

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

SENATE BILL 1247

AN ACT

AMENDING SECTION 8-804, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-418; AMENDING SECTIONS 36-422, 36-424 AND 41-619.57, ARIZONA REVISED STATUTES; RELATING TO CHILDREN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-804, Arizona Revised Statutes, is amended to
3 read:

4 8-804. Central registry; notification

5 A. The department shall maintain a central registry of reports of
6 child abuse and neglect that are substantiated and the outcome of the
7 investigation of these reports made under this article. A finding made by
8 a court pursuant to section 8-844, subsection C that a child is dependent
9 based on an allegation of abuse or neglect shall be recorded as a
10 substantiated finding of abuse or neglect. The department shall
11 incorporate duplicate reports on the same incident in the original report
12 and shall not classify duplicate reports as new reports.

13 B. The department shall conduct central registry background checks
14 and shall use the information contained in the central registry only for
15 the following purposes:

16 1. As a factor to determine qualifications for foster home
17 licensing, adoptive parent certification, individuals who apply for child
18 welfare agency licensing, child care home certification, registration of
19 unregulated child care homes with the child care resource and referral
20 system, and home and community based services certification for services
21 to children or vulnerable adults.

22 2. As a factor to determine qualifications for persons who are
23 employed or who are applying for employment with this state in positions
24 that provide direct service to children or vulnerable adults.

25 3. As a factor to determine qualifications for individuals who are
26 employed or who are applying for employment with a child welfare agency in
27 positions that provide direct service to children or vulnerable adults.

28 4. As a factor to determine qualifications for positions that
29 provide direct service to children or vulnerable adults for:

30 (a) Any person who applies for a contract with this state and that
31 person's employees.

32 (b) All employees of a contractor.

33 (c) A subcontractor of a contractor and the subcontractor's
34 employees.

35 (d) Prospective employees of the contractor or subcontractor at the
36 request of the prospective employer.

37 5. ~~Beginning August 1, 2013,~~ To provide information to licensees
38 that do not contract with this state regarding persons who are employed or
39 seeking employment to provide direct services to children pursuant to
40 title 36, chapter 7.1.

41 6. To identify and review reports concerning individual children
42 and families, in order to facilitate the assessment of safety and risk.

43 7. To determine the nature and scope of child abuse and neglect in
44 this state and to provide statewide statistical and demographic
45 information concerning trends in child abuse and neglect.

1 8. To allow comparisons of this state's statistical data with
2 national data.

3 9. To comply with section 8-804.01, subsection B.

4 10. TO PROVIDE INFORMATION TO LICENSEES DESCRIBED IN SUBSECTION D
5 OF THIS SECTION REGARDING PERSONS WHO ARE EMPLOYED OR SEEKING EMPLOYMENT
6 TO PROVIDE DIRECT SERVICES TO CHILDREN IN A LICENSED BEHAVIORAL HEALTH
7 RESIDENTIAL FACILITY.

8 C. ~~Beginning August 1, 2013,~~ Licensees that do not contract with
9 the state and that employ persons who provide direct services to children
10 pursuant to title 36, chapter 7.1 must submit to the department of child
11 safety in a manner prescribed by the department of child safety
12 information necessary to conduct central registry background checks. The
13 department of health services shall verify whether licensees, pursuant to
14 title 36, chapter 7.1, have complied with the requirements of this
15 subsection and any rules adopted by the department of health services to
16 implement this subsection.

17 D. BEGINNING SEPTEMBER 1, 2019, LICENSEES THAT DO NOT CONTRACT WITH
18 THIS STATE, THAT CONTRACT WITH THE FEDERAL GOVERNMENT, THAT RECEIVE ONLY
19 FEDERAL MONIES AND THAT EMPLOY PERSONS WHO PROVIDE DIRECT SERVICES TO
20 CHILDREN IN A LICENSED BEHAVIORAL HEALTH RESIDENTIAL FACILITY PURSUANT TO
21 TITLE 36, CHAPTER 4 MUST SUBMIT TO THE DEPARTMENT OF CHILD SAFETY IN A
22 MANNER PRESCRIBED BY THE DEPARTMENT OF CHILD SAFETY INFORMATION NECESSARY
23 TO CONDUCT CENTRAL REGISTRY BACKGROUND CHECKS. THE DEPARTMENT OF HEALTH
24 SERVICES SHALL VERIFY WHETHER THE LICENSEES, PURSUANT TO TITLE 36,
25 CHAPTER 4, HAVE COMPLIED WITH THE REQUIREMENTS OF THIS SUBSECTION.

