

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 166
HOUSE BILL 2660

AN ACT

AMENDING SECTIONS 13-904 AND 41-1093.04, ARIZONA REVISED STATUTES;
RELATING TO OCCUPATIONAL REGULATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 13-904, Arizona Revised Statutes, is amended to
3 read:
4 13-904. Suspension of civil rights and occupational
5 disabilities
6 A. A conviction for a felony suspends the following civil rights of
7 the person sentenced:
8 1. The right to vote.
9 2. The right to hold public office of trust or profit.
10 3. The right to serve as a juror.
11 4. During any period of imprisonment any other civil rights the
12 suspension of which is reasonably necessary for the security of the
13 institution in which the person sentenced is confined or for the
14 reasonable protection of the public.
15 5. The right to possess a gun or firearm.
16 B. Persons sentenced to imprisonment shall not thereby be rendered
17 incompetent as witnesses on the trial of a criminal action or proceeding,
18 or incapable of making and acknowledging a sale or conveyance of property.
19 C. A person sentenced to imprisonment is under the protection of
20 the law, and any injury to his person, not authorized by law, is
21 punishable in the same manner as if the person was not convicted and
22 sentenced.
23 D. The conviction of a person for any offense shall not work
24 forfeiture of any property, except if a forfeiture is expressly imposed by
25 law. All forfeitures to the state, unless expressly imposed by law, are
26 abolished.
27 E. A person shall not be disqualified from employment by this state
28 or any of its agencies or political subdivisions solely because of a prior
29 conviction for a felony or misdemeanor within or without this state. A
30 person may be denied employment by this state or any of its agencies or
31 political subdivisions by reason of the prior conviction ~~of~~ FOR a felony
32 or misdemeanor if the offense has a reasonable relationship to the
33 functions of the employment sought.
34 F. Subsection E of this section is not applicable to any law
35 enforcement OR PROBATION agency.
36 G. Any complaints concerning a violation of subsection E of this
37 section shall be adjudicated in accordance with the procedures set forth
38 in title 41, chapter 6 and title 12, chapter 7, article 6.
39 H. A person who is adjudicated delinquent under section 8-341 for a
40 felony does not have the right to carry or possess a gun or firearm.

1 Sec. 2. Section 41-1093.04, Arizona Revised Statutes, is amended to
2 read:

3 41-1093.04. Occupational license, permit or certificate or
4 other state recognition rights; petition for
5 review of criminal record; annual report

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

11 B. In the petition, the person shall include:

12 1. the person's complete criminal history record.

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

18 C. The agency shall determine whether the person's criminal record
19 disqualifies the person from obtaining a license, permit, certificate or
20 other state recognition.

21 D. Notwithstanding any other law or rule, the agency may determine
22 that the person's criminal record disqualifies the person from obtaining a
23 license, permit, certificate or other state recognition only if ~~both~~ THE
24 AGENCY CONCLUDES THAT THE STATE HAS AN IMPORTANT INTEREST IN PROTECTING
25 PUBLIC SAFETY THAT IS SUPERIOR TO THE PERSON'S RIGHT AND EITHER of the
26 following ~~apply~~ APPLIES:

27 1. The person was convicted of any of the following, THE CONVICTION
28 OCCURRED WITHIN SEVEN YEARS BEFORE THE DATE OF THE PETITION, EXCLUDING ANY
29 PERIOD OF TIME THAT THE PERSON WAS IMPRISONED IN THE CUSTODY OF THE STATE
30 DEPARTMENT OF CORRECTIONS, and the conviction has not been set aside ~~or~~
31 ~~expunged~~:

32 (a) A felony offense.

33 (b) A violent crime as defined in section 13-901.03.

34 (c) An offense included in title 13, chapter 20, 21 or ~~23~~ 22 or
35 section 13-2310 or 13-2311 if the license, permit, certificate or other
36 state recognition is for an occupation in which the applicant would owe a
37 fiduciary duty to a client.

