databases, other than the Arizona criminal justice
2 information system, that are specifically designed for community
3 notification of an offender's presence in the community pursuant to
4 section 13-3825 or for public informational purposes authorized by section
5 13-3827.

6 T. Nothing in this section prevents a criminal justice agency from
7 disclosing to the public criminal history record information that is
8 reasonably contemporaneous to the event for which an individual is
9 currently within the criminal justice system, including information noted
10 on traffic accident reports concerning citations, blood alcohol tests or
11 arrests made in connection with the traffic accident being investigated.

12 U. In order to ensure that complete and accurate criminal history
13 record information is maintained and disseminated by the central state
14 repository:

15 1. The booking agency shall take legible ten-print fingerprints of
16 all persons who are arrested for offenses listed in subsection C of this
17 section. The booking agency shall obtain a process control number and
18 provide to the person fingerprinted a document that indicates proof of the
19 fingerprinting and that informs the person that the document must be
20 presented to the court.

21 2. Except as provided in paragraph 3 of this subsection, if a
22 person is summoned to court as a result of an indictment or complaint for
23 an offense listed in subsection C of this section, the court shall order
24 the person to appear before the county sheriff and provide legible
25 ten-print fingerprints. The county sheriff shall obtain a process control
26 number and provide a document to the person fingerprinted that indicates
27 proof of the fingerprinting and that informs the person that the document
28 must be presented to the court. For the ~~purpose~~ PURPOSES of this
29 ~~subsection~~ PARAGRAPH, "summoned" includes a written promise to appear by
30 the defendant on a uniform traffic ticket and complaint.

31 3. If a person is arrested for a misdemeanor offense listed in
32 subsection C of this section by a city or town law enforcement agency, the
33 person shall appear before the law enforcement agency that arrested the
34 defendant and provide legible ten-print fingerprints. The law enforcement
35 agency shall obtain a process control number and provide a document to the
36 person fingerprinted that indicates proof of the fingerprinting and that
37 informs the person that the document must be presented to the court.

38 4. The mandatory fingerprint compliance form shall contain the
39 following information:

- 40 (a) Whether ten-print fingerprints have been obtained from the
41 person.
- 42 (b) Whether a process control number was obtained.
- 43 (c) The offense or offenses for which the process control number
44 was obtained.
- 45 (d) Any report number of the arresting authority.

1 (e) Instructions on reporting for ten-print fingerprinting,
2 including available times and locations for reporting for ten-print
3 fingerprinting.

4 (f) Instructions that direct the person to provide the form to the
5 court at the person's next court appearance.

6 5. Within ten days after a person is fingerprinted, the arresting
7 authority or agency that took the fingerprints shall forward the
8 fingerprints to the department in the manner or form required by the
9 department.

10 6. On the issuance of a summons for a defendant who is charged with
11 an offense listed in subsection C of this section, the summons shall
12 direct the defendant to provide ten-print fingerprints to the appropriate
13 law enforcement agency.

14 7. At the initial appearance or on the arraignment of a summoned
15 defendant who is charged with an offense listed in subsection C of this
16 section, if the person does not present a completed mandatory fingerprint
17 compliance form to the court or if the court has not received the process
18 control number, the court shall order that within twenty calendar days the
19 defendant be ten-print fingerprinted at a designated time and place by the
20 appropriate law enforcement agency.

21 8. If the defendant fails to present a completed mandatory
22 fingerprint compliance form or if the court has not received the process
23 control number, the court, on its own motion, may remand the defendant
24 into custody for ten-print fingerprinting. If otherwise eligible for
25 release, the defendant shall be released from custody after being
26 ten-print fingerprinted.

27 9. In every criminal case in which the defendant is incarcerated or
28 fingerprinted as a result of the charge, an originating law enforcement
29 agency or prosecutor, within forty days of the disposition, shall advise
30 the central state repository of all dispositions concerning the
31 termination of criminal proceedings against an individual arrested for an
32 offense specified in subsection C of this section. This information shall
33 be submitted on a form or in a manner required by the department.

