

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

SENATE BILL 1049

AN ACT

AMENDING SECTIONS 8-105, 8-203.01, 8-509, 8-802, 13-1602, 15-106, 15-183, 15-203, 15-512, 15-1330, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 41-619.51, 41-619.52, 41-619.53, 41-619.54, 41-619.55, 41-1758, 41-1758.01, 41-1758.03 AND 41-1758.04, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 12, ARTICLE 3.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1758.07; AMENDING SECTIONS 41-1964, 41-1967, 41-1967.01, 41-1968, 41-1969 AND 46-141, ARIZONA REVISED STATUTES; RELATING TO FINGERPRINT CLEARANCE CARDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-105, Arizona Revised Statutes, is amended to
3 read:

4 8-105. Preadoption certification; investigation; central
5 adoption registry

6 A. Before any prospective adoptive parent may petition to adopt a
7 child the person shall be certified by the court as acceptable to adopt
8 children. A certificate shall be issued only after an investigation
9 conducted by an officer of the court, by an agency or by the division. A
10 written application for certification shall be made directly to the court, to
11 an agency or to the division, in the form and content required by the court,
12 agency or division.

13 B. The division is not required to accept every application for
14 certification. In determining which applications to accept the division may
15 give priority to applications filed by adult residents of this state who wish
16 to adopt a child who has any ~~of the~~ special needs ~~described AS DEFINED~~ in
17 section 8-141.

18 C. After receiving and accepting the written and completed application
19 of the prospective adoptive parent or parents, which shall include a
20 financial statement and a physician's or a registered nurse practitioner's
21 statement of each applicant's physical health, the division, the agency or an
22 officer of the court shall conduct or cause to be conducted an investigation
23 of the prospective adoptive parent or parents to determine if they are fit
24 and proper persons to adopt children.

25 D. The division shall not present for certification a prospective
26 adoptive parent unless that person ~~has~~ AND EACH OTHER ADULT MEMBER OF THE
27 HOUSEHOLD HAVE a valid fingerprint clearance card issued pursuant to ~~title~~
28 ~~41, chapter 12, article 3.1 or provides to the division documentation of the~~
29 ~~person's application for a fingerprint clearance card~~ SECTION 41-1758.07.
30 The prospective adoptive parent AND EACH OTHER ADULT MEMBER OF THE HOUSEHOLD
31 must certify on forms that are provided by the division and that are
32 notarized whether ~~the prospective adoptive parent~~ THAT PERSON is awaiting
33 trial on or has ever been convicted of any of the criminal offenses listed in
34 section ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or similar
35 offenses in another state or jurisdiction.

36 E. An officer of the court may obtain a state and federal criminal
37 records check pursuant to section 41-1750 and Public Law 92-544. The
38 department of public safety may exchange this fingerprint data with the
39 federal bureau of investigation.

40 F. This investigation and report to the court shall consider all
41 relevant and material facts dealing with the prospective adoptive parents'
42 fitness to adopt children and shall include:

- 43 1. A complete social history.
- 44 2. The financial condition of the applicant.
- 45 3. The moral fitness of the applicant.

- 1 4. The religious background of the applicant.
2 5. The physical and mental health condition of the applicants.
3 6. Any court action for or adjudication of child abuse, abandonment of
4 children, dependency or termination of parent-child relationship in which the
5 applicant had control, care or custody of the child who was the subject of
6 the action.
7 7. Whether the person or persons wish to be placed on the central
8 registry established in subsection M of this section.
9 8. All other facts bearing on the issue of the fitness of the
10 prospective adoptive parents that the court, agency or division may deem
11 relevant.
12 G. The investigator shall not reveal to the prospective adoptive
13 parents the identity of a child or the child's parent or parents and shall
14 not reveal to the child or the child's parent or parents the identity of the
15 prospective adoptive parents if these facts are not already known.
16 H. Within ninety days after the original application prescribed by
17 subsection A of this section has been accepted, the division or the agency or
18 a person or agency designated by the court to conduct an investigation shall
19 present to the juvenile court the written report required by subsection F of
20 this section, which shall include a definite recommendation for certifying
21 the applicant as being acceptable or nonacceptable to adopt children ~~with~~ AND
22 the reasons for the recommendation.
23 I. Within sixty days after receiving the investigation report required
24 by subsections F and H of this section, the court shall certify the applicant
25 as being acceptable or nonacceptable to adopt children based on the
26 investigation report and recommendations of the report. A certification
27 remains in effect for eighteen months from the date of its issuance and may
28 be extended for additional one year periods if after review the court finds
29 that there have been no material changes in circumstances that would
30 adversely affect the acceptability of the applicant to adopt.
31 J. The court may require additional investigation if it finds that
32 additional information is necessary on which to make an appropriate decision
33 regarding certification.
34 K. Any applicant who has been certified as nonacceptable may petition
35 the court to review such certification. Notice shall be given to all
36 interested parties and the matter shall be heard by the court, which may
37 affirm or reverse the certification.
38 L. If the applicant is certified as nonacceptable, the applicant may
39 not reapply for certification to the court, to any agency or to the division
40 for one year.
41 M. The division shall maintain a central adoption registry that
42 includes the names of all prospective adoptive parents currently certified by
43 the court as acceptable to adopt children, except those who request that
44 their names not be included, the names of all children who are under the
45 jurisdiction of the division and who are currently available for adoption,

1 the names of any other children who are currently available for adoption and
2 whose names are voluntarily entered in the registry by any agency, parent or
3 other person that has the right to give consent to the child's adoption, and
4 other information as the division may elect to include in aid of adoptive
5 placements. Access to information in the registry shall be made available on
6 request to any agency under assurances as the division may require that the
7 information sought is in furtherance of adoptive placements and that
8 confidentiality of the information is preserved.

9 N. This section does not apply if:

10 1. The prospective adoptive parent is the spouse of the birth or legal
11 parent of the child to be adopted or is an uncle, aunt, adult sibling,
12 grandparent or great-grandparent of the child of the whole or half-blood or
13 by marriage or adoption.

14 2. The birth or legal parent is deceased but at the time of death the
15 parent had legal and physical custody of the child to be adopted and the
16 child had resided primarily with the spouse of the birth or legal parent
17 during the twenty-four months before the death of the parent.

18 3. The grandparent, great-grandparent, aunt, adult sibling or uncle is
19 deceased but at the time of death that person had legal and physical custody
20 of the child to be adopted and the child had resided primarily with the
21 spouse of the grandparent, great-grandparent, aunt, adult sibling or uncle
22 during the twenty-four months before the death of the grandparent,
23 great-grandparent, aunt, adult sibling or uncle.

24 0. If the applicant has adopted a child within three years preceding
25 the current application and is applying to adopt another child or is a foster
26 parent who is licensed by this state, the division or agency or a person
27 designated by the court to conduct an investigation shall only provide an
28 update report on any changes in circumstances that have occurred since the
29 previous certification or licensing report. If the applicant has adopted a
30 child more than three years before the current application and is applying to
31 adopt another child, the division or agency or a person designated by the
32 court to conduct an investigation may provide an updated report on any
33 changes in circumstances that have occurred since the previous certification
34 or licensing report. The court shall certify the applicant as acceptable to
35 adopt unless there are changes in circumstances that adversely affect the
36 applicant's parenting ability. In making this determination, the court shall
37 consider information from the prior certification or licensing report.

38 Sec. 2. Section 8-203.01, Arizona Revised Statutes, is amended to
39 read:

40 8-203.01. Fingerprinting juvenile probation officers; affidavit

41 A. Juvenile probation officers employed by the juvenile court shall be
42 fingerprinted as a condition of employment. A juvenile probation officer
43 shall submit fingerprints and the form prescribed in subsection D of this
44 section to the chief juvenile probation officer within ~~twenty~~ SEVEN WORKING
45 days after the date a juvenile probation officer begins work. Employment

1 with the juvenile court as a juvenile probation officer is conditioned on the
2 results of the fingerprint check.

3 B. Fingerprint checks shall be conducted pursuant to section 41-1750,
4 subsection G.

5 C. The juvenile court shall assume the costs of fingerprint checks and
6 may charge these costs to the fingerprinted juvenile probation officer.

7 D. Juvenile probation officers shall certify on forms that are
8 provided by the juvenile court and notarized that they are not awaiting trial
9 on and have never been convicted of or admitted committing any of the
10 following criminal offenses in this state or similar offenses in another
11 state or jurisdiction:

- 12 1. Sexual abuse of a minor.
- 13 2. Incest.
- 14 3. First or second degree murder.
- 15 4. Kidnapping.
- 16 5. Arson.
- 17 6. Sexual assault.
- 18 7. Sexual exploitation of a minor.
- 19 8. Contributing to the delinquency of a minor.
- 20 9. Commercial sexual exploitation of a minor.
- 21 10. Felony offenses involving distribution of marijuana, dangerous
22 drugs or narcotic drugs.
- 23 11. Burglary.
- 24 12. Robbery.
- 25 13. A dangerous crime against children pursuant to section 13-705.
- 26 14. Child abuse.
- 27 15. Sexual conduct with a minor.
- 28 16. Molestation of a child.

29 E. The juvenile court shall make documented, good faith efforts to
30 contact previous employers of juvenile probation officers to obtain
31 information or recommendations that may be relevant to an individual's
32 fitness for employment as a juvenile probation officer.

33 Sec. 3. Section 8-509, Arizona Revised Statutes, is amended to read:

34 8-509. Licensing of foster homes; renewal of license;
35 provisional license

36 A. The division shall license and certify foster homes. Licenses are
37 valid for a period of one year.

38 B. The division shall not issue a license without satisfactory proof
39 that the foster parent or parents have completed six actual hours of approved
40 initial foster parent training as set forth in section 8-503 and that each
41 foster parent and each other adult member of the household has a valid
42 fingerprint clearance card issued pursuant to ~~title 41, chapter 12, article~~
43 ~~3.1 or provides to the division documentation of the person's application for~~
44 ~~a fingerprint clearance card~~ SECTION 41-1758.07. The foster parent and each
45 other adult member of the household must certify on forms that are provided

1 by the division and that are notarized whether the foster parent or other
2 adult member of the household is awaiting trial on or has ever been convicted
3 of any of the criminal offenses listed in section ~~41-1758.03~~ 41-1758.07,
4 subsections B and C in this state or similar offenses in another state or
5 jurisdiction.

6 C. The division shall not renew a license without satisfactory proof
7 that the foster parent or parents have completed six actual hours of approved
8 ongoing foster parent training as set forth in section 8-503.

