

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

**CHAPTER 177**  
**HOUSE BILL 2119**

AN ACT

AMENDING TITLE 15, CHAPTER 1, ARTICLE 5, ARIZONA REVISED STATUTES, BY  
ADDING SECTION 15-153; AMENDING SECTION 15-512, ARIZONA REVISED STATUTES;  
RELATING TO SCHOOL SAFETY REQUIREMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 15, chapter 1, article 5, Arizona Revised  
3 Statutes, is amended by adding section 15-153, to read:

4 15-153. Crime reporting; policies and procedures;  
5 notification; discipline

6 A. EACH SCHOOL DISTRICT GOVERNING BOARD AND CHARTER SCHOOL  
7 GOVERNING BODY SHALL PRESCRIBE AND ENFORCE POLICIES AND PROCEDURES FOR  
8 SCHOOL PERSONNEL TO REPORT ANY SUSPECTED CRIME AGAINST A PERSON OR  
9 PROPERTY THAT IS A SERIOUS OFFENSE AS DEFINED IN SECTION 13-706 OR THAT  
10 INVOLVES A DEADLY WEAPON OR DANGEROUS INSTRUMENT OR SERIOUS PHYSICAL  
11 INJURY AND ANY CONDUCT THAT POSES A THREAT OF DEATH OR SERIOUS PHYSICAL  
12 INJURY TO AN EMPLOYEE, STUDENT OR OTHER PERSON ON THE SCHOOL PROPERTY.  
13 THE POLICIES SHALL DICTATE A PROCESS FOR EMPLOYEES TO DOCUMENT AND REPORT  
14 THE CONDUCT, INCLUDING SPECIFYING THE EMPLOYEES RESPONSIBLE FOR MAKING A  
15 REPORT TO THE LOCAL LAW ENFORCEMENT AGENCY PURSUANT TO SECTION 15-341,  
16 SUBSECTION A, PARAGRAPH 30. CONDUCT THAT IS CONSIDERED TO BE BULLYING,  
17 HARASSMENT OR INTIMIDATION SHALL BE ADDRESSED ACCORDING TO POLICIES  
18 ADOPTED PURSUANT TO SECTION 15-341, SUBSECTION A, PARAGRAPH 36.

19 B. EACH SCHOOL DISTRICT GOVERNING BOARD AND CHARTER SCHOOL  
20 GOVERNING BODY SHALL PRESCRIBE AND ENFORCE POLICIES AND PROCEDURES THAT  
21 REQUIRE THE SCHOOL DISTRICT OR CHARTER SCHOOL TO NOTIFY THE PARENT OR  
22 GUARDIAN OF EACH STUDENT WHO IS INVOLVED IN A SUSPECTED CRIME OR ANY  
23 CONDUCT THAT IS DESCRIBED IN SUBSECTION A OF THIS SECTION, SUBJECT TO THE  
24 REQUIREMENTS OF FEDERAL LAW.

25 C. ON OR BEFORE JANUARY 1, 2020, EACH SCHOOL DISTRICT OR CHARTER  
26 SCHOOL SHALL POST THE POLICIES AND PROCEDURES PRESCRIBED BY THIS SECTION  
27 ON ITS WEBSITE. IF THE SCHOOL DISTRICT OR CHARTER SCHOOL MAINTAINS AN  
28 ONLINE MANUAL OF POLICIES AND PROCEDURES, THE SCHOOL DISTRICT OR CHARTER  
29 SCHOOL MAY POST A LINK TO THAT MANUAL WITH A REFERENCE TO THE APPROPRIATE  
30 POLICIES AND PROCEDURES.

31 D. A PERSON WHO VIOLATES SUBSECTION A OF THIS SECTION MAY BE  
32 DISCIPLINED FOR VIOLATING THE POLICIES OF THE SCHOOL DISTRICT GOVERNING  
33 BOARD OR CHARTER SCHOOL GOVERNING BODY PURSUANT TO SECTION 15-341,  
34 SUBSECTION A, PARAGRAPHS 21 AND 22, AND, NOTWITHSTANDING SECTION 15-341,  
35 SUBSECTION A, PARAGRAPHS 21 AND 22, MAY BE SUBJECT TO DISMISSAL. EACH  
36 SCHOOL DISTRICT GOVERNING BOARD AND CHARTER SCHOOL GOVERNING BODY SHALL  
37 PRESCRIBE AND ENFORCE POLICIES AND PROCEDURES THAT REQUIRE THE SCHOOL  
38 DISTRICT OR CHARTER SCHOOL TO MAINTAIN A RECORD ON ANY PERSON WHO IS  
39 DISCIPLINED PURSUANT TO THIS SUBSECTION AND, ON REQUEST, SHALL MAKE THAT  
40 RECORD AVAILABLE TO ANY PUBLIC SCHOOL, SCHOOL DISTRICT GOVERNING BOARD OR  
41 CHARTER SCHOOL GOVERNING BODY THAT IS CONSIDERING HIRING THAT PERSON.