26 ~~D.~~ E. If the department of economic security received a report
27 before September 1, 1999 and determined that the report was substantiated,
28 the department of child safety shall maintain the report in the central
29 registry until eighteen years from the child victim's date of birth.

30 ~~E.~~ F. If the department of economic security or the department of
31 child safety received a report on or after September 1, 1999 and
32 determined that the report was substantiated, the department of child
33 safety shall maintain the report in the central registry for a maximum of
34 twenty-five years after the date of the report. If the department of
35 child safety maintains reports in the central registry for less than
36 twenty-five years, the department shall adopt rules to designate the
37 length of time it must maintain those reports in the central registry.

38 ~~F.~~ G. The department shall annually purge reports and
39 investigative outcomes received pursuant to the time frames prescribed in
40 subsections ~~D~~ E and ~~E~~ F of this section.

41 ~~G.~~ H. Any person who was the subject of a department investigation
42 may request confirmation that the department has purged information about
43 the person pursuant to subsection ~~F~~ G of this section. On receipt of
44 this request, the department shall provide the person with written

1 confirmation that the department has no record containing identifying
2 information about that person.

3 ~~H.~~ I. The department shall notify a person, contractor or licensee
4 identified in subsection B, paragraph 4, subdivisions (a), (b) and (c) and
5 subsection B, ~~paragraph~~ PARAGRAPHS 5 AND 10 of this section who is
6 disqualified because of a central registry check conducted pursuant to
7 subsection B of this section that the person may apply to the board of
8 fingerprinting for a central registry exception pursuant to section
9 41-619.57.

10 ~~I.~~ J. Before being employed in a position that provides direct
11 services to children or vulnerable adults pursuant to subsection B,
12 paragraphs 4, ~~and 5~~ AND 10 or ~~subsection~~ SUBSECTIONS C AND D of this
13 section, employees shall certify, under penalty of perjury, on forms that
14 are provided by the department whether an allegation of abuse or neglect
15 was made against them and was substantiated. The forms are
16 confidential. If this certification does not indicate a current
17 investigation or a substantiated report of abuse or neglect, the employee
18 may provide direct services pending the findings of the central registry
19 check.

20 ~~J.~~ K. A person who is granted a central registry exception
21 pursuant to section 41-619.57 is not entitled to a contract, employment,
22 licensure, certification or other benefit because the person has been
23 granted a central registry exception.

24 ~~K.~~ L. An agency of this state that conducts central registry
25 background checks as a factor to determine qualifications for positions
26 that provide direct services to children or vulnerable adults shall
27 publish a list of disqualifying acts of substantiated abuse or neglect.

28 ~~L.~~ M. An agency of this state that conducts central registry
29 background checks may provide information contained in the central
30 registry on all reports of child abuse and neglect that are substantiated
31 and the outcomes of the investigations of the reports to carry out ~~the~~
32 ~~provisions of~~ this section. Identifying information regarding any person
33 other than the perpetrator may not be released. Information received
34 pursuant to this section may not be further disseminated unless authorized
35 by law or court order.

36 Sec. 2. Title 36, chapter 4, article 1, Arizona Revised Statutes,
37 is amended by adding section 36-418, to read:

38 36-418. Behavioral health residential facilities; reporting
39 requirement

40 A LICENSED BEHAVIORAL HEALTH RESIDENTIAL FACILITY THAT PROVIDES
41 SERVICES TO CHILDREN, THAT CONTRACTS WITH THE FEDERAL GOVERNMENT AND THAT
42 RECEIVES ONLY FEDERAL MONIES SHALL REPORT TO THE DEPARTMENT OF HEALTH
43 SERVICES WITHIN TWENTY-FOUR HOURS AFTER AN ACTUAL OR ALLEGED EVENT OR
44 SITUATION THAT CREATES A SIGNIFICANT RISK OF SUBSTANTIAL OR SERIOUS HARM
45 TO THE PHYSICAL OR MENTAL HEALTH, SAFETY OR WELL-BEING OF A RESIDENT AT