9 D. Notwithstanding the requirements of subsections B and C of this
10 section, if the division determines a condition of hardship to the foster
11 parent or parents, the division may issue a provisional license for a period
12 not to exceed six months. A provisional license may not be renewed.

13 E. Child welfare agencies that submit foster homes for licensing shall
14 conduct an investigation of the foster home pursuant to licensing rules of
15 the division. The division shall conduct investigations of all other foster
16 homes. If the foster home meets all requirements set by the division, the
17 agency shall submit an application stating the foster home's qualifications
18 to the division. The agency may also recommend the types of licensing and
19 certification to be granted to the foster home.

20 F. The division shall accept an adoptive home certification study as a
21 licensing home study if the study has been updated within the past three
22 months to include the information necessary to determine whether the home
23 meets foster care licensing standards.

24 G. This section shall not apply when the child is placed in a home by
25 a means other than by court order and when the home receives no compensation
26 from the state or any political subdivision of the state.

27 H. The division shall not prohibit a person operating a licensed
28 foster home from applying for or receiving compensation as a foster home
29 parent due to employment with the state of Arizona.

30 Sec. 4. Section 8-802, Arizona Revised Statutes, is amended to read:
31 8-802. Child protective services worker; fingerprint clearance
32 cards; powers and duties; alteration of files;
33 violation; classification

34 A. The department of economic security shall employ child protective
35 services workers. All persons who are employed as child protective services
36 workers shall have a valid fingerprint clearance card that is issued pursuant
37 to ~~title 41, chapter 12, article 3.1~~ SECTION 41-1758.07 or shall apply for a
38 fingerprint clearance card within seven working days of employment. A child
39 protective services worker shall certify on forms that are provided by the
40 department of economic security and that are notarized whether the worker is
41 awaiting trial on or has ever been convicted of any of the criminal offenses
42 listed in section ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or
43 similar offenses in another state or jurisdiction.

44 B. The department may cooperate with county agencies and community
45 social services agencies to achieve the purposes of this chapter.

- 1 C. A child protective services worker shall:
2 1. Promote the safety and protection of children.
3 2. Accept, screen and assess reports of abuse or neglect pursuant to
4 section 8-817.
5 3. Receive reports of dependent, abused or abandoned children and be
6 prepared to provide temporary foster care for such children on a twenty-four
7 hour basis.
8 4. Receive from any source oral or written information regarding a
9 child who may be in need of protective services. A worker shall not
10 interview a child without the prior written consent of the parent, guardian
11 or custodian of the child unless either:
12 (a) The child initiates contact with the worker.
13 (b) The child who is interviewed is the subject of or is the sibling
14 of or living with the child who is the subject of an abuse or abandonment
15 investigation pursuant to paragraph 5, subdivision (b) of this subsection.
16 (c) The interview is conducted pursuant to the terms of the protocols
17 established pursuant to section 8-817.
18 5. After the receipt of any report or information pursuant to
19 paragraph 2, 3 or 4 of this subsection, immediately do both of the following:
20 (a) Notify the municipal or county law enforcement agency.
21 (b) Make a prompt and thorough investigation of the nature, extent and
22 cause of any condition that would tend to support or refute the allegation
23 that the child should be adjudicated dependent and the name, age and
24 condition of other children in the home. A criminal conduct allegation shall
25 be investigated according to the protocols established pursuant to section
26 8-817 with the appropriate municipal or county law enforcement agency as
27 provided in section 8-817.
28 6. Take a child into temporary custody as provided in section 8-821.
29 Law enforcement officers shall cooperate with the department to remove a
30 child from the custody of the child's parents, guardian or custodian when
31 necessary.
32 7. After investigation, evaluate conditions created by the parents,
33 guardian or custodian that would support or refute the allegation that the
34 child should be adjudicated dependent. The child protective services worker
35 shall then determine whether any child is in need of protective services.
36 8. Offer to the family of any child who is found to be a child in need
37 of protective services those services that are designed to correct unresolved
38 problems that would indicate a reason to adjudicate the child dependent.
39 9. Submit a written report of the worker's investigation to:
40 (a) The department's case management information system within
41 twenty-one days after receipt of the initial information except as provided
42 in section 8-811. If the investigation involves allegations regarding a
43 child who at the time of the alleged incident was in the custody of a child
44 welfare agency licensed by the department of economic security under this
45 title, a copy of the report and any additional investigative or other related

1 reports shall be provided to the board of directors of the agency or to the
2 administrative head of the agency unless the incident is alleged to have been
3 committed by the person. The department shall excise all information with
4 regard to the identity of the source of the reports.

5 (b) The appropriate court forty-eight hours before a dependency
6 hearing pursuant to a petition of dependency or within twenty-one days after
7 a petition of dependency is filed, whichever is earlier. On receipt of the
8 report the court shall make the report available to all parties and counsel.

9 10. Accept a child into voluntary placement pursuant to section 8-806.

10 11. Make a good faith effort to promptly obtain and abide by court
11 orders that restrict or deny custody, visitation or contact by a parent or
12 other person in the home with the child. As part of ~~their~~ THE good faith
13 effort, the child protective services worker shall ask the parent, guardian
14 or custodian under investigation if a current court order exists.

15 D. ~~No~~ A child shall NOT remain in temporary custody for a period
16 exceeding seventy-two hours, excluding Saturdays, Sundays and holidays,
17 unless a dependency petition is filed. If ~~no~~ A petition is NOT filed and the
18 child is released to the child's parent, guardian or custodian, the worker
19 shall file a report of removal with the central registry within seventy-two
20 hours of the child's release. The report shall include:

21 1. The dates of previous referrals, investigations or temporary
22 custody.

23 2. The dates on which other children in the family have been taken
24 into temporary custody.

25 E. The department shall provide child protective services workers who
26 investigate allegations of abuse and neglect with training in forensic
27 interviewing and processes, the protocols established pursuant to section
28 8-817 and relevant law enforcement procedures. All child protective services
29 workers shall be trained in their duty to protect the legal rights of
30 children and families from the time of the initial contact through treatment.
31 The training shall include knowledge of a child's rights as a victim of
32 crime. The training for child protective services workers shall also include
33 instruction on the legal rights of parents and the requirements for legal
34 search and seizure by law enforcement officers.

35 F. In conducting an investigation pursuant to this section, if the
36 worker is made aware that an allegation of abuse or neglect may also have
37 been made in another state, the worker shall contact the appropriate agency
38 in that state to attempt to determine the outcome of any investigation of
39 that allegation.

40 G. Any person who alters a client file for the purpose of fraud or
41 misrepresentation is guilty of a class 2 misdemeanor.

42 Sec. 5. Section 13-1602, Arizona Revised Statutes, is amended to read:

43 13-1602. Criminal damage; classification

44 A. A person commits criminal damage by recklessly:

45 1. Defacing or damaging property of another person; or

1 2. Tampering with property of another person so as substantially to
2 impair its function or value; or

3 3. Tampering with the property of a utility.

4 4. Parking any vehicle in such a manner as to deprive livestock of
5 access to the only reasonably available water.

6 5. Drawing or inscribing a message, slogan, sign or symbol that is
7 made on any public or private building, structure or surface, except the
8 ground, and that is made without permission of the owner.

9 B. Criminal damage is punished as follows:

10 1. Criminal damage is a class 4 felony if the person recklessly
11 damages property of another in an amount of ten thousand dollars or more, or
12 if the person recklessly causes impairment of the functioning of any utility.

13 2. Criminal damage is a class 5 felony if the person recklessly
14 damages property of another in an amount of two thousand dollars or more but
15 less than ten thousand dollars.

16 3. CRIMINAL DAMAGE IS A CLASS 6 FELONY IF THE PERSON RECKLESSLY
17 DAMAGES THE PROPERTY OF ANOTHER IN AN AMOUNT OF ONE THOUSAND DOLLARS OR MORE
18 BUT LESS THAN TWO THOUSAND DOLLARS.

19 ~~3.~~ 4. Criminal damage is a class ~~6 felony~~ 1 MISDEMEANOR if the person
20 recklessly damages property of another in an amount of more than two hundred
21 fifty dollars but less than ~~two~~ ONE thousand dollars.

22 ~~4.~~ 5. In all other cases criminal damage is a class 2 misdemeanor.

23 Sec. 6. Section 15-106, Arizona Revised Statutes, is amended to read:

24 15-106. Identity verified fingerprints

25 Beginning on January 1, 2008, an applicant who applies for a new
26 ~~teaching certificate in order to teach in a school district, an applicant who~~
27 ~~applies for a renewal of an existing teaching certificate in order to~~
28 ~~continue teaching in a school district, an applicant who is required for the~~
29 ~~first time to be fingerprinted in order to teach in a charter school and an~~
30 ~~applicant who is required to renew fingerprints in order to continue teaching~~
31 ~~in a charter school pursuant to section 15-183~~ OR A RENEWAL CERTIFICATE TO
32 TEACH IN A SCHOOL DISTRICT OR CHARTER SCHOOL and an applicant who is required
33 to be fingerprinted pursuant to ~~section~~ SECTIONS 15-512 OR 15-1330 shall
34 submit for an identity verified fingerprint card that will be used by the
35 department of public safety to process the fingerprint clearance card
36 pursuant to title 41, chapter 12, article 3.1 as follows:

37 1. The applicant shall submit a request for an application packet from
38 the department of public safety.

39 2. The application packet shall be contained in an envelope specified
40 by the department of public safety and shall include the following:

41 (a) A blank applicant fingerprint card.

42 (b) An application for a fingerprint clearance card.

43 (c) Instructions for the return of the application packet.

44 3. A school district or charter school may contract for fingerprinting
45 services through an entity or entities and shall provide a copy of the

1 instructions to the entity or entities as provided by the department of
2 public safety regarding the submission of identity verified fingerprints. If
3 a school district or charter school elects to provide fingerprinting
4 services, the school district or charter school shall authorize an individual
5 employed by the school district or charter school to administer the services.

6 4. The department of public safety shall provide instructions to law
7 enforcement agencies and public schools regarding the submission of identity
8 verified fingerprints. The department of public safety shall reject the
9 application for a fingerprint clearance card if the application is not
10 correct or is not submitted according to the instructions provided by the
11 department of public safety.