42 E. BY JULY 1, 2020, THE DEPARTMENT OF EDUCATION SHALL DEVELOP A  
43 PROCESS TO VERIFY THAT EACH SCHOOL DISTRICT AND CHARTER SCHOOL HAS ADOPTED  
44 THE POLICIES AND PROCEDURES REQUIRED BY THIS SECTION.

1 F. BEGINNING JANUARY 21, 2020, A SCHOOL DISTRICT OR CHARTER SCHOOL  
2 THAT HAS NOT ADOPTED THE POLICIES AND PROCEDURES REQUIRED BY THIS SECTION  
3 IS NOT ELIGIBLE TO APPLY FOR SCHOOL SAFETY PROGRAM GRANTS PURSUANT TO  
4 SECTION 15-154.

5 Sec. 2. Section 15-512, Arizona Revised Statutes, is amended to  
6 read:

7 15-512. Noncertificated personnel; fingerprinting personnel;  
8 background investigations; affidavit; civil  
9 immunity; violation; classification; definition

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

1 activity, within sight of a certificated employee when providing direct  
2 services to pupils.

3 B. Fingerprints submitted pursuant to this section shall be used to  
4 conduct a state and federal criminal records check pursuant to section  
5 41-1750 and Public Law 92-544. The department of public safety may  
6 exchange this fingerprint data with the federal bureau of investigation.

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

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

- 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, **INCLUDING**  
9 **ANY RECORDS INDICATING THAT A CURRENT OR FORMER EMPLOYEE OF A SCHOOL OR**  
10 **SCHOOL DISTRICT WAS DISCIPLINED FOR VIOLATING POLICIES OF THE SCHOOL**  
11 **DISTRICT GOVERNING BOARD PURSUANT TO SECTION 15-153**, may be retained by  
12 that school district or the other public school or by any public entity  
13 that agrees pursuant to contract to perform background investigations for  
14 school districts or other public schools and may be provided to any school  
15 district or other public school that is performing a background  
16 investigation required by this subsection.

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

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

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

42 J. Public entities that agree pursuant to contract to perform  
43 background investigations, public schools, the department of education and  
44 previous employers who provide information pursuant to this section are  
45 immune from civil liability unless the information provided is false and

1 is acted on by the school district to the harm of the employee and the  
2 public entity, the public school, the previous employer or the department  
3 of education knows the information is false or acts with reckless  
4 disregard of the information's truth or falsity. A school district that  
5 relies on information obtained pursuant to this section in making  
6 employment decisions is immune from civil liability for use of the  
7 information unless the information obtained is false and the school  
8 district knows the information is false or acts with reckless disregard of  
9 the information's truth or falsity.

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

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

28 1. ~~The school district that is seeking to hire the applicant shall~~  
29 ~~document~~ DOCUMENTS in the applicant's file the necessity for hiring and  
30 ~~placement of~~ PLACING the applicant before a fingerprint check could be  
31 completed or a fingerprint clearance card could be issued.

32 2. ~~The school district that is seeking to hire the applicant shall~~  
33 ~~do all of the following~~:

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

40 ~~(b) Obtain~~ 3. OBTAINS references from the applicant's current  
41 employer and two most recent previous employers except for applicants who  
42 have been employed for at least five years by the applicant's most recent  
43 employer.

1           ~~(c) Provide~~ 4. PROVIDES general supervision of the applicant  
2 until the date that the fingerprint check is completed or the fingerprint  
3 clearance card is issued or denied.

4           ~~(d) Report~~ 5. REPORTS to the superintendent of public instruction  
5 on June 30 and December 31 each year the number of applicants hired before  
6 the completion of a fingerprint check or the issuance of a fingerprint  
7 clearance card. In addition, the school district shall report the number  
8 of applicants for whom fingerprint checks were not received or fingerprint  
9 clearance cards were not issued after one hundred twenty days and after  
10 one hundred seventy-five days of hire.

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

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

17           O. For the purposes of this section, "background investigation"  
18 means any communication with an employee's or applicant's former employer  
19 that concerns the education, training, experience, qualifications and job  
20 performance of the employee or applicant and that is used for the purpose  
21 of evaluating the employee or applicant for employment. Background  
22 investigation does not include the results of any state or federal  
23 criminal history records check.

APPROVED BY THE GOVERNOR MAY 7, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2019.