

HOUSE COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 99

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

AN ACT

RELATING TO LICENSURE; PROHIBITING REQUIRING RESUBMISSION OF
FINGERPRINTS AFTER ISSUE OF LICENSE; MAKING TECHNICAL AND
CONFORMING CHANGES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Uniform Licensing Act is
enacted to read:

"[NEW MATERIAL] FINGERPRINTS NOT REQUIRED FOR LICENSE
RENEWAL.--When a professional or occupational board requires
submission of fingerprints as part of the initial license
application, and a licensee has provided fingerprints and the
license has been issued, the board shall not require a licensee
to submit fingerprints again to renew the license, but a
licensee shall submit to a background investigation if
required."

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underscored material = new
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1 SECTION 2. Section 61-9-11.2 NMSA 1978 (being Laws 2009,
2 Chapter 51, Section 4) is amended to read:

3 "61-9-11.2. CRIMINAL BACKGROUND CHECKS.--

4 A. The board may adopt rules that provide for
5 criminal background checks for all licensees to include:

6 (1) requiring criminal history background
7 checks of applicants for licensure pursuant to the Professional
8 Psychologist Act;

9 (2) requiring applicants for licensure to be
10 fingerprinted only upon initial licensure;

11 (3) providing for an applicant who has been
12 denied licensure to inspect or challenge the validity of the
13 background check record;

14 (4) establishing a fingerprint and background
15 check fee not to exceed seventy-five dollars (\$75.00) to be
16 paid by the applicant; and

17 (5) providing for submission of an applicant's
18 fingerprint cards to the federal bureau of investigation to
19 conduct a national criminal history background check and to the
20 department of public safety to conduct a state criminal history
21 check.

22 B. Arrest record information received from the
23 department of public safety and the federal bureau of
24 investigation shall be privileged and shall not be disclosed to
25 persons not directly involved in the decision affecting the

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1 applicant.

2 C. Electronic live fingerprint scans may be used
3 when conducting criminal history background checks."

4 SECTION 3. Section 61-27B-34 NMSA 1978 (being Laws 2007,
5 Chapter 115, Section 34) is amended to read:

6 "61-27B-34. BACKGROUND INVESTIGATIONS.--

7 A. The department shall adopt rules that:

8 (1) are developed in conjunction with the
9 department of public safety that require background
10 investigations of all persons licensed or registered pursuant
11 to the Private Investigations Act to determine if the person
12 has a criminal history;

13 (2) require all applicants for licensure or
14 registration to be fingerprinted only upon initial licensure or
15 registration on two fingerprint cards or electronically as
16 required for submission to the federal bureau of investigation
17 to conduct a national criminal history investigation and for
18 submission to the department of public safety to conduct a
19 state criminal history investigation;

20 (3) provide for an applicant to inspect or
21 challenge the validity of the record developed by the
22 background investigation if the applicant is denied a license
23 or registration; and

24 (4) establish a fee for fingerprinting and
25 conducting a background investigation for an applicant.

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1 B. Arrest record information received from the
2 federal bureau of investigation and department of public safety
3 shall be privileged and shall not be disclosed to individuals
4 not directly involved in the decision affecting the specific
5 applicant or employee.

6 C. The applicant shall pay the cost of obtaining
7 criminal history information from the federal bureau of
8 investigation and the department of public safety.

9 D. Electronic live scans may be used for conducting
10 criminal history investigations."

11 SECTION 4. Section 61-29-4.4 NMSA 1978 (being Laws 2005,
12 Chapter 35, Section 6, as amended) is amended to read:

13 "61-29-4.4. ADDITIONAL POWERS OF COMMISSION--
14 FINGERPRINTING AND CRIMINAL HISTORY BACKGROUND CHECKS.--

15 A. All applicants for licensure as provided for in
16 Chapter 61, Article 29 NMSA 1978 shall:

17 (1) be required to provide fingerprints only
18 upon initial licensure on two fingerprint cards for submission
19 to the federal bureau of investigation to conduct a national
20 criminal history background check and to the department of
21 public safety to conduct a state criminal history background
22 check;

23 (2) pay the cost of obtaining the fingerprints
24 and criminal history background checks; and

25 (3) have the right to inspect or challenge the

1 validity of the records resulting from the background check if
 2 the applicant is denied licensure as established by commission
 3 rule.

4 B. Electronic live scans may be used for conducting
 5 criminal history background checks.

6 C. Criminal history records obtained by the
 7 commission pursuant to the provisions of this section are
 8 confidential. The commission is authorized to use criminal
 9 history records obtained from the federal bureau of
 10 investigation and the department of public safety to conduct
 11 background checks on applicants for certification as provided
 12 for in Chapter 61, Article 29 NMSA 1978.

13 D. Criminal history records obtained by the
 14 commission pursuant to the provisions of this section shall not
 15 be used for any purpose other than conducting background
 16 checks. Criminal history records obtained pursuant to the
 17 provisions of this section and the information contained in
 18 those records shall not be released or disclosed to any other
 19 person or agency, except pursuant to a court order or with the
 20 written consent of the person who is the subject of the
 21 records.

22 E. A person who releases or discloses the criminal
 23 history records or information contained in those records in
 24 violation of the provisions of this section is guilty of a
 25 misdemeanor and shall be sentenced pursuant to the provisions

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1 of Section 31-19-1 NMSA 1978."

2 SECTION 5. Section 61-30-15.1 NMSA 1978 (being Laws 2014,
3 Chapter 33, Section 20) is amended to read:

4 "61-30-15.1. CRIMINAL HISTORY BACKGROUND CHECKS.--

5 A. The board may adopt rules that provide for
6 criminal history background checks for all registrants,
7 certified licensees and licensees to include:

8 (1) requiring criminal history background
9 checks of applicants for registration, certified licensure or
10 licensure pursuant to the Real Estate Appraisers Act;

11 (2) requiring applicants for registration, or
12 certified licensure or licensure to be fingerprinted only upon
13 initial licensure or registration;

14 (3) providing for an applicant who has been
15 denied registration or certified licensure or licensure to
16 inspect or challenge the validity of the criminal history
17 background check record;

18 (4) establishing a fingerprint and criminal
19 history background check fee not to exceed fees as determined
20 by the department of public safety to be paid by the applicant;
21 and

22 (5) providing for submission of an applicant's
23 fingerprint cards to the federal bureau of investigation to
24 conduct a national criminal history background check and to the
25 department of public safety to conduct a state criminal history

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