12 5. The applicant, at the time that identity verified fingerprints are
13 taken, shall provide the law enforcement agency, school district, charter
14 school or other entity with a completed application form for a fingerprint
15 clearance card, the fingerprint card with the requisite demographic
16 information and the required fee in the form of a money order or cashier's
17 check made out to the ~~Arizona~~ department of public safety. The law
18 enforcement agency, school district, charter school or other entity shall
19 verify the identity of the applicant through recognized means of photographic
20 identification and a comparison of the demographic information on the
21 photographic identification against the demographic information on the
22 application form and the fingerprint card. The authorized person taking the
23 fingerprints shall enter on the application form a description of the
24 photographic identification presented by the applicant. The law enforcement
25 agency, school district, charter school or other entity shall place the
26 completed fingerprint card, completed application form or any other form
27 required by the department of public safety and the fee provided by the
28 applicant in the ~~post-paid~~ POSTAGE PREPAID envelope provided by the
29 department of public safety and mail it to the fingerprinting division ~~at~~ IN
30 the department of public safety. A law enforcement agency, school district,
31 charter school or other entity may charge the applicant a reasonable fee for
32 services provided pursuant to this section.

33 6. The department of public safety shall process the application
34 packet in the same manner prescribed for fingerprint clearance cards issued
35 pursuant to title 41, chapter 12, article 3.1.

36 7. The department of public safety shall provide for digital storage
37 and retrieval of identity verified fingerprints taken pursuant to this
38 section. The fingerprints taken pursuant to this section shall be digitally
39 designated in the fingerprint archive as identity verified fingerprint
40 records.

41 8. A person who has a set of identity verified fingerprints on file
42 with the department of public safety pursuant to this section shall not be
43 required to submit a new set of fingerprints to the department of public
44 safety to renew the person's fingerprint clearance card. On receipt of the
45 required application form and fee for a renewal fingerprint clearance card

1 from a person required to submit identity verified fingerprints, the
2 department of public safety shall attempt to use the electronic copy of the
3 applicant's identity verified fingerprints that are retained pursuant to this
4 section to conduct the ~~fingerprint~~ state and national criminal records
5 checks. The department of public safety may require the applicant to submit
6 a new set of identity verified fingerprints if the department of public
7 safety determines that the original fingerprints submitted have been lost,
8 damaged or are found to be otherwise of insufficient quality to conduct a
9 valid technical fingerprint search either by the department of public safety
10 or the federal bureau of investigation.

11 Sec. 7. Section 15-183, Arizona Revised Statutes, is amended to read:
12 15-183. Charter schools; application; requirements; immunity;
13 exemptions; renewal of application; reprisal

14 A. An applicant seeking to establish a charter school shall submit a
15 written application to a proposed sponsor as prescribed in subsection C of
16 this section. The application shall include a detailed business plan for the
17 charter school and may include a mission statement for the charter school, a
18 description of the charter school's organizational structure and the
19 governing body, a financial plan for the first three years of operation of
20 the charter school, a description of the charter school's hiring policy, the
21 name of the charter school's applicant or applicants and requested sponsor, a
22 description of the charter school's facility and the location of the school,
23 a description of the grades being served and an outline of criteria designed
24 to measure the effectiveness of the school.

25 B. The sponsor of a charter school may contract with a public body,
26 private person or private organization for the purpose of establishing a
27 charter school pursuant to this article.

28 C. The sponsor of a charter school may be either a school district
29 governing board, the state board of education or the state board for charter
30 schools, subject to the following requirements:

31 1. For charter schools that submit an application for sponsorship to a
32 school district governing board:

33 (a) An applicant for a charter school may submit its application to a
34 school district governing board, which shall either accept or reject
35 sponsorship of the charter school within ninety days. An applicant may
36 submit a revised application for reconsideration by the governing board. If
37 the governing board rejects the application, the governing board shall notify
38 the applicant in writing of the reasons for the rejection. The applicant may
39 request, and the governing board may provide, technical assistance to improve
40 the application.

41 (b) In the first year that a school district is determined to be out
42 of compliance with the uniform system of financial records, within fifteen
43 days of the determination of noncompliance, the school district shall notify
44 by certified mail each charter school sponsored by the school district that
45 the school district is out of compliance with the uniform system of financial

1 records. The notification shall include a statement that if the school
2 district is determined to be out of compliance for a second consecutive year,
3 the charter school will be required to transfer sponsorship to another entity
4 pursuant to subdivision (c) of this paragraph.

5 (c) In the second consecutive year that a school district is
6 determined to be out of compliance with the uniform system of financial
7 records, within fifteen days of the determination of noncompliance, the
8 school district shall notify by certified mail each charter school sponsored
9 by the school district that the school district is out of compliance with the
10 uniform system of financial records. A charter school that receives a
11 notification of school district noncompliance pursuant to this subdivision
12 shall file a written sponsorship transfer application within forty-five days
13 with the state board of education, the state board for charter schools or the
14 school district governing board if the charter school is located within the
15 geographic boundaries of that school district. A charter school that
16 receives a notification of school district noncompliance may request an
17 extension of time to file a sponsorship transfer application and the state
18 board of education, the state board for charter schools or a school district
19 governing board may grant an extension of not more than an additional thirty
20 days if good cause exists for the extension. The state board of education
21 and the state board for charter schools shall approve a sponsorship transfer
22 application pursuant to this paragraph.

23 (d) ~~Beginning July 1, 2000,~~ A school district governing board shall
24 not grant a charter to a charter school that is located outside the
25 geographic boundaries of that school district.

26 (e) A school district that has been determined to be out of compliance
27 with the uniform system of financial records during either of the previous
28 two fiscal years shall not sponsor a new or transferring charter school.

29 2. The applicant may submit the application to the state board of
30 education or the state board for charter schools. The state board of
31 education or the state board for charter schools may approve the application
32 if the application meets the requirements of this article and may approve the
33 charter if the proposed sponsor determines, within its sole discretion, that
34 the applicant is sufficiently qualified to operate a charter school. The
35 state board of education or the state board for charter schools may approve
36 any charter schools transferring charters. The state board of education and
37 the state board for charter schools shall approve any charter schools
38 transferring charters from a school district that is determined to be out of
39 compliance with the uniform system of financial records pursuant to this
40 section, but may require the charter school to sign a new charter that is
41 equivalent to the charter awarded by the former sponsor. If the state board
42 of education or the state board for charter schools rejects the preliminary
43 application, the state board of education or the state board for charter
44 schools shall notify the applicant in writing of the reasons for the
45 rejection and of suggestions for improving the application. An applicant may

1 submit a revised application for reconsideration by the state board of
2 education or the state board for charter schools. The applicant may request,
3 and the state board of education or the state board for charter schools may
4 provide, technical assistance to improve the application.

5 3. Each applicant seeking to establish a charter school shall submit a
6 full set of fingerprints to the approving agency for the purpose of obtaining
7 a state and federal criminal records check pursuant to section 41-1750 and
8 Public Law 92-544. If an applicant will have direct contact with students,
9 the applicant shall possess a valid fingerprint clearance card that is issued
10 pursuant to title 41, chapter 12, article 3.1. The department of public
11 safety may exchange this fingerprint data with the federal bureau of
12 investigation. The criminal records check shall be completed before the
13 issuance of a charter.

14 4. All persons engaged in instructional work directly as a classroom,
15 laboratory or other teacher or indirectly as a supervisory teacher, speech
16 therapist or principal shall have a valid fingerprint clearance card that is
17 issued pursuant to title 41, chapter 12, article 3.1, unless the person is a
18 volunteer or guest speaker who is accompanied in the classroom by a person
19 with a valid fingerprint clearance card. A charter school shall not employ a
20 teacher whose certificate has been revoked for a violation of section 15-507
21 or 15-550 or for any offense that placed a pupil in danger. All other
22 personnel WHO ARE HIRED BEFORE JULY 1, 2009 shall be fingerprint checked
23 pursuant to section 15-512. A CHARTER SCHOOL SHALL REFUSE TO HIRE OR MAY
24 REVIEW OR TERMINATE PERSONNEL FINGERPRINT CHECKED PURSUANT TO SECTION 15-512
25 WHO HAVE BEEN CONVICTED OF OR ADMITTED COMMITTING ANY OF THE CRIMINAL
26 OFFENSES PRESCRIBED IN SECTION 15-512, SUBSECTION D OR OF A SIMILAR OFFENSE
27 IN ANOTHER JURISDICTION. ALL OTHER PERSONNEL WHO ARE INITIALLY HIRED AFTER
28 JUNE 30, 2009 MUST HAVE A VALID FINGERPRINT CLEARANCE CARD THAT IS ISSUED
29 PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1. Before employment, the
30 charter school shall make documented, good faith efforts to contact previous
31 employers of a person to obtain information and recommendations that may be
32 relevant to a person's fitness for employment as prescribed in section
33 15-512, subsection ~~F~~ G. The charter school shall notify the department of
34 public safety if the charter school or sponsor receives credible evidence
35 that a person who possesses a valid fingerprint clearance card is arrested
36 for or is charged with an offense listed in section 41-1758.03, subsection B.
37 Charter schools may hire personnel that have not yet received a fingerprint
38 clearance card if proof is provided of the submission of an application to
39 the department of public safety for a fingerprint clearance card and if the
40 charter school that is seeking to hire the applicant does all of the
41 following:

- 42 (a) Documents in the applicant's file the necessity for hiring and
43 placement of the applicant before receiving a fingerprint clearance card.
44 (b) Ensures that the department of public safety completes a statewide
45 criminal records check on the applicant. A statewide criminal records check

1 shall be completed by the department of public safety every one hundred
2 twenty days until the date that the fingerprint check is completed.

3 (c) Obtains references from the applicant's current employer and the
4 two most recent previous employers except for applicants who have been
5 employed for at least five years by the applicant's most recent employer.

6 (d) Provides general supervision of the applicant until the date that
7 the fingerprint card is obtained.

8 (e) Completes a search of criminal records in all local jurisdictions
9 outside of this state in which the applicant has lived in the previous five
10 years.

11 (f) Verifies the fingerprint status of the applicant with the
12 department of public safety.

13 5. A CHARTER SCHOOL THAT COMPLIES WITH THE FINGERPRINTING REQUIREMENTS
14 OF THIS SECTION IS DEEMED TO HAVE COMPLIED WITH SECTION 15-512 AND IS
15 ENTITLED TO THE SAME RIGHTS AND PROTECTIONS PROVIDED TO SCHOOL DISTRICTS
16 PURSUANT TO SECTION 15-512.

17 ~~5-~~ 6. If a charter school operator is not already subject to a public
18 meeting or hearing by the municipality in which the charter school is
19 located, the operator of a charter school shall conduct a public meeting at
20 least thirty days before the charter school operator opens a site or sites
21 for the charter school. The charter school operator shall post notices of
22 the public meeting in at least three different locations that are within
23 three hundred feet of the proposed charter school site.