1 THE FACILITY OR WHILE THE RESIDENT IS IN THE CUSTODY OF THE FACILITY AND
2 THAT REQUIRES NOTIFICATION TO LOCAL LAW ENFORCEMENT, THE DEPARTMENT OF
3 CHILD SAFETY OR THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES.
4 THE LICENSEE SHALL INFORM THE DEPARTMENT OF HEALTH SERVICES REGARDING ANY
5 CORRECTIVE ACTION PLAN REQUIRED BY THE UNITED STATES DEPARTMENT OF HEALTH
6 AND HUMAN SERVICES.

7 Sec. 3. Section 36-422, Arizona Revised Statutes, is amended to
8 read:

9 36-422. Application for license; notification of proposed
10 change in status; joint licenses; definitions

11 A. A person who wishes to apply for a license to operate a health
12 care institution pursuant to this chapter shall submit to the department
13 all of the following:

14 1. An application on a written or electronic form that is
15 prescribed, prepared and furnished by the department AND that contains all
16 of the following:

17 (a) The name and location of the health care institution.

18 (b) Whether the health care institution is to be operated as a
19 proprietary or nonproprietary institution.

20 (c) The name of the governing authority. The applicant shall be
21 the governing authority having the operative ownership of, or the
22 governmental agency charged with the administration of, the health care
23 institution sought to be licensed. If the applicant is a partnership that
24 is not a limited partnership, the partners shall apply jointly, and the
25 partners are jointly the governing authority for purposes of this article.

26 (d) The name and business or residential address of each
27 controlling person and an affirmation that none of the controlling persons
28 has been denied a license or certificate by a health profession regulatory
29 board pursuant to title 32 or by a state agency pursuant to chapter 6,
30 article 7 or chapter 17 of this title or a license to operate a health
31 care institution in this state or another state or has had a license or
32 certificate issued by a health profession regulatory board pursuant to
33 title 32 or issued by a state agency pursuant to chapter 6, article 7 or
34 chapter 17 of this title or a license to operate a health care institution
35 revoked. If a controlling person has been denied a license or certificate
36 by a health profession regulatory board pursuant to title 32 or by a state
37 agency pursuant to chapter 6, article 7 or chapter 17 of this title or a
38 license to operate a health care institution in this state or another
39 state or has had a health care professional license or a license to
40 operate a health care institution revoked, the controlling person shall
41 include in the application a comprehensive description of the
42 circumstances for the denial or the revocation.

43 (e) The class or subclass of health care institution to be
44 established or operated.

1 (f) The types and extent of the health care services to be
2 provided, including emergency services, community health services and
3 services to indigent patients.

4 (g) The name and qualifications of the chief administrative officer
5 implementing direction in that specific health care institution.

6 (h) Other pertinent information required by the department for the
7 proper administration of this chapter and department rules.

8 2. The architectural plans and specifications or the department's
9 approval of the architectural plans and specifications required by section
10 36-421, subsection A.

11 3. The applicable application fee.

12 B. An application submitted pursuant to this section shall contain
13 the written or electronic signature of:

14 1. If the applicant is an individual, the owner of the health care
15 institution.

16 2. If the applicant is a partnership, limited liability company or
17 corporation, two of the officers of the corporation or managing members of
18 the partnership or limited liability company or the sole member of the
19 limited liability company if it has only one member.

20 3. If the applicant is a governmental unit, the head of the
21 governmental unit.

22 C. An application for licensure shall be submitted at least sixty
23 but not more than one hundred twenty days before the anticipated date of
24 operation. An application for a substantial compliance survey submitted
25 pursuant to section 36-425, subsection G shall be submitted at least
26 thirty days before the date on which the substantial compliance survey is
27 requested.

