

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 58
SENATE BILL 1180

AN ACT

AMENDING SECTIONS 15-512 AND 42-1003, ARIZONA REVISED STATUTES; RELATING
TO BACKGROUND CHECKS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-512, Arizona Revised Statutes, is amended to
3 read:

4 15-512. Noncertificated personnel; fingerprinting personnel;
5 background investigations; affidavit; civil
6 immunity; violation; classification; definition

7 A. Noncertificated personnel and personnel who are not paid
8 employees of the school district and who are not either the parent or the
9 guardian of a pupil who attends school in the school district but who are
10 required or allowed to provide services directly to pupils without the
11 supervision of a certificated employee and who are initially hired by a
12 school district after January 1, 1990 shall be fingerprinted as a
13 condition of employment except for personnel who are required as a
14 condition of licensing to be fingerprinted if the license is required for
15 employment or for personnel who were previously employed by a school
16 district and who reestablished employment with that district within one
17 year after the date that the employee terminated employment with the
18 district. A school district may require noncertificated personnel and
19 personnel who are not paid employees of the school district and who are
20 not either the parent or the guardian of a pupil who attends school in the
21 school district but who are required or allowed to provide services
22 directly to pupils without the supervision of a certificated employee to
23 obtain a fingerprint clearance card as a condition of employment. Even if
24 the school district does not require a fingerprint clearance card as a
25 condition of employment, noncertificated personnel and personnel who are
26 not paid employees of the school district and who are not either the
27 parent or the guardian of a pupil who attends school in the school
28 district but who are required or allowed to provide services directly to
29 pupils without the supervision of a certificated employee may apply for a
30 fingerprint clearance card. A school district may release the results of
31 a background check or communicate whether the person has been issued or
32 denied a fingerprint clearance card to another school district for
33 employment purposes. The employee's fingerprints and the form prescribed
34 in subsection D of this section shall be submitted to the school district
35 within twenty days after the date an employee begins work. A school
36 district may terminate an employee if the information on the form provided
37 under subsection D of this section is inconsistent with the information
38 received from the fingerprint check or the information received in
39 connection with a fingerprint clearance card application. The school
40 district shall develop procedures for fingerprinting employees. For the
41 purposes of this subsection, "supervision" means under the direction of
42 and, except for brief periods of time during a school day or a school
43 activity, within sight of a certificated employee when providing direct
44 services to pupils.

1 B. Fingerprints submitted pursuant to this section shall be used to
2 conduct a state and federal criminal records check pursuant to section
3 41-1750 and Public Law 92-544. The department of public safety may
4 exchange this fingerprint data with the federal bureau of investigation.

5 C. The school district shall assume the costs of fingerprint checks
6 and fingerprint clearance cards and may charge these costs to its
7 fingerprinted employee, except that the school district may not charge the
8 costs of the fingerprint check or the fingerprint clearance card to
9 personnel of the school district who are not paid employees. The fees
10 charged for fingerprinting shall be deposited with the county treasurer
11 who shall credit the deposit to the fingerprint fund of the school
12 district. The costs charged to a fingerprinted employee are limited to
13 and the proceeds in the fund may only be applied to the actual costs,
14 including personnel costs, incurred as a result of the fingerprint checks
15 or the fingerprint clearance cards. The fingerprint fund is a continuing
16 fund that is not subject to reversion.

17 D. Personnel required to be fingerprinted or obtain a fingerprint
18 clearance card as prescribed in subsection A of this section shall certify
19 on forms that are provided by the school and notarized whether they are
20 awaiting trial on or have ever been convicted of or admitted in open court
21 or pursuant to a plea agreement committing any of the following criminal
22 offenses in this state or similar offenses in another jurisdiction,
23 INCLUDING A CHARGE OR CONVICTION THAT HAS BEEN VACATED, SET ASIDE OR
24 EXPUNGED:

- 25 1. Sexual abuse of a minor.
- 26 2. Incest.
- 27 3. First or second degree murder.
- 28 4. Kidnapping.
- 29 5. Arson.
- 30 6. Sexual assault.
- 31 7. Sexual exploitation of a minor.
- 32 8. Felony offenses involving contributing to the delinquency of a
33 minor.
- 34 9. Commercial sexual exploitation of a minor.
- 35 10. Felony offenses involving sale, distribution or transportation
36 of, offer to sell, transport, or distribute or conspiracy to sell,
37 transport or distribute marijuana or dangerous or narcotic drugs.
- 38 11. Felony offenses involving the possession or use of marijuana,
39 dangerous drugs or narcotic drugs.
- 40 12. Misdemeanor offenses involving the possession or use of
41 marijuana or dangerous drugs.
- 42 13. Burglary in the first degree.
- 43 14. Burglary in the second or third degree.
- 44 15. Aggravated or armed robbery.
- 45 16. Robbery.