24 ~~6-~~ 7. A person who is employed by a charter school or who is an
25 applicant for employment with a charter school, who is arrested for or
26 charged with a nonappealable offense listed in section 41-1758.03, subsection
27 B and who does not immediately report the arrest or charge to the person's
28 supervisor or potential employer is guilty of unprofessional conduct and the
29 person shall be immediately dismissed from employment with the charter school
30 or immediately excluded from potential employment with the charter school.

31 ~~7-~~ 8. A person who is employed by a charter school and who is
32 convicted of any nonappealable offense listed in section 41-1758.03,
33 subsection B or is convicted of any nonappealable offense that amounts to
34 unprofessional conduct under section 15-550 shall immediately do all of the
35 following:

36 (a) Surrender any certificates issued by the department of education.

37 (b) Notify the person's employer or potential employer of the
38 conviction.

39 (c) Notify the department of public safety of the conviction.

40 (d) Surrender the person's fingerprint clearance card.

41 D. A board that is authorized to sponsor charter schools pursuant to
42 this article has no legal authority over or responsibility for a charter
43 school sponsored by a different board. This subsection does not apply to the
44 state board of education's duty to exercise general supervision over the
45 public school system pursuant to section 15-203, subsection A, paragraph 1.

1 E. The charter of a charter school shall ensure the following:

2 1. Compliance with federal, state and local rules, regulations and
3 statutes relating to health, safety, civil rights and insurance. The
4 department of education shall publish a list of relevant rules, regulations
5 and statutes to notify charter schools of their responsibilities under this
6 paragraph.

7 2. That it is nonsectarian in its programs, admission policies and
8 employment practices and all other operations.

9 3. That it provides a comprehensive program of instruction for at
10 least a kindergarten program or any grade between grades one and twelve,
11 except that a school may offer this curriculum with an emphasis on a specific
12 learning philosophy or style or certain subject areas such as mathematics,
13 science, fine arts, performance arts or foreign language.

14 4. That it designs a method to measure pupil progress toward the pupil
15 outcomes adopted by the state board of education pursuant to section
16 15-741.01, including participation in the Arizona instrument to measure
17 standards test and the nationally standardized norm-referenced achievement
18 test as designated by the state board and the completion and distribution of
19 an annual report card as prescribed in chapter 7, article 3 of this title.

20 5. That, except as provided in this article and in its charter, it is
21 exempt from all statutes and rules relating to schools, governing boards and
22 school districts.

23 6. That, except as provided in this article, it is subject to the same
24 financial and electronic data submission requirements as a school district,
25 including the uniform system of financial records as prescribed in chapter 2,
26 article 4 of this title, procurement rules as prescribed in section 15-213
27 and audit requirements. The auditor general shall conduct a comprehensive
28 review and revision of the uniform system of financial records to ensure that
29 the provisions of the uniform system of financial records that relate to
30 charter schools are in accordance with commonly accepted accounting
31 principles used by private business. A school's charter may include
32 exceptions to the requirements of this paragraph that are necessary as
33 determined by the district governing board, the state board of education or
34 the state board for charter schools. The department of education or the
35 office of the auditor general may conduct financial, program or compliance
36 audits.

37 7. Compliance with all federal and state laws relating to the
38 education of children with disabilities in the same manner as a school
39 district.

40 8. That it provides for a governing body for the charter school that
41 is responsible for the policy decisions of the charter school.

42 9. That it provides a minimum of one hundred seventy-five
43 instructional days before June 30 of each fiscal year unless it is operating
44 on an alternative calendar approved by its sponsor. The superintendent of

1 public instruction shall adjust the apportionment schedule accordingly to
2 accommodate a charter school utilizing an alternative calendar.

3 F. The charter of a charter school shall include a description of the
4 charter school's personnel policies, personnel qualifications and method of
5 school governance and the specific role and duties of the sponsor of the
6 charter school. A charter school shall keep on file the resumes of all
7 current and former employees who provide instruction to pupils at the charter
8 school. Resumes shall include an individual's educational and teaching
9 background and experience in a particular academic content subject area. A
10 charter school shall inform parents and guardians of the availability of the
11 resume information and shall make the resume information available for
12 inspection on request of parents and guardians of pupils enrolled at the
13 charter school. Nothing in this subsection shall be construed to require any
14 charter school to release personally identifiable information in relation to
15 any teacher or employee including the teacher's or employee's address,
16 salary, social security number or telephone number.

17 G. The charter of a charter school may be amended at the request of
18 the governing body of the charter school and on the approval of the sponsor.

19 H. Charter schools may contract, sue and be sued.

20 I. An approved plan to establish a charter school is effective for
21 fifteen years from the first day of operation. At least eighteen months
22 before the expiration of the approved plan, the sponsor shall notify the
23 charter school that the charter school may apply for renewal. A charter
24 school that elects to apply for renewal shall file an application for renewal
25 at least fifteen months before the expiration of the approved plan. In
26 addition to any other requirements, the application for renewal shall include
27 a detailed business plan for the charter school. The sponsor may deny the
28 request for renewal if, in its judgment, the charter school has failed to
29 complete the obligations of the contract or has failed to comply with this
30 article. A sponsor shall give written notice of its intent not to renew the
31 charter school's request for renewal to the charter school at least twelve
32 months before the expiration of the approved plan to allow the charter school
33 an opportunity to apply to another sponsor to transfer the operation of the
34 charter school. If the operation of the charter school is transferred to
35 another sponsor, the fifteen year period of the current charter shall be
36 maintained. A sponsor shall review a charter at five year intervals and may
37 revoke a charter at any time if the charter school breaches one or more
38 provisions of its charter. At least ninety days before the effective date of
39 the proposed revocation the sponsor shall give written notice to the operator
40 of the charter school of its intent to revoke the charter. Notice of the
41 sponsor's intent to revoke the charter shall be delivered personally to the
42 operator of the charter school or sent by certified mail, return receipt
43 requested, to the address of the charter school. The notice shall
44 incorporate a statement of reasons for the proposed revocation of the
45 charter. The sponsor shall allow the charter school at least ninety days to

1 correct the problems associated with the reasons for the proposed revocation
2 of the charter. The final determination of whether to revoke the charter
3 shall be made at a public hearing called for such purpose.

4 J. After renewal of the charter at the end of the fifteen year period
5 described in subsection I of this section, the charter may be renewed for
6 successive periods of fifteen years if the charter school and its sponsor
7 deem that the school is in compliance with its own charter and this article.

8 K. A charter school that is sponsored by the state board of education
9 or the state board for charter schools may not be located on the property of
10 a school district unless the district governing board grants this authority.

11 L. A governing board or a school district employee who has control
12 over personnel actions shall not take unlawful reprisal against another
13 employee of the school district because the employee is directly or
14 indirectly involved in an application to establish a charter school. A
15 governing board or a school district employee shall not take unlawful
16 reprisal against an educational program of the school or the school district
17 because an application to establish a charter school proposes the conversion
18 of all or a portion of the educational program to a charter school. For the
19 purposes of this subsection, "unlawful reprisal" means an action that is
20 taken by a governing board or a school district employee as a direct result
21 of a lawful application to establish a charter school and that is adverse to
22 another employee or an education program and:

23 1. With respect to a school district employee, results in one or more
24 of the following:

- 25 (a) Disciplinary or corrective action.
- 26 (b) Detail, transfer or reassignment.
- 27 (c) Suspension, demotion or dismissal.
- 28 (d) An unfavorable performance evaluation.
- 29 (e) A reduction in pay, benefits or awards.
- 30 (f) Elimination of the employee's position without a reduction in
31 force by reason of lack of monies or work.
- 32 (g) Other significant changes in duties or responsibilities that are
33 inconsistent with the employee's salary or employment classification.

34 2. With respect to an educational program, results in one or more of
35 the following:

- 36 (a) Suspension or termination of the program.
- 37 (b) Transfer or reassignment of the program to a less favorable
38 department.
- 39 (c) Relocation of the program to a less favorable site within the
40 school or school district.
- 41 (d) Significant reduction or termination of funding for the program.

42 M. Charter schools shall secure insurance for liability and property
43 loss. The governing body of a charter school that is sponsored by the state
44 board of education or the state board for charter schools may enter into an
45 intergovernmental agreement or otherwise contract to participate in an

1 insurance program offered by a risk retention pool established pursuant to
2 section 11-952.01 or 41-621.01 or the charter school may secure its own
3 insurance coverage. The pool may charge the requesting charter school
4 reasonable fees for any services it performs in connection with the insurance
5 program.

6 N. Charter schools do not have the authority to acquire property by
7 eminent domain.

8 O. A sponsor, including members, officers and employees of the
9 sponsor, is immune from personal liability for all acts done and actions
10 taken in good faith within the scope of its authority.

11 P. Charter school sponsors and this state are not liable for the debts
12 or financial obligations of a charter school or persons who operate charter
13 schools.

14 Q. The sponsor of a charter school shall establish procedures to
15 conduct administrative hearings on determination by the sponsor that grounds
16 exist to revoke a charter. Procedures for administrative hearings shall be
17 similar to procedures prescribed for adjudicative proceedings in title 41,
18 chapter 6, article 10. Except as provided in section 41-1092.08, subsection
19 H, final decisions of the state board of education and the state board for
20 charter schools from hearings conducted pursuant to this subsection are
21 subject to judicial review pursuant to title 12, chapter 7, article 6.

22 R. The sponsoring entity of a charter school shall have oversight and
23 administrative responsibility for the charter schools that it sponsors.

24 S. Charter schools may pledge, assign or encumber their assets to be
25 used as collateral for loans or extensions of credit.

26 T. All property accumulated by a charter school shall remain the
27 property of the charter school.

28 U. Charter schools may not locate a school on property that is less
29 than one-fourth mile from agricultural land regulated pursuant to section
30 3-365, except that the owner of the agricultural land may agree to comply
31 with the buffer zone requirements of section 3-365. If the owner agrees in
32 writing to comply with the buffer zone requirements and records the agreement
33 in the office of the county recorder as a restrictive covenant running with
34 the title to the land, the charter school may locate a school within the
35 affected buffer zone. The agreement may include any stipulations regarding
36 the charter school, including conditions for future expansion of the school
37 and changes in the operational status of the school that will result in a
38 breach of the agreement.

39 V. A transfer of a charter to another sponsor, a transfer of a charter
40 school site to another sponsor or a transfer of a charter school site to a
41 different charter shall be completed before the beginning of the fiscal year
42 that the transfer is scheduled to become effective. An entity that sponsors
43 charter schools may accept a transferring school after the beginning of the
44 fiscal year if the transfer is approved by the superintendent of public
45 instruction. The superintendent of public instruction shall have the

1 discretion to consider each transfer during the fiscal year on a case by case
2 basis. If a charter school is sponsored by a school district that is
3 determined to be out of compliance with this title, the uniform system of
4 financial records or any other state or federal law, the charter school may
5 transfer to another sponsoring entity at any time during the fiscal year.