28 D. If a current licensee intends to terminate the operation of a
29 licensed health care institution or if a change of ownership is planned,
30 the current licensee shall notify the director in writing at least thirty
31 days before the termination of operation or change in ownership is to take
32 place. The current licensee is responsible for preventing any
33 interruption of services required to sustain the life, health and safety
34 of the patients or residents. A new owner shall not begin operating the
35 health care institution until the director issues a license to the new
36 owner.

37 E. A licensed health care institution for which operations have not
38 been terminated for more than thirty days may be relicensed pursuant to
39 the codes and standards for architectural plans and specifications that
40 were applicable under its most recent license.

41 F. If a person operates a hospital in a county with a population of
42 more than five hundred thousand persons in a setting that includes
43 satellite facilities of the hospital that are located separately from the
44 main hospital building, the department at the request of the applicant or
45 licensee shall issue a single group license to the hospital and its

1 designated satellite facilities located within one-half mile of the main
2 hospital building if all of the facilities meet or exceed department
3 licensure requirements for the designated facilities. At the request of
4 the applicant or licensee, the department shall also issue a single group
5 license that includes the hospital and not more than ten of its designated
6 satellite facilities that are located farther than one-half mile from the
7 main hospital building if all of these facilities meet or exceed
8 applicable department licensure requirements. Each facility included
9 under a single group license is subject to the department's licensure
10 requirements that are applicable to that category of facility. Subject to
11 compliance with applicable licensure or accreditation requirements, the
12 department shall reissue individual licenses for the facility of a
13 hospital located in separate buildings from the main hospital building
14 when requested by the hospital. This subsection does not apply to nursing
15 care institutions and residential care institutions. The department is
16 not limited in conducting inspections of an accredited health care
17 institution to ensure that the institution meets department licensure
18 requirements. If a person operates a hospital in a county with a
19 population of five hundred thousand persons or less in a setting that
20 includes satellite facilities of the hospital that are located separately
21 from the main hospital building, the department at the request of the
22 applicant or licensee shall issue a single group license to the hospital
23 and its designated satellite facilities located within thirty-five miles
24 of the main hospital building if all of the facilities meet or exceed
25 department licensure requirements for the designated facilities. At the
26 request of the applicant or licensee, the department shall also issue a
27 single group license that includes the hospital and not more than ten of
28 its designated satellite facilities that are located farther than
29 thirty-five miles from the main hospital building if all of these
30 facilities meet or exceed applicable department licensure requirements.

31 G. If a county with a population of more than one million persons
32 or a special health care district in a county with a population of more
33 than one million persons operates an accredited hospital that includes the
34 hospital's accredited facilities that are located separately from the main
35 hospital building and the accrediting body's standards as applied to all
36 facilities meet or exceed the department's licensure requirements, the
37 department shall issue a single license to the hospital and its facilities
38 if requested to do so by the hospital. If a hospital complies with
39 applicable licensure or accreditation requirements, the department shall
40 reissue individual licenses for each hospital facility that is located in
41 a separate building from the main hospital building if requested to do so
42 by the hospital. This subsection does not limit the department's duty to
43 inspect a health care institution to determine its compliance with
44 department licensure standards. This subsection does not apply to nursing
45 care institutions and residential care institutions.

1 H. An applicant or licensee must notify the department within
2 thirty days after any change regarding a controlling person and provide
3 the information and affirmation required pursuant to subsection A,
4 paragraph 1, subdivision (d) of this section.

5 I. A BEHAVIORAL HEALTH RESIDENTIAL FACILITY THAT PROVIDES SERVICES
6 TO CHILDREN MUST NOTIFY THE DEPARTMENT WITHIN THIRTY DAYS AFTER THE
7 FACILITY BEGINS CONTRACTING EXCLUSIVELY WITH THE FEDERAL GOVERNMENT,
8 RECEIVES ONLY FEDERAL MONIES AND DOES NOT CONTRACT WITH THIS STATE.

9 ~~I.~~ J. This section does not limit the application of federal laws
10 and regulations to an applicant or licensee that is certified as a
11 medicare or an Arizona health care cost containment system provider under
12 federal law.