- 1 17. A dangerous crime against children as defined in section
2 13-705.
- 3 18. Child abuse.
- 4 19. Sexual conduct with a minor.
- 5 20. Molestation of a child.
- 6 21. Manslaughter.
- 7 22. Aggravated assault.
- 8 23. Assault.
- 9 24. Exploitation of minors involving drug offenses.
- 10 E. A school district may refuse to hire or may review or terminate
11 personnel who have been convicted of or admitted committing any of the
12 criminal offenses prescribed in subsection D of this section or of a
13 similar offense in another jurisdiction. A school district that is
14 considering terminating an employee pursuant to this subsection shall hold
15 a hearing to determine whether a person already employed shall be
16 terminated. In conducting a review, the governing board shall utilize the
17 guidelines, including the list of offenses that are not subject to review,
18 as prescribed by the state board of education pursuant to section 15-534,
19 subsection C. In considering whether to hire or terminate the employment
20 of a person the governing board shall take into account the following
21 factors:
- 22 1. The nature of the crime and the potential for crimes against
23 children.
- 24 2. Offenses committed as a minor for which proceedings were held
25 under the jurisdiction of a juvenile or an adult court.
- 26 3. Offenses that have been expunged by a court of competent
27 jurisdiction, if the person has been pardoned or if the person's sentence
28 has been commuted.
- 29 4. The employment record of the person since the commission of the
30 crime if the crime was committed more than ten years before the governing
31 board's consideration of whether to hire or terminate the person.
- 32 5. The reliability of the evidence of an admission of a crime
33 unless made under oath in a court of competent jurisdiction.
- 34 F. Before employment with the school district, the district shall
35 make documented, good faith efforts to contact previous employers of a
36 person to obtain information and recommendations that may be relevant to a
37 person's fitness for employment. A governing board shall adopt procedures
38 for conducting background investigations required by this subsection,
39 including one or more standard forms for use by school district officials
40 to document their efforts to obtain information from previous employers.
41 A school district may provide information received as a result of a
42 background investigation required by this section to any other school
43 district, to any other public school and to any public entity that agrees
44 pursuant to a contract or intergovernmental agreement to perform
45 background investigations for school districts or other public schools.

1 School districts and other public schools may enter into intergovernmental
2 agreements pursuant to section 11-952 and cooperative purchasing
3 agreements pursuant to rules adopted in accordance with section 15-213 for
4 the purposes of performing or contracting for the performance of
5 background investigations and for sharing the results of background
6 investigations required by this subsection. Information obtained about an
7 employee or applicant for employment by any school district or other
8 public school in the performance of a background investigation may be
9 retained by that school district or the other public school or by any
10 public entity that agrees pursuant to contract to perform background
11 investigations for school districts or other public schools and may be
12 provided to any school district or other public school that is performing
13 a background investigation required by this subsection.

14 G. A school district may fingerprint or require any other employee
15 of the district to obtain a fingerprint clearance card, whether paid or
16 not, or any other applicant for employment with the school district not
17 otherwise required by this section to be fingerprinted or obtain a
18 fingerprint clearance card on the condition that the school district may
19 not charge the costs of the fingerprint check or fingerprint clearance
20 card to the fingerprinted applicant or nonpaid employee.

21 H. A contractor, subcontractor or vendor or any employee of a
22 contractor, subcontractor or vendor who is contracted to provide services
23 on a regular basis at an individual school shall obtain a valid
24 fingerprint clearance card pursuant to title 41, chapter 12, article 3.1.
25 A school district governing board shall adopt policies to exempt a person
26 from the requirements of this subsection if the person's normal job duties
27 are not likely to result in independent access to or unsupervised contact
28 with pupils. A school district, its governing board members, its school
29 council members and its employees are exempt from civil liability for the
30 consequences of adoption and implementation of policies and procedures
31 pursuant to this subsection unless the school district, its governing
32 board members, its school council members or its employees are guilty of
33 gross negligence or intentional misconduct.

34 I. Subsection A of this section does not apply to a person who
35 provides instruction or other education services to a pupil, with the
36 written consent of the parent or guardian of the pupil, under a work
37 release program, advance placement course or other education program that
38 occurs off school property.

39 J. Public entities that agree pursuant to contract to perform
40 background investigations, public schools, the department of education and
41 previous employers who provide information pursuant to this section are
42 immune from civil liability unless the information provided is false and
43 is acted on by the school district to the harm of the employee and the
44 public entity, the public school, the previous employer or the department
45 of education knows the information is false or acts with reckless

1 disregard of the information's truth or falsity. A school district that
2 relies on information obtained pursuant to this section in making
3 employment decisions is immune from civil liability for use of the
4 information unless the information obtained is false and the school
5 district knows the information is false or acts with reckless disregard of
6 the information's truth or falsity.