6 W. The sponsoring entity may not charge any fees to a charter school
7 that it sponsors unless the sponsor has provided services to the charter
8 school and the fees represent the full value of those services provided by
9 the sponsor. On request, the value of the services provided by the sponsor
10 to the charter school shall be demonstrated to the department of education.

11 Sec. 8. Section 15-203, Arizona Revised Statutes, is amended to read:
12 15-203. Powers and duties

13 A. The state board of education shall:

14 1. Exercise general supervision over and regulate the conduct of the
15 public school system and adopt any rules and policies it deems necessary to
16 accomplish this purpose.

17 2. Keep a record of its proceedings.

18 3. Make rules for its own government.

19 4. Determine the policy and work undertaken by it.

20 5. Appoint its employees, on the recommendation of the superintendent
21 of public instruction.

22 6. Prescribe the duties of its employees if not prescribed by statute.

23 7. Delegate to the superintendent of public instruction the execution
24 of board policies and rules.

25 8. Recommend to the legislature changes or additions to the statutes
26 pertaining to schools.

27 9. Prepare, publish and distribute reports concerning the educational
28 welfare of this state.

29 10. Prepare a budget for expenditures necessary for proper maintenance
30 of the board and accomplishment of its purposes and present the budget to the
31 legislature.

32 11. Aid in the enforcement of laws relating to schools.

33 12. Prescribe a minimum course of study in the common schools, minimum
34 competency requirements for the promotion of pupils from the third grade and
35 minimum course of study and competency requirements for the promotion of
36 pupils from the eighth grade. The state board of education shall prepare a
37 fiscal impact statement of any proposed changes to the minimum course of
38 study or competency requirements and, on completion, shall send a copy to the
39 director of the joint legislative budget committee and the executive director
40 of the school facilities board. The state board of education shall not adopt
41 any changes in the minimum course of study or competency requirements in
42 effect on July 1, 1998 that will have a fiscal impact on school capital
43 costs.

44 13. Prescribe minimum course of study and competency requirements for
45 the graduation of pupils from high school. The state board of education

1 shall prepare a fiscal impact statement of any proposed changes to the
2 minimum course of study or competency requirements and, on completion, shall
3 send a copy to the director of the joint legislative budget committee and the
4 executive director of the school facilities board. The state board of
5 education shall not adopt any changes in the minimum course of study or
6 competency requirements in effect on July 1, 1998 that will have a fiscal
7 impact on school capital costs.

8 14. Supervise and control the certification of persons engaged in
9 instructional work directly as any classroom, laboratory or other teacher or
10 indirectly as a supervisory teacher, speech therapist, principal or
11 superintendent in a school district, including school district preschool
12 programs, or any other educational institution below the community college,
13 college or university level, and prescribe rules for certification, including
14 rules for certification of teachers who have teaching experience and who are
15 trained in other states, which are not unnecessarily restrictive and are
16 substantially similar to the rules prescribed for the certification of
17 teachers trained in this state. The rules shall require applicants for all
18 certificates for common school instruction to complete a minimum of
19 forty-five classroom hours or three college level credit hours, or the
20 equivalent, of training in research based systematic phonics instruction from
21 a public or private provider. The rules shall not require a teacher to
22 obtain a master's degree or to take any additional graduate courses as a
23 condition of certification or recertification. The rules shall allow a
24 general equivalency diploma to be substituted for a high school diploma in
25 the certification of emergency substitute teachers.

26 15. Adopt a list of approved tests for determining special education
27 assistance to gifted pupils as defined in and as provided in chapter 7,
28 article 4.1 of this title. The adopted tests shall provide separate scores
29 for quantitative reasoning, verbal reasoning and nonverbal reasoning and
30 shall be capable of providing reliable and valid scores at the highest ranges
31 of the score distribution.

32 16. Adopt rules governing the methods for the administration of all
33 proficiency examinations.

34 17. Adopt proficiency examinations for its use. The state board of
35 education shall determine the passing score for the proficiency examination.

36 18. Include within its budget the cost of contracting for the purchase,
37 distribution and scoring of the examinations as provided in paragraphs 16 and
38 17 of this subsection.

39 19. Supervise and control the qualifications of professional
40 nonteaching school personnel and prescribe standards relating to
41 qualifications.

42 20. Impose such disciplinary action, including the issuance of a letter
43 of censure, suspension, suspension with conditions or revocation of a
44 certificate, upon a finding of immoral or unprofessional conduct.

1 21. Establish an assessment, data gathering and reporting system for
2 pupil performance as prescribed in chapter 7, article 3 of this title.

3 22. Adopt a rule to promote braille literacy pursuant to section
4 15-214.

5 23. Adopt rules prescribing procedures for the investigation by the
6 department of education of every written complaint alleging that a
7 certificated person has engaged in immoral conduct.

8 24. For purposes of federal law, serve as the state board for
9 vocational and technological education and meet at least four times each year
10 solely to execute the powers and duties of the state board for vocational and
11 technological education.

12 25. Develop and maintain a handbook for use in the schools of this
13 state that provides guidance for the teaching of moral, civic and ethical
14 education. The handbook shall promote existing curriculum frameworks and
15 shall encourage school districts to recognize moral, civic and ethical values
16 within instructional and programmatic educational development programs for
17 the general purpose of instilling character and ethical principles in pupils
18 in kindergarten programs and grades one through twelve.

19 26. Require pupils to recite the following passage from the declaration
20 of independence for pupils in grades four through six at the commencement of
21 the first class of the day in the schools, except that a pupil shall not be
22 required to participate if the pupil or the pupil's parent or guardian
23 objects:

24 We hold these truths to be self-evident, that all men are
25 created equal, that they are endowed by their creator with
26 certain unalienable rights, that among these are life, liberty
27 and the pursuit of happiness. That to secure these rights,
28 governments are instituted among men, deriving their just powers
29 from the consent of the governed. . . .

30 27. Adopt rules that provide for teacher certification reciprocity.
31 The rules shall provide for a one year reciprocal teaching certificate with
32 minimum requirements including valid teacher certification from a state with
33 substantially similar criminal history or teacher fingerprinting requirements
34 and proof of the submission of an application for a fingerprint clearance
35 card pursuant to title 41, chapter 12, article 3.1.

36 28. Adopt rules that will be in effect until December 31, 2006 and that
37 provide for the presentation of an honorary high school diploma to a person
38 who has never obtained a high school diploma and who meets each of the
39 following requirements:

40 (a) Is at least sixty-five years of age.

41 (b) Currently resides in this state.

42 (c) Provides documented evidence from the Arizona department of
43 veterans' services that the person enlisted in the armed forces of the United
44 States before completing high school in a public or private school.

1 (d) Was honorably discharged from service with the armed forces of the
2 United States.

3 29. Cooperate with the Arizona-Mexico commission in the governor's
4 office and with researchers at universities in this state to collect data and
5 conduct projects in the United States and Mexico on issues that are within
6 the scope of the duties of the department of education and that relate to
7 quality of life, trade and economic development in this state in a manner
8 that will help the Arizona-Mexico commission to assess and enhance the
9 economic competitiveness of this state and of the Arizona-Mexico region.

10 30. Adopt rules to define and provide guidance to schools as to the
11 activities that would constitute immoral or unprofessional conduct of
12 certificated persons.

13 31. Adopt guidelines to encourage pupils in grades nine, ten, eleven
14 and twelve to volunteer for twenty hours of community service before
15 graduation from high school. A school district that complies with the
16 guidelines adopted pursuant to this paragraph is not liable for damages
17 resulting from a pupil's participation in community service unless the school
18 district is found to have demonstrated wanton or reckless disregard for the
19 safety of the pupil and other participants in community service. For the
20 purposes of this paragraph, "community service" may include service learning.
21 The guidelines shall include the following:

22 (a) A list of the general categories in which community service may be
23 performed.

24 (b) A description of the methods by which community service will be
25 monitored.

26 (c) A consideration of risk assessment for community service projects.

27 (d) Orientation and notification procedures of community service
28 opportunities for pupils entering grade nine including the development of a
29 notification form. The notification form shall be signed by the pupil and
30 the pupil's parent or guardian, except that a pupil shall not be required to
31 participate in community service if the parent or guardian notifies the
32 principal of the pupil's school in writing that the parent or guardian does
33 not wish the pupil to participate in community service.

34 (e) Procedures for a pupil in grade nine to prepare a written proposal
35 that outlines the type of community service that the pupil would like to
36 perform and the goals that the pupil hopes to achieve as a result of
37 community service. The pupil's written proposal shall be reviewed by a
38 faculty advisor, a guidance counselor or any other school employee who is
39 designated as the community service program coordinator for that school. The
40 pupil may alter the written proposal at any time before performing community
41 service.

42 (f) Procedures for a faculty advisor, a guidance counselor or any
43 other school employee who is designated as the community service program
44 coordinator to evaluate and certify the completion of community service
45 performed by pupils.

1 32. To facilitate the transfer of military personnel and their
2 dependents to and from the public schools of this state, pursue, in
3 cooperation with the Arizona board of regents, reciprocity agreements with
4 other states concerning the transfer credits for military personnel and their
5 dependents. A reciprocity agreement entered into pursuant to this paragraph
6 shall:

7 (a) Address procedures for each of the following:

8 (i) The transfer of student records.

9 (ii) Awarding credit for completed course work.

10 (iii) Permitting a student to satisfy the graduation requirements
11 prescribed in section 15-701.01 through the successful performance on
12 comparable exit-level assessment instruments administered in another state.

13 (b) Include appropriate criteria developed by the state board of
14 education and the Arizona board of regents.

15 33. Adopt guidelines that school district governing boards shall use in
16 identifying pupils who are eligible for gifted programs and in providing
17 gifted education programs and services. The state board of education shall
18 adopt any other guidelines and rules that it deems necessary in order to
19 carry out the purposes of chapter 7, article 4.1 of this title.

20 34. For each of the alternative textbook formats of human-voiced audio,
21 large-print and braille, designate alternative media producers to adapt
22 existing standard print textbooks or to provide specialized textbooks, or
23 both, for pupils with disabilities in this state. Each alternative media
24 producer shall be capable of producing alternative textbooks in all relevant
25 subjects in at least one of the alternative textbook formats. The board
26 shall post the designated list of alternative media producers on its website.

