

State of Arizona  
Senate  
Fifty-third Legislature  
Second Regular Session  
2018

**CHAPTER 193**  
**SENATE BILL 1436**

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)

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 ~~upon~~ ON the trial of a criminal action or  
18 proceeding, or incapable of making and acknowledging a sale or conveyance  
19 of property.

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

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

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

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

42 G. Any complaints concerning a violation of subsection E of this  
43 section shall be adjudicated in accordance with the procedures set forth  
44 in title 41, chapter 6 and title 12, chapter 7, article 6.

1 H. A person who is adjudicated delinquent under section 8-341 for a  
2 felony does not have the right to carry or possess a gun or firearm.

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

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

8 A. A PERSON WITH A CRIMINAL RECORD MAY PETITION AN AGENCY, AT ANY  
9 TIME, INCLUDING BEFORE OBTAINING ANY REQUIRED EDUCATION OR EXPERIENCE,  
10 TAKING ANY EXAMINATION OR PAYING ANY FEE FOR A DETERMINATION OF WHETHER  
11 THE PERSON'S CRIMINAL RECORD DISQUALIFIES THE PERSON FROM OBTAINING A  
12 LICENSE, PERMIT, CERTIFICATE OR OTHER STATE RECOGNITION.

13 B. IN THE PETITION, THE PERSON SHALL INCLUDE:

14 1. THE PERSON'S COMPLETE CRIMINAL HISTORY RECORD.

15 2. ANY ADDITIONAL INFORMATION ABOUT THE PERSON'S CURRENT  
16 CIRCUMSTANCES, INCLUDING THE TIME SINCE THE OFFENSE WAS COMMITTED AND THE  
17 SENTENCE WAS COMPLETED, THE PAYMENT OF ANY COURT ORDERED RESTITUTION,  
18 EVIDENCE OF REHABILITATION, TESTIMONIALS, EMPLOYMENT HISTORY AND  
19 EMPLOYMENT ASPIRATIONS.

20 C. THE AGENCY SHALL DETERMINE WHETHER THE PERSON'S CRIMINAL RECORD  
21 DISQUALIFIES THE PERSON FROM OBTAINING A LICENSE, PERMIT, CERTIFICATE OR  
22 OTHER STATE RECOGNITION.

23 D. NOTWITHSTANDING ANY OTHER LAW OR RULE, THE AGENCY MAY DETERMINE  
24 THAT THE PERSON'S CRIMINAL RECORD DISQUALIFIES THE PERSON FROM OBTAINING A  
25 LICENSE, PERMIT, CERTIFICATE OR OTHER STATE RECOGNITION ONLY IF BOTH OF  
26 THE FOLLOWING APPLY:

27 1. THE PERSON WAS CONVICTED OF ANY OF THE FOLLOWING AND THE  
28 CONVICTION HAS NOT BEEN SET ASIDE OR EXPUNGED:

29 (a) A FELONY OFFENSE.

30 (b) A VIOLENT CRIME AS DEFINED IN SECTION 13-901.03.

31 (c) AN OFFENSE INCLUDED IN TITLE 13, CHAPTER 20, 21 OR 23 OR  
32 SECTION 13-2310 OR 13-2311 IF THE LICENSE, PERMIT, CERTIFICATE OR OTHER  
33 STATE RECOGNITION IS FOR AN OCCUPATION IN WHICH THE APPLICANT WOULD OWE A  
34 FIDUCIARY DUTY TO A CLIENT.

35 (d) ANY OFFENSE THAT A LAW SPECIFICALLY REQUIRES THE AGENCY TO  
36 CONSIDER WHEN ISSUING A LICENSE, PERMIT, CERTIFICATE OR OTHER STATE  
37 RECOGNITION.

38 2. THE AGENCY CONCLUDES THAT THE STATE HAS AN IMPORTANT INTEREST IN  
39 PROTECTING PUBLIC SAFETY THAT IS SUPERIOR TO THE PERSON'S RIGHT. THE  
40 AGENCY MAY MAKE THIS CONCLUSION ONLY IF THE AGENCY DETERMINES, BY CLEAR  
41 AND CONVINCING EVIDENCE AT THE TIME OF THE PETITION, THAT BOTH OF THE  
42 FOLLOWING APPLY:

43 (a) THE SPECIFIC OFFENSE THAT THE PERSON WAS CONVICTED OF IS  
44 SUBSTANTIALLY RELATED TO THE STATE'S INTEREST.

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

6 E. THE AGENCY SHALL ISSUE A DETERMINATION ON THE PETITION WITHIN  
7 NINETY DAYS AFTER THE AGENCY RECEIVES THE PETITION. THE DETERMINATION ON  
8 THE PETITION MUST BE IN WRITING AND INCLUDE FINDINGS OF FACT AND  
9 CONCLUSIONS OF LAW.

10 F. IF THE AGENCY DETERMINES THAT THE STATE'S INTEREST IS SUPERIOR  
11 TO THE PERSON'S RIGHT, THE AGENCY MAY ADVISE THE PERSON OF THE ACTIONS  
12 THAT THE PERSON MAY TAKE TO REMEDY THE DISQUALIFICATION, INCLUDING:

13 1. AN APPEAL OF THE DETERMINATION AS PROVIDED IN TITLE 12, CHAPTER  
14 7, ARTICLE 6.

15 2. THE SUBMISSION OF A NEW PETITION TO THE SAME AGENCY AT ANY TIME  
16 WITHIN TWO YEARS AFTER THE FINAL DETERMINATION OF THE INITIAL PETITION.

17 G. THE AGENCY SHALL RESCIND THE DETERMINATION ANY TIME AFTER THE  
18 DETERMINATION IS MADE BUT BEFORE ISSUING A LICENSE, PERMIT, CERTIFICATE OR  
19 OTHER STATE RECOGNITION IF THE PERSON IS CONVICTED OF AN ADDITIONAL  
20 OFFENSE THAT IS INCLUDED IN SUBSECTION D, PARAGRAPH 1 OF THIS SECTION.

21 H. SUBSECTION D OF THIS SECTION DOES NOT APPLY TO ANY OF THE  
22 FOLLOWING:

23 1. ANY LAW ENFORCEMENT AGENCY OR THE ARIZONA PEACE OFFICER  
24 STANDARDS AND TRAINING BOARD.

25 2. ANY LICENSE OR REGISTRATION CERTIFICATE THAT IS ISSUED PURSUANT  
26 TO TITLE 32, CHAPTER 24 OR 26.

27 3. ANY CERTIFICATION, LICENSE OR PERMIT THAT IS ISSUED PURSUANT TO  
28 TITLE 15.

29 4. STATUTORY REQUIREMENTS FOR A FINGERPRINT CLEARANCE CARD ISSUED  
30 PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1.

31 5. ANY CRITERIA FOR LICENSE, PERMIT OR CERTIFICATE ELIGIBILITY THAT  
32 IS ESTABLISHED BY AN INTERSTATE COMPACT.

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

37 1. THE NUMBER OF APPLICANTS THAT PETITION THE AGENCY FOR A  
38 DETERMINATION.

39 2. THE NUMBER OF PETITIONS THAT WERE GRANTED AND THE TYPES OF  
40 OFFENSES AT ISSUE.

41 3. THE NUMBER OF PETITIONS THAT WERE DENIED AND THE TYPES OF  
42 OFFENSES AT ISSUE.

43 4. THE NUMBER OF DETERMINATIONS THAT WERE RESCINDED.

S.B. 1436

APPROVED BY THE GOVERNOR APRIL 11, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2018.