7 K. The superintendent of a school district or chief administrator
8 of a charter school or the person's designee who is responsible for
9 implementing the governing board's policy regarding background
10 investigations required by subsection F of this section and who fails to
11 carry out that responsibility is guilty of unprofessional conduct and
12 shall be subject to disciplinary action by the state board.

13 L. A school district may hire noncertificated personnel before
14 receiving the results of the fingerprint check or a fingerprint clearance
15 card but may terminate employment if the information on the form provided
16 in subsection D of this section is inconsistent with the information
17 received from the fingerprint check or the fingerprint clearance card. In
18 addition to any other conditions or requirements deemed necessary by the
19 superintendent of public instruction to protect the health and safety of
20 pupils, noncertificated personnel who are required or allowed unsupervised
21 contact with pupils may be hired by school districts before the results of
22 a fingerprint check are received or a fingerprint clearance card is issued
23 if all of the following conditions are met:

24 1. The school district that is seeking to hire the applicant shall
25 document in the applicant's file the necessity for hiring and placement of
26 the applicant before a fingerprint check could be completed or a
27 fingerprint clearance card could be issued.

28 2. The school district that is seeking to hire the applicant shall
29 do all of the following:

30 (a) Ensure that the department of public safety completes a
31 statewide criminal history information check on the applicant. A
32 statewide criminal history information check shall be completed by the
33 department of public safety every one hundred twenty days until the date
34 that the fingerprint check is completed or the fingerprint clearance card
35 is issued or denied.

36 (b) Obtain references from the applicant's current employer and two
37 most recent previous employers except for applicants who have been
38 employed for at least five years by the applicant's most recent employer.

39 (c) Provide general supervision of the applicant until the date
40 that the fingerprint check is completed or the fingerprint clearance card
41 is issued or denied.

42 (d) Report to the superintendent of public instruction on June 30
43 and December 31 each year the number of applicants hired before the
44 completion of a fingerprint check or the issuance of a fingerprint
45 clearance card. In addition, the school district shall report the number

1 of applicants for whom fingerprint checks were not received or fingerprint
2 clearance cards were not issued after one hundred twenty days and after
3 one hundred seventy-five days of hire.

4 M. Notwithstanding any other law, this section does not apply to
5 pupils who attend school in a school district and who are also employed by
6 a school district.

7 N. A person who makes a false statement, representation or
8 certification in any application for employment with the school district
9 is guilty of a class 3 misdemeanor.

10 O. For the purposes of this section, "background investigation"
11 means any communication with an employee's or applicant's former employer
12 that concerns the education, training, experience, qualifications and job
13 performance of the employee or applicant and that is used for the purpose
14 of evaluating the employee or applicant for employment. Background
15 investigation does not include the results of any state or federal
16 criminal history records check.

17 Sec. 2. Section 42-1003, Arizona Revised Statutes, is amended to
18 read:

19 42-1003. Department organization; director's staff; deputy
20 director; assistant directors; fingerprinting;
21 consumer reports; definition

22 A. The department ~~shall consist~~ CONSISTS of such divisions as the
23 director deems necessary to achieve maximum efficiency, economy and
24 effectiveness in administering and collecting taxes. The departmental
25 organization shall provide for administering taxes as prescribed by law
26 and for administrative services to the department, including data
27 processing, accounting, records management, publications, collection of
28 delinquent accounts, personnel services and budget and property control.

29 B. The director may divide the state into a reasonable number of
30 districts and establish a full-time or part-time branch office or offices
31 in each district as may be necessary. In establishing districts and
32 branch offices, the director shall give due consideration to economy of
33 administration and service to the taxpayers.

34 C. The director may employ, appoint and remove, in the manner
35 prescribed by law, such officers, agents, branch office deputies and other
36 staff personnel as ~~he~~ THE DIRECTOR deems necessary to assist ~~him~~ in ~~the~~
37 ~~administration of~~ ADMINISTERING the department. The director's staff may
38 perform such functions as the director prescribes ~~which include, but are~~
39 ~~not limited to~~, INCLUDING budget development, legal research and analysis,
40 tax research, departmental audit and public relations.