27 35. Adopt a list of approved professional development training
28 providers for use by school districts as provided in section 15-107,
29 subsection J. The professional development training providers shall meet the
30 training curriculum requirements determined by the state board of education
31 in at least the areas of school finance, governance, employment, staffing,
32 inventory and human resources, internal controls and procurement.

33 36. Adopt rules to prohibit a person who violates the notification
34 requirements prescribed in section 15-183, subsection C, paragraph ~~6~~ 7 or
35 section 15-550, subsection C from certification pursuant to this title until
36 the person is no longer charged or is acquitted of any offenses listed in
37 section 41-1758.03, subsection B. The board shall also adopt rules to
38 prohibit a person who violates the notification requirements, certification
39 surrender requirements or fingerprint clearance card surrender requirements
40 prescribed in section 15-183, subsection C, paragraph ~~7~~ 8 or section 15-550,
41 subsection D from certification pursuant to this title for at least ten years
42 after the date of the violation.

43 B. The state board of education may:

44 1. Contract.

45 2. Sue and be sued.

1 3. Distribute and score the tests prescribed in chapter 7, article 3
2 of this title.

3 4. Provide for an advisory committee to conduct hearings and
4 screenings to determine whether grounds exist to impose disciplinary action
5 against a certificated person, whether grounds exist to reinstate a revoked
6 or surrendered certificate and whether grounds exist to approve or deny an
7 initial application for certification or a request for renewal of a
8 certificate. The board may delegate its responsibility to conduct hearings
9 and screenings to its advisory committee. Hearings shall be conducted
10 pursuant to title 41, chapter 6, article 6.

11 5. Proceed with the disposal of any complaint requesting disciplinary
12 action or with any disciplinary action against a person holding a certificate
13 as prescribed in subsection A, paragraph 14 of this section after the
14 suspension or expiration of the certificate or surrender of the certificate
15 by the holder.

16 6. Assess costs and reasonable attorney fees against a person who
17 files a frivolous complaint or who files a complaint in bad faith. Costs
18 assessed pursuant to this paragraph shall not exceed the expenses incurred by
19 the state board in the investigation of the complaint.

20 Sec. 9. Section 15-512, Arizona Revised Statutes, is amended to read:

21 15-512. Noncertificated personnel; fingerprinting personnel;
22 background investigations; affidavit; civil immunity;
23 violation; classification; definition

24 A. Noncertificated personnel **WHO ARE HIRED BEFORE JULY 1, 2009** and
25 personnel who are not paid employees of the school district **WHO BEGIN UNPAID**
26 **SERVICE BEFORE JULY 1, 2009** and who are not either the parent or the guardian
27 of a pupil who attends school in the school district but who are required or
28 allowed to provide services directly to pupils without the supervision of a
29 certificated employee and who are initially hired by a school district after
30 January 1, 1990 shall be fingerprinted as a condition of employment except
31 for personnel who are required as a condition of licensing to be
32 fingerprinted if the license is required for employment or for personnel who
33 were previously employed by a school district and who reestablished
34 employment with that district within one year after the date that the
35 employee terminated employment with the district. A school district may
36 release the results of a background check to another school district for
37 employment purposes. The employee's fingerprints and the form prescribed in
38 subsection D of this section shall be submitted to the school district within
39 ~~twenty~~ **SEVEN WORKING** days after the date an employee begins work. A school
40 district may terminate an employee if the information on the form provided
41 under subsection D of this section is inconsistent with the information
42 received from the fingerprint check. The school district shall develop
43 procedures for fingerprinting employees. For the purposes of this
44 subsection, "supervision" means under the direction of and, except for brief

1 periods of time during a school day or a school activity, within sight of a
2 certificated employee when providing direct services to pupils.

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

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

18 D. Personnel required to be fingerprinted as prescribed in subsection
19 A of this section shall certify on forms that are provided by the school and
20 notarized whether they are awaiting trial on or have ever been convicted of
21 or admitted in open court or pursuant to a plea agreement committing any of
22 the ~~following~~ criminal offenses **LISTED IN SECTION 41-1758.03, SUBSECTIONS B**
23 **AND C** in this state or similar offenses in another jurisdiction~~:-~~.

- 24 ~~1. Sexual abuse of a minor.~~
- 25 ~~2. Incest.~~
- 26 ~~3. First or second degree murder.~~
- 27 ~~4. Kidnapping.~~
- 28 ~~5. Arson.~~
- 29 ~~6. Sexual assault.~~
- 30 ~~7. Sexual exploitation of a minor.~~
- 31 ~~8. Felony offenses involving contributing to the delinquency of a~~
32 ~~minor.~~
- 33 ~~9. Commercial sexual exploitation of a minor.~~
- 34 ~~10. Felony offenses involving sale, distribution or transportation of,~~
35 ~~offer to sell, transport, or distribute or conspiracy to sell, transport or~~
36 ~~distribute marijuana or dangerous or narcotic drugs.~~
- 37 ~~11. Felony offenses involving the possession or use of marijuana,~~
38 ~~dangerous drugs or narcotic drugs.~~
- 39 ~~12. Misdemeanor offenses involving the possession or use of marijuana~~
40 ~~or dangerous drugs.~~
- 41 ~~13. Burglary in the first degree.~~
- 42 ~~14. Burglary in the second or third degree.~~
- 43 ~~15. Aggravated or armed robbery.~~
- 44 ~~16. Robbery.~~
- 45 ~~17. A dangerous crime against children as defined in section 13-705.~~

- 1 ~~18. Child abuse.~~
- 2 ~~19. Sexual conduct with a minor.~~
- 3 ~~20. Molestation of a child.~~
- 4 ~~21. Manslaughter.~~
- 5 ~~22. Aggravated assault.~~
- 6 ~~23. Assault.~~
- 7 ~~24. Exploitation of minors involving drug offenses.~~

8 E. A school district ~~may~~ SHALL refuse to hire or may review or
9 terminate personnel who have been convicted of or admitted committing any of
10 the criminal offenses prescribed in ~~subsection D of this section~~ SECTION
11 41-1758.03, SUBSECTIONS B AND C or of a similar offense in another
12 jurisdiction. A school district which is considering terminating an employee
13 pursuant to this subsection shall hold a hearing to determine whether a
14 person ~~already~~ WHO IS employed BEFORE JULY 1, 2009 shall be terminated. In
15 conducting a review, the governing board shall utilize the guidelines,
16 including the list of offenses that are not subject to review, as prescribed
17 by the state board of education pursuant to section 15-534, subsection C. In
18 considering whether to ~~hire or~~ terminate the employment of a person the
19 governing board shall take into account the following factors:

- 20 1. The nature of the crime and the potential for crimes against
21 children.
- 22 2. Offenses committed as a minor for which proceedings were held under
23 the jurisdiction of a juvenile or an adult court.
- 24 3. Offenses that have been expunged by a court of competent
25 jurisdiction, if the person has been pardoned or if the person's sentence has
26 been commuted.
- 27 4. The employment record of the person since the commission of the
28 crime if the crime was committed more than ten years before the governing
29 board's consideration of whether to ~~hire or~~ terminate the person.
- 30 5. The reliability of the evidence of an admission of a crime unless
31 made under oath in a court of competent jurisdiction.

32 F. NONCERTIFICATED PERSONNEL WHO ARE INITIALLY HIRED AFTER JUNE 30,
33 2009 AND PERSONNEL WHO ARE NOT PAID EMPLOYEES OF THE SCHOOL DISTRICT WHO
34 BEGIN UNPAID SERVICE AFTER JUNE 30, 2009 MUST HAVE A VALID FINGERPRINT
35 CLEARANCE CARD THAT IS ISSUED PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1
36 IF THE PERSONNEL:

- 37 1. ARE NOT EITHER THE PARENT OR THE GUARDIAN OF A PUPIL WHO ATTENDS
38 SCHOOL IN THE SCHOOL DISTRICT.
- 39 2. ARE REQUIRED OR ALLOWED TO PROVIDE SERVICES DIRECTLY TO PUPILS
40 WITHOUT THE SUPERVISION OF A CERTIFICATED EMPLOYEE.

41 ~~F.~~ G. Before employment with the school district, the district shall
42 make documented, good faith efforts to contact previous employers of a person
43 to obtain information and recommendations which may be relevant to a person's
44 fitness for employment. A governing board shall adopt procedures for
45 conducting background investigations required by this subsection, including

1 one or more standard forms for use by school district officials to document
2 their efforts to obtain information from previous employers. A school
3 district may provide information received as a result of a background
4 investigation required by this section to any other school district, to any
5 other public school and to any public entity that agrees pursuant to a
6 contract or intergovernmental agreement to perform background investigations
7 for school districts or other public schools. School districts and other
8 public schools may enter into intergovernmental agreements pursuant to
9 section 11-952 and cooperative purchasing agreements pursuant to rules
10 adopted in accordance with section 15-213 for the purposes of performing or
11 contracting for the performance of background investigations and for sharing
12 the results of background investigations required by this subsection.
13 Information obtained about an employee or applicant for employment by any
14 school district or other public school in the performance of a background
15 investigation may be retained by that school district or the other public
16 school or by any public entity that agrees pursuant to contract to perform
17 background investigations for school districts or other public schools and
18 may be provided to any school district or other public school that is
19 performing a background investigation required by this subsection.

20 ~~G.~~ H. A school district may fingerprint any other employee of the
21 district, whether paid or not, or any other applicant for employment with the
22 school district not otherwise required by this section to be fingerprinted on
23 the condition that the school district may not charge the costs of the
24 fingerprint check to the fingerprinted applicant or nonpaid employee.

25 ~~H.~~ I. A school district shall fingerprint or require the submission
26 of a full set of fingerprints of any contractor, subcontractor or vendor or
27 any employee of a contractor, subcontractor or vendor who is contracted to
28 provide services on a regular basis on school property. The school district
29 may charge the costs of the fingerprint check to the contractor,
30 subcontractor or vendor or the employee of the contractor, subcontractor or
31 vendor. A school district governing board shall adopt policies that may
32 exempt persons who are not likely to have direct, unsupervised contact with
33 pupils from the requirements of this subsection. A school district, its
34 governing board members, its school council members and its employees are
35 exempt from civil liability for the consequences of adoption and
36 implementation of policies and procedures pursuant to this subsection unless
37 the school district, its governing board members, its school council members
38 or its employees are guilty of gross negligence or intentional misconduct.
39 For the purposes of this subsection, "provide services on a regular basis"
40 means services provided by a contractor, subcontractor or vendor at least
41 five times each month on school property.

42 ~~I.~~ J. ~~Subsection A~~ SUBSECTIONS A AND F of this section ~~does~~ DO not
43 apply to a person who provides instruction or other education services to a
44 pupil, with the written consent of the parent or guardian of the pupil, under

1 a work release program, advance placement course or other education program
2 that occurs off school property.