38 ~~(d)~~ 2. ~~Any~~ THE PERSON WAS, AT ANY TIME, CONVICTED OF EITHER OF THE
39 FOLLOWING:

40 (a) AN offense that a law specifically requires the agency to
41 consider when issuing a license, permit, certificate or other state
42 recognition AND THE CONVICTION HAS NOT BEEN SET ASIDE.

43 (b) A DANGEROUS OFFENSE AS DEFINED IN SECTION 13-105, A SERIOUS
44 OFFENSE AS DEFINED IN SECTION 13-706, A DANGEROUS CRIME AGAINST CHILDREN

1 AS DEFINED IN SECTION 13-705 OR AN OFFENSE INCLUDED IN TITLE 13, CHAPTER
2 14 OR 35.1, AND THE CONVICTION HAS NOT BEEN SET ASIDE.

3 ~~2. The agency concludes that the state has an important interest in~~
4 ~~protecting public safety that is superior to the person's right. The~~
5 ~~agency may make this conclusion only if the agency determines,~~

6 E. TO CONCLUDE THAT THE STATE HAS AN IMPORTANT INTEREST IN
7 PROTECTING PUBLIC SAFETY THAT IS SUPERIOR TO THE PERSON'S RIGHT, AS
8 REQUIRED BY SUBSECTION D OF THIS SECTION, THE AGENCY MUST DETERMINE by
9 clear and convincing evidence at the time of the petition, that both of
10 the following apply:

11 ~~(a)~~ 1. The specific offense that the person was convicted of is
12 substantially related to the state's interest.

13 ~~(b)~~ 2. The person, based on the nature of the specific offense
14 that the person was convicted of and the person's current circumstances,
15 is more likely to reoffend by virtue of having the license, permit,
16 certificate or other state recognition than if the person did not have the
17 license, permit, certificate or other state recognition.

18 ~~F.~~ F. The agency shall issue a determination on the petition
19 within ninety days after the agency receives the petition. The
20 determination on the petition must be in writing and include findings of
21 fact and conclusions of law.

22 ~~F.~~ G. If the agency determines that the state's interest is
23 superior to the person's right, the agency may advise the person of the
24 actions that the person may take to remedy the disqualification,
25 including:

26 1. An appeal of the determination as provided in title 12, chapter
27 7, article 6.

28 2. The submission of a new petition to the same agency at any time
29 within two years after the final determination of the initial petition.

30 ~~G.~~ H. The agency shall rescind the determination any time after
31 the determination is made but before issuing a license, permit,
32 certificate or other state recognition if the person is convicted of an
33 additional offense that is included in subsection D, paragraph 1 of this
34 section.

35 ~~H.~~ I. Subsection D of this section does not apply to any of the
36 following:

37 1. Any law enforcement agency or the Arizona peace officer
38 standards and training board.

39 2. Any license or registration certificate that is issued pursuant
40 to title 32, chapter 24 or 26.

41 3. Any certification, license or permit that is issued pursuant to
42 title 15.

43 4. Statutory requirements for a fingerprint clearance card issued
44 pursuant to ~~title 41,~~ chapter 12, article 3.1 OF THIS TITLE.

- 1 5. Any criteria for license, permit or certificate eligibility that
2 is established by an interstate compact.
- 3 ~~I.~~ J. Each agency shall submit a report on or before July 1 of
4 each year to the governor and the legislature and provide a copy of this
5 report to the secretary of state. The report shall include the following
6 information for the previous calendar year:
- 7 1. The number of applicants ~~that~~ WHO petition the agency for a
8 determination.
- 9 2. The number of petitions that were granted and the types of
10 offenses at issue.
- 11 3. The number of petitions that were denied and the types of
12 offenses at issue.
- 13 4. The number of determinations that were rescinded.

APPROVED BY THE GOVERNOR MAY 3, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 3, 2019.