13 ~~J.~~ K. Except for an outpatient treatment center providing dialysis
14 services or abortion procedures, a person wishing to begin operating an
15 outpatient treatment center before a licensing inspection is completed
16 shall submit all of the following:

- 17 1. The license application required pursuant to this section.
- 18 2. All applicable application and license fees.
- 19 3. A written request for a temporary license that includes:
20 (a) The anticipated date of operation.

21 (b) An attestation signed by the applicant that the applicant and
22 the facility comply with and will continue to comply with the applicable
23 licensing statutes and rules.

24 ~~K.~~ L. Within seven days after the department's receipt of the
25 items required in subsection ~~J.~~ K of this section, but not before the
26 anticipated operation date submitted pursuant to subsection C of this
27 section, the department shall issue a temporary license that includes:

- 28 1. The name of the facility.
- 29 2. The name of the licensee.
- 30 3. The facility's class or subclass.
- 31 4. The temporary license's effective date.
- 32 5. The location of the licensed premises.

33 ~~L.~~ M. A facility may begin operating on the effective date of the
34 temporary license.

35 ~~M.~~ N. The director may cease the issuance of temporary licenses at
36 any time if the director believes that public health and safety is
37 endangered.

38 ~~N.~~ O. For the purposes of this section:

39 1. "Accredited" means accredited by a nationally recognized
40 accreditation organization.

41 2. "Satellite facility" means an outpatient facility at which the
42 hospital provides outpatient medical services.

1 Sec. 4. Section 36-424, Arizona Revised Statutes, is amended to
2 read:

3 36-424. Inspections; suspension or revocation of license;
4 report to board of examiners of nursing care
5 institution administrators

6 A. Subject to the ~~limitation~~ LIMIT prescribed by subsection B of
7 this section, the director shall inspect the premises of the health care
8 institution and investigate the character and other qualifications of the
9 applicant to ascertain whether the applicant and the health care
10 institution are in substantial compliance with the requirements of this
11 chapter and the rules established pursuant to this chapter. The director
12 may prescribe rules regarding department background investigations into an
13 applicant's character and qualifications.

14 B. The director shall accept proof that a health care institution
15 is an accredited hospital or is an accredited health care institution in
16 lieu of all compliance inspections required by this chapter if the
17 director receives a copy of the institution's accreditation report for the
18 licensure period. If the health care institution's accreditation report
19 is not valid for the entire licensure period, the department may conduct a
20 compliance inspection of the health care institution during the time
21 period the department does not have a valid accreditation report for the
22 health care institution. FOR THE PURPOSES OF THIS SUBSECTION, EACH
23 LICENSED PREMISES OF A HEALTH CARE INSTITUTION MUST HAVE ITS OWN
24 ACCREDITATION REPORT. THE DIRECTOR MAY ACCEPT AN ACCREDITATION REPORT IN
25 LIEU OF A COMPLIANCE INSPECTION OF A BEHAVIORAL HEALTH RESIDENTIAL
26 FACILITY PROVIDING SERVICES TO CHILDREN ONLY IF BOTH OF THE FOLLOWING
27 APPLY:

28 1. THE FACILITY IS ACCREDITED BY AN INDEPENDENT, NONPROFIT
29 ACCREDITING ORGANIZATION APPROVED BY THE SECRETARY OF THE UNITED STATES
30 DEPARTMENT OF HEALTH AND HUMAN SERVICES.

31 2. THE FACILITY HAS NOT BEEN SUBJECT TO AN ENFORCEMENT ACTION
32 PURSUANT TO SECTION 36-427 OR 36-431.01 WITHIN THE YEAR PRECEDING THE
33 ANNUAL LICENSING FEE ANNIVERSARY DATE.

34 C. On a determination by the director that there is reasonable
35 cause to believe a health care institution is not adhering to the
36 licensing requirements of this chapter, the director and any duly
37 designated employee or agent of the director, including county health
38 representatives and county or municipal fire inspectors, consistent with
39 standard medical practices, may enter on and into the premises of any
40 health care institution that is licensed or required to be licensed
41 pursuant to this chapter at any reasonable time for the purpose of
42 determining the state of compliance with this chapter, the rules adopted
43 pursuant to this chapter and local fire ordinances or rules. Any
44 application for licensure under this chapter constitutes permission for
45 and complete acquiescence in any entry or inspection of the premises

1 during the pendency of the application and, if licensed, during the term
2 of the license. If an inspection reveals that the health care institution
3 is not adhering to the licensing requirements established pursuant to this
4 chapter, the director may take action authorized by this chapter. Any
5 health care institution, including an accredited hospital, whose license
6 has been suspended or revoked in accordance with this section is subject
7 to inspection on application for relicensure or reinstatement of license.