3 ~~J~~ K. Public entities that agree pursuant to contract to perform
4 background investigations, public schools, the department of education and
5 previous employers who provide information pursuant to this section are
6 immune from civil liability unless the information provided is false and is
7 acted on by the school district to the harm of the employee and the public
8 entity, the public school, the previous employer or the department of
9 education knows the information is false or acts with reckless disregard of
10 the information's truth or falsity. A school district which relies on
11 information obtained pursuant to this section in making employment decisions
12 is immune from civil liability for use of the information unless the
13 information obtained is false and the school district knows the information
14 is false or acts with reckless disregard of the information's truth or
15 falsity.

16 ~~K~~ L. The superintendent of a school district or chief administrator
17 of a charter school or the person's designee who is responsible for
18 implementing the governing board's policy regarding background investigations
19 required by subsection ~~F~~ G of this section and who fails to carry out that
20 responsibility is guilty of unprofessional conduct and shall be subject to
21 disciplinary action by the state board.

22 ~~L~~ M. A school district may hire noncertificated personnel before
23 receiving the results of the fingerprint check but may terminate employment
24 if the information on the form provided in subsection D of this section is
25 inconsistent with the information received from the fingerprint check. In
26 addition to any other conditions or requirements deemed necessary by the
27 superintendent of public instruction to protect the health and safety of
28 pupils, noncertificated personnel who are required or allowed unsupervised
29 contact with pupils may be hired by school districts before the results of a
30 fingerprint check are received if all of the following conditions are met:

31 1. The school district that is seeking to hire the applicant shall
32 document in the applicant's file the necessity for hiring and placement of
33 the applicant before a fingerprint check could be completed.

34 2. The school district that is seeking to hire the applicant shall do
35 all of the following:

36 (a) Ensure that the department of public safety completes a statewide
37 criminal history information check on the applicant. A statewide criminal
38 history information check shall be completed by the department of public
39 safety every one hundred twenty days until the date that the fingerprint
40 check is completed.

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

44 (c) Provide general supervision of the applicant until the date that
45 the fingerprint check is completed.

1 (d) Report to the superintendent of public instruction on June 30 and
2 December 31 the number of applicants hired before the completion of a
3 fingerprint check. In addition, the school district shall report the number
4 of applicants for whom fingerprint checks were not received after one hundred
5 twenty days and after one hundred seventy-five days of hire.

6 ~~M.~~ N. Notwithstanding any other law, this section does not apply to
7 pupils who attend school in a school district and who are also employed by a
8 school district.

9 ~~N.~~ O. A person who makes a false statement, representation or
10 certification in any application for employment with the school district is
11 guilty of a class 3 misdemeanor.

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

19 Sec. 10. Section 15-1330, Arizona Revised Statutes, is amended to
20 read:

21 15-1330. Fingerprinting personnel; affidavit

22 A. Certificated personnel employed by the schools shall have valid
23 fingerprint clearance cards issued pursuant to title 41, chapter 12, article
24 3.1 or shall apply for a fingerprint clearance card within seven working days
25 of employment.

26 B. In addition to the fingerprint requirement in subsection A of this
27 section, certificated employees shall submit a second set of fingerprints to
28 the school for the purposes of obtaining state and federal criminal records
29 checks. Employment with the schools is conditioned on the results of the
30 fingerprint check required under this subsection and the maintenance of the
31 certificate or license required for employment. Fingerprint checks shall be
32 conducted pursuant to section 41-1750 and Public Law 92-544. The
33 fingerprints shall be submitted on the form prescribed by the school.

34 C. Noncertificated personnel employed by the schools **BEFORE JULY 1,**
35 **2009** and nonpaid personnel working in the schools **BEFORE JULY 1, 2009** shall
36 be fingerprinted as a condition of employment for the purpose of obtaining
37 state and federal criminal records checks. Noncertificated employees and
38 nonpaid personnel shall submit fingerprints on the form prescribed by the
39 school to the superintendent within ~~twenty~~ **SEVEN WORKING** days after the date
40 an employee begins work. Employment with the schools is conditioned on the
41 results of the fingerprint check. Fingerprint checks shall be conducted
42 pursuant to section 41-1750 and Public Law 92-544.

43 **D. NONCERTIFICATED PERSONNEL WHO ARE INITIALLY HIRED AFTER JUNE 30,**
44 **2009 AND NONPAID PERSONNEL WHO BEGIN UNPAID SERVICE AFTER JUNE 30, 2009 MUST**

1 HAVE A VALID FINGERPRINT CLEARANCE CARD THAT IS ISSUED PURSUANT TO TITLE 41,
2 CHAPTER 12, ARTICLE 3.1.

3 ~~D.~~ E. The department of public safety may exchange the fingerprint
4 data collected pursuant to subsections B and C of this section with the
5 federal bureau of investigation.

6 ~~E.~~ F. The schools may charge the employee or nonpaid personnel for
7 the costs of the fingerprint checks.

8 ~~F.~~ G. Personnel employed by the schools shall certify on forms that
9 are provided by the schools and notarized that they are not awaiting trial on
10 and have never been convicted of or admitted in open court or pursuant to a
11 plea agreement of committing any criminal offenses in this state or similar
12 offenses in another state or jurisdiction as specified in section 41-1758.03,
13 subsections B and C.

14 ~~G.~~ H. Before employment, the schools shall make documented, good
15 faith efforts to contact previous employers of personnel to obtain
16 information and recommendations that may be relevant to a person's fitness
17 for employment. For certificated personnel, the schools may also contact the
18 department of education to obtain information that is contained in the
19 person's certification record and that may be relevant to the person's
20 fitness for employment. For persons in other positions that require
21 licensing, the schools may also contact the agency that issued the license
22 for information relevant to the person's fitness for employment. Agencies
23 and previous employers that provide information pursuant to this subsection
24 are immune from civil liability unless the information provided is false and
25 is acted on to the detriment of the employment applicant by the schools and
26 the previous employer or agency knows the information is false or acts with
27 reckless disregard of the truth or falsity of the information. Employees who
28 rely on information obtained pursuant to this subsection in making employment
29 decisions are immune from civil liability unless the information obtained is
30 false and the employee knows the information is false or acts with reckless
31 disregard of the truth or falsity of the information.

32 ~~H.~~ I. The superintendent shall notify the department of public safety
33 if the superintendent receives credible evidence that a person who possesses
34 a valid fingerprint clearance card either:

35 1. Is arrested for or charged with an offense listed in section
36 41-1758.03, subsection B.

37 2. Falsified information on the form required by subsection ~~F.~~ G of
38 this section.

39 Sec. 11. Section 36-594.01, Arizona Revised Statutes, is amended to
40 read:

41 36-594.01. Fingerprinting of contract providers and home and
42 community based service providers

43 A. The following persons shall be fingerprinted pursuant to ~~title 41,~~
44 ~~chapter 12, article 3.1~~ SECTION 41-1758.07:

1 1. A person who is paid or who volunteers to work in a facility or
2 program that is licensed by or that has entered into a contract with the
3 division of developmental disabilities to provide services to persons with
4 developmental disabilities.

5 2. A person who applies for certification as a home and community
6 based service provider.

7 B. A person who is required to be fingerprinted pursuant to subsection
8 A, paragraph 1 of this section shall have a valid fingerprint clearance card
9 or shall apply for a fingerprint clearance card before providing services to
10 persons with developmental disabilities.

11 C. A person who is required to be fingerprinted pursuant to subsection
12 A, paragraph 2 of this section shall not be certified unless the person has a
13 valid fingerprint clearance card or provides to the division of developmental
14 disabilities documentation of the person's application for a fingerprint
15 clearance card.

16 D. This section does not apply to home and community based service
17 providers who provide attendant care and who are immediate relatives with
18 whom the person with developmental disabilities resides.

19 E. Persons who are required to be fingerprinted pursuant to subsection
20 A of this section shall certify on forms that are provided by the department
21 whether the person is awaiting trial on or has been convicted of any of the
22 offenses listed in section ~~41-1758.03~~ 41-1758.07, subsections B and C.

23 F. The division of developmental disabilities in the department of
24 economic security shall notify the department of public safety if the
25 division receives credible evidence that a person who possesses a valid
26 fingerprint clearance card either:

27 1. Is arrested for or charged with an offense listed in section
28 ~~41-1758.03~~ 41-1758.07, subsection B OR C.

29 2. Falsified information on the form required by subsection E of this
30 section.

31 Sec. 12. Section 36-594.02, Arizona Revised Statutes, is amended to
32 read:

33 36-594.02. Fingerprinting of adult developmental home licensees
34 and child developmental foster home licensees

35 ~~If~~ A person who applies for a license for an adult developmental home
36 or a child developmental foster home ~~has not been previously fingerprinted~~
37 ~~for any other license, certificate or program with the division of~~
38 ~~developmental disabilities, the person who applies for such a license shall~~
39 have a valid fingerprint clearance card issued pursuant to ~~title 41, chapter~~
40 ~~12, article 3.1 or provide to the division documentation of the person's~~
41 ~~application for a fingerprint clearance card. Such a~~ SECTION 41-1758.07.
42 THE person shall certify on forms that are provided by the department whether
43 the person is awaiting trial on or has been convicted of any of the offenses
44 listed in section ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or
45 similar offenses in another state or jurisdiction.

1 Sec. 13. Section 36-882, Arizona Revised Statutes, is amended to read:
2 36-882. License; posting; transfer prohibited; fee; provisional
3 license; renewal

4 A. A child care facility shall not receive any child for care,
5 supervision or training unless the facility is licensed by the department of
6 health services.

7 B. An application for a license shall be made on a written or
8 electronic form prescribed by the department and shall include:

9 1. Information required by the department for the proper
10 administration of this chapter and rules adopted pursuant to this chapter.

11 2. The name and business or residential address of each controlling
12 person.

13 3. An affirmation by the applicant that no controlling person has been
14 denied a certificate to operate a child care group home or a license to
15 operate a child care facility for the care of children in this state or
16 another state or has had a license to operate a child care facility or a
17 certificate to operate a child care group home revoked for reasons that
18 relate to the endangerment of the health and safety of children.

19 C. An application for an initial license shall include:

20 1. The form ~~THAT IS~~ required pursuant to section 36-883.02, subsection
21 C ~~AND~~ that is completed by the applicant.

22 2. A copy of a valid fingerprint clearance card issued to the
23 applicant pursuant to ~~title 41, chapter 12, article 3.1~~ SECTION 41-1758.07.