34 10. Dispositions resulting from formal proceedings in a court
35 having jurisdiction in a criminal action against an individual who is
36 arrested for an offense specified in subsection C of this section or
37 section 8-341, subsection V, paragraph 3 shall be reported to the central
38 state repository within forty days of the date of the disposition. This
39 information shall be submitted on a form or in a manner specified by rules
40 approved by the supreme court.

41 11. The state department of corrections or the department of
42 juvenile corrections, within forty days, shall advise the central state
43 repository that it has assumed supervision of a person convicted of an
44 offense specified in subsection C of this section or section 8-341,
45 subsection V, paragraph 3. The state department of corrections or the

1 department of juvenile corrections shall also report dispositions that
2 occur thereafter to the central state repository within forty days of the
3 date of the dispositions. This information shall be submitted on a form
4 or in a manner required by the department of public safety.

5 12. Each criminal justice agency shall query the central state
6 repository before dissemination of any criminal history record information
7 to ensure the completeness of the information. Inquiries shall be made
8 before any dissemination except in those cases in which time is of the
9 essence and the repository is technically incapable of responding within
10 the necessary time period. If time is of the essence, the inquiry shall
11 still be made and the response shall be provided as soon as possible.

12 V. The director shall adopt rules specifying that any agency that
13 collects, stores or disseminates criminal justice information that is
14 subject to this section shall establish effective security measures to
15 protect the information from unauthorized access, disclosure, modification
16 or dissemination. The rules shall include reasonable safeguards to
17 protect the affected information systems from fire, flood, wind, theft,
18 sabotage or other natural or man-made hazards or disasters.

19 W. The department shall make available to agencies that contribute
20 to, or receive criminal justice information from, the central state
21 repository or through the Arizona criminal justice information system a
22 continuing training program in the proper methods for collecting, storing
23 and disseminating information in compliance with this section.

24 X. Nothing in this section creates a cause of action or a right to
25 bring an action including an action based on discrimination due to sexual
26 orientation.

27 Y. For the purposes of this section:

28 1. "Administration of criminal justice" means performance of the
29 detection, apprehension, detention, pretrial release, posttrial release,
30 prosecution, adjudication, correctional supervision or rehabilitation of
31 criminal offenders. Administration of criminal justice includes
32 enforcement of criminal traffic offenses and civil traffic violations,
33 including parking violations, when performed by a criminal justice agency.
34 Administration of criminal justice also includes criminal identification
35 activities and the collection, storage and dissemination of criminal
36 history record information.

37 2. "Administrative records" means records that contain adequate and
38 proper documentation of the organization, functions, policies, decisions,
39 procedures and essential transactions of the agency and that are designed
40 to furnish information to protect the rights of this state and of persons
41 directly affected by the agency's activities.

42 3. "Arizona criminal justice information system" or "system" means
43 the statewide information system managed by the director for the
44 collection, processing, preservation, dissemination and exchange of
45 criminal justice information and includes the electronic equipment,

1 facilities, procedures and agreements necessary to exchange this
2 information.

3 4. "Booking agency" means the county sheriff or, if a person is
4 booked into a municipal jail, the municipal law enforcement agency.

5 5. "Central state repository" means the central location within the
6 department for the collection, storage and dissemination of Arizona
7 criminal history records and related criminal justice information.

8 6. "Criminal history record information" and "criminal history
9 record" means information that is collected by criminal justice agencies
10 on individuals and that consists of identifiable descriptions and
11 notations of arrests, detentions, indictments and other formal criminal
12 charges, and any disposition arising from those actions, sentencing,
13 formal correctional supervisory action and release. Criminal history
14 record information and criminal history record do not include
15 identification information to the extent that the information does not
16 indicate involvement of the individual in the criminal justice system or
17 information relating to juveniles unless they have been adjudicated as
18 adults.