8 D. The director shall immediately report to the board of examiners
9 of nursing care institution administrators information identifying that a
10 nursing care institution administrator's conduct may be grounds for
11 disciplinary action pursuant to section 36-446.07.

12 Sec. 5. Section 41-619.57, Arizona Revised Statutes, is amended to
13 read:

14 41-619.57. Central registry exceptions; expedited review; hearing

15 A. The board shall determine central registry exceptions for each
16 substantiated report pursuant to section 8-804. The board shall determine
17 a central registry exception after an expedited review or after a central
18 registry exception hearing. The board shall conduct an expedited review
19 within twenty days after receiving an application for a central registry
20 exception.

21 B. Within forty-five days after conducting an expedited review, the
22 board shall hold a central registry exception hearing if the board
23 determines that the applicant does not qualify for a central registry
24 exception under an expedited review but is qualified to apply for a
25 central registry exception and the applicant submits an application for a
26 central registry exception within the time limits prescribed by rule.

27 C. When determining whether a person is eligible to receive a
28 central registry exception pursuant to section 8-804, the board shall
29 consider whether the person has shown to the board's satisfaction that the
30 person is successfully rehabilitated and is not a recidivist. Before
31 granting a central registry exception under expedited review, the board
32 shall consider all of the criteria listed in subsection E of this section.

33 D. The following persons shall be present during central registry
34 exception hearings:

35 1. The board or its hearing officer.

36 2. The person who requested the central registry exception hearing.
37 The person may be accompanied by a representative at the hearing.

38 E. The board may grant a central registry exception at a hearing if
39 the person shows to the board's satisfaction that the person is
40 successfully rehabilitated and is not a recidivist. The board may
41 consider the person's criminal record in determining if a person has been
42 successfully rehabilitated. If the applicant fails to appear at the
43 hearing without good cause, the board may deny a central registry
44 exception. The board shall grant or deny a central registry exception
45 within eighty days after the central registry exception hearing. Before

1 granting a central registry exception at a hearing the board shall
2 consider all of the following in accordance with board rule:

- 3 1. The extent of the person's central registry records.
- 4 2. The length of time that has elapsed since the abuse or neglect
5 occurred.
- 6 3. The nature of the abuse or neglect.
- 7 4. Any applicable mitigating circumstances.
- 8 5. The degree to which the person participated in the abuse or
9 neglect.

10 6. The extent of the person's rehabilitation, including:
11 (a) Evidence of positive action to change the person's behavior,
12 such as completion of counseling or a drug treatment, domestic violence or
13 parenting program.

14 (b) Personal references attesting to the person's rehabilitation.

15 F. If the board grants a central registry exception to a person,
16 the board shall notify the department of child safety, the department of
17 economic security or the department of health services, as appropriate, in
18 writing.

19 G. A person who is granted a central registry exception is not
20 entitled to have the person's report and investigation outcome purged from
21 the central registry except as required pursuant to section 8-804,
22 subsections ~~F~~ and G AND H.

23 H. Pending the outcome of a central registry exception
24 determination, a central registry exception applicant may not provide
25 direct services to children pursuant to title 36, chapter 7.1.

26 I. The board is exempt from chapter 6, article 10 of this title.

27 Sec. 6. Rulemaking; department of health services

28 The department of health services shall adopt rules requiring
29 employees and personnel of residential facilities providing behavioral
30 health services to children to report any abuse or neglect pursuant to
31 section 13-3620, Arizona Revised Statutes.

32 Sec. 7. Emergency

33 This act is an emergency measure that is necessary to preserve the
34 public peace, health or safety and is operative immediately as provided by
35 law.