41 D. A deputy director of the department may be appointed by the
42 director with the approval of the governor. The deputy director, if
43 appointed, ~~shall serve~~ SERVES at the pleasure of the director with the
44 approval of the governor. The deputy director shall assist the director
45 in ~~the administration of~~ ADMINISTERING the department and ~~shall have such~~

1 HAS THE duties and responsibilities as ~~may be assigned to him by~~ the
2 director ASSIGNS.

3 E. The director ~~may~~, with the approval of the governor, MAY appoint
4 an assistant director to head each division of the department. Any
5 assistant director appointed ~~shall be~~ IS directly responsible for the
6 functions performed by ~~his or her~~ THE ASSISTANT DIRECTOR'S division. Each
7 assistant director ~~shall serve~~ SERVES at the pleasure of the director with
8 the approval of the governor.

9 F. The director may appoint other deputies or assistants to conduct
10 hearings, prescribe administrative rules or perform any other duty
11 prescribed for the department by law.

12 G. The director may require officers, agents, deputies and other
13 employees designated by the director to give bond for the faithful
14 performance of their duties in such AN amount and with such sureties as
15 the director ~~may determine~~ DETERMINES or as prescribed by statute. The
16 department shall pay all premiums on the bonds out of monies appropriated
17 for the administration of the department.

18 H. The director and officers and employees designated by ~~him~~ THE
19 DIRECTOR may administer an oath to any person or take the acknowledgement
20 of any person in respect of any return or report required by law or the
21 administrative rules of the department.

22 I. The director may reassign the administration of taxes and may
23 assign and delegate the duties, powers and functions of the department
24 among its divisions in order to achieve maximum efficiency, economy and
25 effectiveness. The director or ~~his~~ THE deputy DIRECTOR, if any, shall
26 enforce cooperation among the divisions in the provision and integration
27 of all functions at all levels of the department.

28 J. THE DIRECTOR MAY OBTAIN A STATE AND FEDERAL CRIMINAL RECORDS
29 CHECK FOR AN APPLICANT FOR EMPLOYMENT FOR THE PURPOSE OF HIRING PERSONNEL
30 OR FOR ANY EMPLOYEE, CONTRACTOR OR TEMPORARY EMPLOYEE AS REQUIRED BY
31 INTERNAL REVENUE SERVICE GUIDELINES OR ANY OTHER FEDERAL GUIDELINES.
32 BEFORE MAKING A FINAL OFFER OF EMPLOYMENT OR FOR PURPOSES OF SCREENING AN
33 EMPLOYEE OR CONTRACTOR, THE DIRECTOR SHALL REQUIRE THE PREFERRED
34 APPLICANTS, EMPLOYEES OR CONTRACTORS TO SUBMIT A FULL SET OF FINGERPRINTS.
35 THE DIRECTOR SHALL SUBMIT THE FINGERPRINTS TO THE DEPARTMENT OF PUBLIC
36 SAFETY FOR THE PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS
37 CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT
38 OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL
39 BUREAU OF INVESTIGATION. THE DEPARTMENT OF REVENUE MAY DISCLOSE
40 INFORMATION OBTAINED PURSUANT TO THIS SUBSECTION ONLY TO MEMBERS OF THE
41 DEPARTMENT'S STAFF SOLELY FOR EMPLOYMENT PURPOSES. AN APPLICANT,
42 EMPLOYEE, CONTRACTOR OR TEMPORARY EMPLOYEE IS NOT DISQUALIFIED FROM
43 EMPLOYMENT UNDER THIS SUBSECTION EXCEPT IN ACCORDANCE WITH SECTION 13-904,
44 SUBSECTION E.

1 K. THE DIRECTOR MAY OBTAIN A CONSUMER REPORT FOR AN APPLICANT FOR
2 EMPLOYMENT FOR THE PURPOSE OF HIRING PERSONNEL WHOSE JOB DUTIES INCLUDE
3 THE DISTRIBUTION OF TAX REVENUES PURSUANT TO THIS TITLE AND TITLE 43.
4 CONSUMER REPORT INFORMATION MAY BE OBTAINED AND USED ONLY IN ACCORDANCE
5 WITH THE FAIR CREDIT REPORTING ACT (P.L. 90-321; 84 STAT. 1128; 15 UNITED
6 STATES CODE SECTIONS 1681 THROUGH 1681x). THE CONSUMER REPORT INFORMATION
7 SHALL NOT BE THE SOLE REASON FOR THE DISQUALIFICATION OF THE APPLICANT.
8 L. FOR THE PURPOSES OF THIS SECTION, "APPLICANT" MEANS ANY PERSON
9 WHO SEEKS EMPLOYMENT AS A NEW HIRE OR ANY EMPLOYEE OF THE DEPARTMENT WHO
10 SEEKS A TRANSFER, A RECLASSIFICATION OR A REASSIGNMENT TO A DIFFERENT
11 POSITION.

APPROVED BY THE GOVERNOR APRIL 10, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 10, 2019.