19 7. "Criminal justice agency" means either:

20 (a) A court at any governmental level with criminal or equivalent
21 jurisdiction, including courts of any foreign sovereignty duly recognized
22 by the federal government.

23 (b) A government agency or subunit of a government agency that is
24 specifically authorized to perform as its principal function the
25 administration of criminal justice pursuant to a statute, ordinance or
26 executive order and that allocates more than fifty percent of its annual
27 budget to the administration of criminal justice. This subdivision
28 includes agencies of any foreign sovereignty duly recognized by the
29 federal government.

30 8. "Criminal justice information" means information that is
31 collected by criminal justice agencies and that is needed for the
32 performance of their legally authorized and required functions, such as
33 criminal history record information, citation information, stolen property
34 information, traffic accident reports, wanted persons information and
35 system network log searches. Criminal justice information does not
36 include the administrative records of a criminal justice agency.

37 9. "Disposition" means information disclosing that a decision has
38 been made not to bring criminal charges or that criminal proceedings have
39 been concluded or information relating to sentencing, correctional
40 supervision, release from correctional supervision, the outcome of an
41 appellate review of criminal proceedings or executive clemency.

42 10. "Dissemination" means the written, oral or electronic
43 communication or transfer of criminal justice information to individuals
44 and agencies other than the criminal justice agency that maintains the

1 information. Dissemination includes the act of confirming the existence
2 or nonexistence of criminal justice information.

3 11. "Management control":

4 (a) Means the authority to set and enforce:

5 (i) Priorities regarding development and operation of criminal
6 justice information systems and programs.

7 (ii) Standards for the selection, supervision and termination of
8 personnel involved in the development of criminal justice information
9 systems and programs and in the collection, maintenance, analysis and
10 dissemination of criminal justice information.

11 (iii) Policies governing the operation of computers, circuits and
12 telecommunications terminals used to process criminal justice information
13 to the extent that the equipment is used to process, store or transmit
14 criminal justice information.

15 (b) Includes the supervision of equipment, systems design,
16 programming and operating procedures necessary for the development and
17 implementation of automated criminal justice information systems.

18 12. "Process control number" means the Arizona automated
19 fingerprint identification system number that attaches to each arrest
20 event at the time of fingerprinting and that is assigned to the arrest
21 fingerprint card, disposition form and other pertinent documents.

22 13. "Secondary dissemination" means the dissemination of criminal
23 justice information from an individual or agency that originally obtained
24 the information from the central state repository or through the Arizona
25 criminal justice information system to another individual or agency.

26 14. "Sexual orientation" means consensual homosexuality or
27 heterosexuality.

28 15. "Subject of record" means the person who is the primary subject
29 of a criminal justice record.

30 Sec. 24. Section 41-1821, Arizona Revised Statutes, is amended to
31 read:

32 41-1821. Arizona peace officer standards and training board:

33 membership; appointment; term; vacancies;

34 meetings; compensation; acceptance of grants

35 A. An Arizona peace officer standards and training board is
36 established that consists of thirteen members appointed by the
37 governor. The membership shall include:

38 1. Two sheriffs, one appointed from a county having a population of
39 two hundred thousand or more persons and the remaining sheriff appointed
40 from a county having a population of less than two hundred thousand
41 persons.

42 2. Two chiefs of city police, one appointed from a city having a
43 population of sixty thousand or more persons and the remaining chief
44 appointed from a city having a population of less than sixty thousand
45 persons, ~~as reflected by the most recent United States decennial census.~~

1 3. A college faculty member in public administration or a related
2 field.

3 4. The attorney general.

4 5. The director of the department of public safety.

5 6. The director of the state department of corrections.

6 7. One member who is employed in administering county or municipal
7 correctional facilities.

8 8. Two certified law enforcement officers with a rank of patrolman
9 or sergeant, with one appointed from a county sheriff's office and the
10 other from a city police department.

