AN ACT

AMENDING SECTION 13-904, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 6, ARTICLE 11, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1093.04; RELATING TO STATE LICENSING.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 13-904, Arizona Revised Statutes, is amended to read:

13-904. Suspension of civil rights and occupational disabilities

A. A conviction for a felony suspends the following civil rights of the person sentenced:

1. The right to vote.
2. The right to hold public office of trust or profit.
3. The right to serve as a juror.
4. During any period of imprisonment any other civil rights the suspension of which is reasonably necessary for the security of the institution in which the person sentenced is confined or for the reasonable protection of the public.
5. The right to possess a gun or firearm.

B. Persons sentenced to imprisonment shall not thereby be rendered incompetent as witnesses upon the trial of a criminal action or proceeding, or incapable of making and acknowledging a sale or conveyance of property.

C. A person sentenced to imprisonment is under the protection of the law, and any injury to his person, not authorized by law, is punishable in the same manner as if the person was not convicted and sentenced.

D. The conviction of a person for any offense shall not work forfeiture of any property, except if a forfeiture is expressly imposed by law. All forfeitures to the state, unless expressly imposed by law, are abolished.

E. A person shall not be disqualified from employment by this state or any of its agencies or political subdivisions, nor shall a person whose civil rights have been restored be disqualified to engage in any occupation for which a license, permit or certificate is required to be issued by this state solely because of a prior conviction for a felony or misdemeanor within or without this state. A person may be denied employment by this state or any of its agencies or political subdivisions or a person who has had his civil rights restored may be denied a license, permit or certificate to engage in an occupation by reason of the prior conviction of a felony or misdemeanor if the offense has a reasonable relationship to the functions of the employment or occupation for which the license, permit or certificate is sought.

F. Subsection E of this section is not applicable to any law enforcement agency.

G. Any complaints concerning a violation of subsection E of this section shall be adjudicated in accordance with the procedures set forth in title 41, chapter 6 and title 12, chapter 7, article 6.
H. A person who is adjudicated delinquent under section 8-341 for a felony does not have the right to carry or possess a gun or firearm.

Sec. 2. Title 41, chapter 6, article 11, Arizona Revised Statutes, is amended by adding section 41-1093.04, to read:

41-1093.04. Occupational license, permit or certificate or other state recognition rights; petition for review of criminal record; annual report

A. A person's fundamental right to pursue an occupation includes both of the following:

1. The right of a person with a criminal record to engage in an occupation for which a license, permit, certificate or other state recognition, other than a provisional license as prescribed in section 32-4701, is required to be issued by this state.

2. The right to not have this state use a criminal record as an automatic permanent bar to a person receiving a license, permit, certificate or other state recognition.

B. A person with a criminal record may petition a state agency or board, at any time, including before obtaining any required education or experience, taking any examination or paying any fee for a determination of whether the person's criminal record disqualifies the person from obtaining a license, permit, certificate or other state recognition.

C. In the petition, the person shall include:

1. The person's complete criminal history record or authorize the state agency or board to obtain the person's complete criminal history record.

2. Any additional information about the person's current circumstances, including the time since the offense was committed and the sentence was completed, the payment of any court ordered restitution, evidence of rehabilitation, testimonials, employment history and employment aspirations.

D. The state licensing agency or board shall determine whether the person's criminal record disqualifies the person from obtaining a license, permit, certificate or other state recognition.

E. Notwithstanding any other law or rule, the state agency or board may determine that the person's criminal record disqualifies the person from obtaining a license, permit, certificate or other state recognition only if both of the following apply:

1. The person was convicted of a felony or a misdemeanor involving violence or a sexual offense and the conviction has not been expunged.

2. The state agency or board concludes that the state has an important interest in protecting public safety that is superior to the person's right. The state agency or board may make this conclusion only if the state agency or board determines, by clear and convincing evidence at the time of the petition, that both of the following apply:
(a) THE SPECIFIC OFFENSE THAT THE PERSON WAS CONVICTED OF IS SUBSTANTIALLY RELATED TO THE STATE'S INTEREST.

(b) THE PERSON, BASED ON THE NATURE OF THE SPECIFIC OFFENSE THAT THE PERSON WAS CONVICTED OF AND THE PERSON'S CURRENT CIRCUMSTANCES, IS MORE LIKELY TO REOFFEND BY VIRTUE OF HAVING THE LICENSE, PERMIT, CERTIFICATE OR OTHER STATE RECOGNITION THAN IF THE PERSON DID NOT HAVE THE LICENSE, PERMIT, CERTIFICATE OR OTHER STATE RECOGNITION.

F. THE STATE AGENCY OR BOARD SHALL ISSUE A DETERMINATION ON THE PETITION WITHIN NINETY DAYS AFTER THE STATE AGENCY OR BOARD RECEIVES THE PETITION. THE DETERMINATION ON THE PETITION MUST BE IN WRITING AND INCLUDE FINDINGS OF FACT AND CONCLUSIONS OF LAW.

G. IF THE STATE AGENCY OR BOARD DETERMINES THAT THE STATE'S INTEREST IS SUPERIOR TO THE PERSON'S RIGHT, THE STATE AGENCY OR BOARD MAY ADVISE THE PERSON OF THE ACTIONS THAT THE PERSON MAY TAKE TO REMEDY THE DISQUALIFICATION, INCLUDING:

1. AN APPEAL OF THE DETERMINATION AS PROVIDED IN TITLE 12, CHAPTER 7, ARTICLE SIX.
2. THE SUBMISSION OF A NEW PETITION TO THE SAME STATE AGENCY OR BOARD AT ANY TIME WITHIN TWO YEARS AFTER THE FINAL DETERMINATION OF THE INITIAL PETITION.

H. THE STATE AGENCY OR BOARD SHALL RESCIND THE DETERMINATION ANY TIME AFTER THE DETERMINATION IS MADE BUT BEFORE ISSUING A LICENSE, PERMIT, CERTIFICATE OR OTHER STATE RECOGNITION IF THE PERSON IS CONVICTED OF AN ADDITIONAL FELONY OR MISDEMEANOR INVOLVING VIOLENCE OR A SEXUAL OFFENSE.

I. EACH STATE AGENCY OR BOARD SHALL SUBMIT A REPORT ON OR BEFORE JULY 1 OF EACH YEAR TO THE GOVERNOR AND THE LEGISLATURE AND PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF STATE. THE REPORT SHALL INCLUDE THE FOLLOWING INFORMATION FOR THE PREVIOUS CALENDAR YEAR:

1. THE NUMBER OF APPLICANTS THAT PETITION THE STATE AGENCY OR BOARD FOR A DETERMINATION.
2. THE NUMBER OF PETITIONS THAT WERE GRANTED AND THE TYPES OF OFFENSES AT ISSUE.
3. THE NUMBER OF PETITIONS THAT WERE DENIED AND THE TYPES OF OFFENSES AT ISSUE.
4. THE NUMBER OF DETERMINATIONS THAT WERE RESCINDED.