

HOUSE COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 99

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

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

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

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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."

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

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

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

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

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

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

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

(5) providing for submission of an applicant's fingerprint cards to the federal bureau of investigation to conduct a national criminal history background check and to the

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department of public safety to conduct a state criminal history check.

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

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

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

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

A. The department shall adopt rules that:

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

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

(3) provide for an applicant to inspect or challenge the validity of the record developed by the background investigation if the applicant is denied a license

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or registration; and

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

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

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

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

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

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

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

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

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

(3) have the right to inspect or challenge the validity of the records resulting from the background check if the applicant is denied licensure as established by commission rule.

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

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

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

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

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of Section 31-19-1 NMSA 1978."

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

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

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

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

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

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

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

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

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background check.

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

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

HJC→SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2020.←HJC