11 9. Two public members.

12 B. BEFORE APPOINTMENT BY THE GOVERNOR, A PROSPECTIVE MEMBER OF THE
13 BOARD SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE GOVERNOR FOR THE
14 PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT
15 TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY
16 MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF
17 INVESTIGATION.

18 C. The governor shall appoint a chairman from among the members
19 at its first meeting and every year thereafter, except that an ex officio
20 member shall not be appointed chairman. The governor shall not appoint
21 more than one member from the same law enforcement agency. No board
22 member who was qualified when appointed becomes disqualified unless the
23 member ceases to hold the office that qualified the member for
24 appointment.

25 D. Meetings shall be held at least quarterly or ~~upon~~ ON the
26 call of the chairman or by the written request of five members of the
27 board or by the governor. A vacancy on the board shall occur when a
28 member except an ex officio member is absent without the permission of the
29 chairman from three consecutive meetings. The governor may remove a
30 member except an ex officio member for cause.

31 E. The term of each regular member shall be three years unless
32 a member vacates the public office ~~which~~ THAT qualified the member for
33 this appointment.

34 F. The board members are not eligible to receive per diem but
35 are eligible to receive reimbursement for travel expenses pursuant to
36 title 38, chapter 4, article 2.

37 G. On behalf of the board, the executive director may seek and
38 accept contributions, grants, gifts, donations, services or other
39 financial assistance from any individual, association, corporation or
40 other organization having an interest in police training, and from the
41 United States of America and any of its agencies or instrumentalities,
42 corporate or otherwise. Only the executive director of the board may seek
43 monies pursuant to this subsection. Such monies shall be deposited in the
44 fund created by section 41-1825.

1 **~~G.~~ H.** Membership on the board shall not constitute the holding of
2 an office, and members of the board shall not be required to take and file
3 oaths of office before serving on the board. No member of the board shall
4 be disqualified from holding any public office or employment nor shall
5 such member forfeit any such office or employment by reason of such
6 member's appointment, notwithstanding the provisions of any general,
7 special or local law, ordinance or city charter.

8 Sec. 25. Section 41-5353, Arizona Revised Statutes, is amended to
9 read:

10 **41-5353. Board; members; terms; meetings; compensation;**
11 **prohibition**

12 A. The authority shall be governed by a board of directors,
13 consisting of five members to be appointed by the governor, giving due
14 consideration to a diverse geographical representation on the board, and
15 to serve at the pleasure of the governor.

16 **B. BEFORE APPOINTMENT BY THE GOVERNOR, A PROSPECTIVE MEMBER OF THE**
17 **BOARD OF DIRECTORS SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE GOVERNOR**
18 **FOR THE PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK**
19 **PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF**
20 **PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU**
21 **OF INVESTIGATION.**

22 **~~B.~~ C.** Each member shall serve for a term of three years.
23 Vacancies occurring other than by expiration of term shall be filled in
24 the same manner for the remainder of the unexpired term.

25 **~~C.~~ D.** The board shall annually elect from among its members a
26 chairperson, a secretary and a treasurer.

27 **~~D.~~ E.** The board rules shall provide for regular annual meetings of
28 the board. The chairperson may call a special meeting at any time. The
29 board rules shall provide for a method of giving notice of a special
30 meeting.

31 **~~E.~~ F.** The board may meet by audioconference or videoconference.
32 The requirements of title 38, chapter 3, article 3.1 apply to an
33 audioconference or videoconference, except that all votes of members must
34 be by roll call, and the board may not meet in executive session by
35 audioconference or videoconference.

36 **~~F.~~ G.** Members of the board are not eligible to receive
37 compensation but are eligible to receive reimbursement for necessary
38 expenses pursuant to title 38, chapter 4, article 2 while engaged in the
39 performance of the members' duties.

40 **~~G.~~ H.** Members of the board may not have any direct or indirect
41 personal financial interest in any project financed under this article.