24 3. If the applicant's facility is located within one-fourth mile of
25 any agricultural land, the names and addresses of the owners and lessees of
26 the agricultural land and a copy of the agreement required pursuant to
27 subsection D of this section.

28 D. The department shall deny any license that affects agricultural
29 land regulated pursuant to section 3-365, except that the owner of the
30 agricultural land may agree to comply with the buffer zone requirements of
31 section 3-365. If the owner agrees in writing to comply with the buffer zone
32 requirements and records the agreement in the office of the county recorder
33 as a restrictive covenant running with the title to the land, the department
34 may license the child care facility to be located within the affected buffer
35 zone. The agreement may include any stipulations regarding the child care
36 facility, including conditions for future expansion of the facility and
37 changes in the operational status of the facility that will result in a
38 breach of the agreement. This subsection shall not apply to the issuance or
39 renewal of a license for a child care facility located in the same location
40 for which a child care facility license was previously issued.

41 E. On receipt of an application for an initial license, the department
42 shall inspect the applicant's physical space, activities and standards of
43 care. If the department determines that the applicant and the applicant's
44 facility are in substantial compliance with this chapter and rules adopted
45 pursuant to this chapter and the applicant agrees to carry out a plan

1 acceptable to the department to eliminate any deficiencies, the department
2 shall issue an initial license to the applicant.

3 F. The fee for an initial application for licensure is one hundred
4 fifty dollars and is not refundable. The application fee is for the first
5 full licensure period, including any provisional period. The application fee
6 for renewal of a license is one hundred fifty dollars and is not refundable.
7 An applicant for renewal who fails to submit the application forty-five days
8 before the expiration of the license is subject to a fifty dollar late filing
9 fee. The department shall deposit, pursuant to sections 35-146 and 35-147,
10 late filing fees in the state general fund.

11 G. A license is valid for three years from the date of issuance and
12 shall specify the following:

- 13 1. The name of the applicant.
- 14 2. The exact address where the applicant will locate the facility.
- 15 3. The maximum number and age limitations of children that shall be
16 cared for at any one time.
- 17 4. The classification of services that the facility is licensed to
18 provide.

19 H. The department may issue a provisional license, not to exceed six
20 months, to an applicant or a licensed child care facility if:

- 21 1. The facility changes director.
- 22 2. The department determines that an applicant for an initial license
23 or a licensed child care facility is not in substantial compliance with this
24 chapter and rules adopted pursuant to this chapter and the immediate
25 interests of children, families and the general public are best served if the
26 child care facility or the applicant is given an opportunity to correct
27 deficiencies.

28 I. A provisional license shall state the reason for the provisional
29 status.

30 J. On the expiration of a provisional license, the department shall
31 issue a regular license for the remainder of the license period if the
32 department determines that the licensee and the child care facility are in
33 substantial compliance with this chapter and rules adopted pursuant to this
34 chapter and the applicant agrees to carry out a plan acceptable to the
35 department to eliminate any deficiencies.

36 K. Except as provided in section 36-893, subsection A, on receipt of a
37 renewal application that complies with this chapter and rules adopted
38 pursuant to this chapter, the department shall issue a renewal license to the
39 child care facility.

40 L. The licensee shall notify the department in writing within ten days
41 of any change in the child care facility's director.

42 M. The license is not transferable from person to person and is valid
43 only for the quarters occupied at the time of issuance.

44 N. The license shall be conspicuously posted in the child care
45 facility.

1 O. The licensee shall conspicuously post a schedule of fees charged
2 for services and the established policy for a refund of fees for services not
3 rendered.

4 P. The licensee shall keep current department inspection reports at
5 the child care facility and shall make them available to parents on request.
6 The licensee shall conspicuously post a notice that identifies the location
7 where these inspection reports are available for review.

8 Q. The department of health services shall notify the department of
9 public safety if the department of health services receives credible evidence
10 that a licensee who possesses a valid fingerprint clearance card either:

11 1. Is arrested for or charged with an offense listed in section
12 ~~41-1758.03~~ 41-1758.07, subsection B.

13 2. Falsified information on any form required by section 36-883.02.

14 Sec. 14. Section 36-883.02, Arizona Revised Statutes, is amended to
15 read:

16 36-883.02. Child care personnel; fingerprints; exemptions;
17 definition

18 A. Except as provided in subsection B of this section, child care
19 personnel, including volunteers, shall submit the form prescribed in
20 subsection C of this section to the employer and shall have valid fingerprint
21 clearance cards issued pursuant to ~~title 41, chapter 12, article 3.1~~ SECTION
22 41-1758.07 or shall apply for a fingerprint clearance card within seven
23 working days of employment or beginning volunteer work.

24 B. Exempt from the fingerprinting requirements of subsection A of this
25 section are parents, including foster parents and guardians, who are not
26 employees of the child care facility and who participate in activities with
27 their children under the supervision of and in the presence of child care
28 personnel.

29 C. Applicants, licensees and child care personnel shall attest on
30 forms that are provided by the department that:

31 1. They are not awaiting trial on or have never been convicted of or
32 admitted in open court or pursuant to a plea agreement committing any of the
33 offenses listed in section ~~41-1758.03~~ 41-1758.07, subsection B in this state
34 or similar offenses in another state or jurisdiction.

35 2. They are not parents or guardians of a child adjudicated to be a
36 dependent child as defined in section 8-201.

37 3. They have not been denied or had revoked a certificate to operate a
38 child care group home or a license to operate a child care facility in this
39 or any other state or that they have not been denied or had revoked a
40 certification to work in a child care facility or child care group home.

41 D. Employers of child care personnel shall make documented, good faith
42 efforts to contact previous employers of child care personnel to obtain
43 information or recommendations that may be relevant to an individual's
44 fitness for employment in a child care facility.

1 E. The forms required by subsection C of this section are
2 confidential.

3 F. A child care facility shall not allow a person to be employed or
4 volunteer in the facility in any capacity if the person has been denied a
5 fingerprint clearance card pursuant to ~~title 41, chapter 12, article 3.1~~
6 SECTION 41-1758.07 or has not received an interim approval from the board of
7 fingerprinting pursuant to section 41-619.55, subsection I.

8 G. The employer shall notify the department of public safety if the
9 employer receives credible evidence that any child care personnel either:

10 1. Is arrested for or charged with an offense listed in section
11 ~~41-1758.03~~ 41-1758.07, subsection B.

12 2. Falsified information on the form required by subsection C of this
13 section.

14 H. For the purposes of this section, "child care personnel" means any
15 employee or volunteer working at a child care facility.

16 Sec. 15. Section 36-897.01, Arizona Revised Statutes, is amended to
17 read:

18 36-897.01. Certification; application; fees; rules;
19 fingerprinting; renewal

20 A. A child care group home shall be certified by the department. An
21 application for a certificate shall be made on a written or electronic form
22 prescribed by the department and shall contain all information required by
23 the department.

24 B. If a child care group home is within one-fourth mile of agriculture
25 land, the application shall include the names and addresses of the owners and
26 lessees of any agricultural land within one-fourth mile of the facility.
27 Within ten days after receipt of an application for a certificate, the
28 department shall notify the owners and lessees of agricultural land as listed
29 on the application. The department shall deny a certificate that affects
30 agricultural land regulated pursuant to section 3-365, except that the owner
31 of the agricultural land may agree to comply with the buffer zone
32 requirements of section 3-365. If the owner agrees in writing to comply with
33 the buffer zone requirements and records the agreement in the office of the
34 county recorder as a restrictive covenant running with the title to the land,
35 the department may issue a certificate to the child care group home to be
36 located within the affected buffer zone. The agreement may include any
37 stipulations regarding the child care group home, including conditions for
38 future expansion of the facility and changes in the operational status of the
39 facility that will result in a breach of the agreement. This subsection
40 applies to the renewal of a certificate for a child care group home located
41 in the same location if the child care group home certificate was not
42 previously issued under this subsection.

1 C. An application for an initial certificate shall be accompanied by a
2 nonrefundable application fee of thirty dollars.

3 D. The department shall issue an initial certificate if the department
4 determines that the applicant and the applicant's child care group home are
5 in substantial compliance with the requirements of this article and
6 department rules and the facility agrees to carry out a plan acceptable to
7 the director to eliminate any deficiencies.

8 E. A certificate is valid for three years and may be renewed for
9 successive three-year periods by submitting a renewal application as
10 prescribed by the department and submitting a nonrefundable renewal
11 application fee of thirty dollars. An applicant for renewal who fails to
12 submit the application forty-five days before the expiration of the
13 certificate is subject to a twenty-five dollar late filing fee. Late filing
14 fees collected pursuant to this subsection shall be deposited, pursuant to
15 sections 35-146 and 35-147, in the state general fund.

16 F. In order to ensure that the equipment and services of a child care
17 group home and the good character of an applicant are conducive to the
18 welfare of children, the department by rule shall establish the criteria for
19 granting, denying, suspending and revoking a certificate.

20 G. The director shall adopt rules and prescribe forms as may be
21 necessary for the proper administration and enforcement of this article.

22 H. The certificate shall be conspicuously posted in the child care
23 group home for viewing by parents and the public.

24 I. Current department inspection reports shall be kept at the child
25 care group home and shall be made available to parents on request.

26 J. A certificate is not transferable and is valid only for the
27 location occupied at the time it is issued.

28 K. An application for an initial certificate shall include:

29 1. The form ~~THAT IS~~ required pursuant to section 36-897.03, subsection
30 B ~~AND~~ that is completed by the applicant.

31 2. A copy of a valid fingerprint clearance card issued to the
32 applicant pursuant to ~~title 41, chapter 12, article 3.1~~ SECTION 41-1758.07.

33 L. Except as provided in section 36-897.10, subsection A, on receipt
34 of a renewal application that complies with this chapter and rules adopted
35 pursuant to this chapter, the department shall issue a renewal certificate to
36 the child care group home.

37 M. The department of health services shall notify the department of
38 public safety if the department of health services receives credible evidence
39 that a person who possesses a valid fingerprint clearance card either:

40 1. Is arrested for or charged with an offense listed in section
41 ~~41-1758.03~~ 41-1758.07, subsection B.

42 2. Falsified information on any form required by section 36-897.03.

1 H. The employer shall notify the department of public safety if the
2 employer receives credible evidence that any child care personnel either:

3 1. Is arrested for or charged with an offense listed in section
4 ~~41-1758.03~~ 41-1758.07, subsection B.

5 2. Falsified information on the form required by subsection B of this
6 section.

7 I. For the purposes of this section, "child care personnel" means all
8 employees of and persons who are eighteen years of age or older and who
9 reside in a child care group home that is certified by the department.

10 Sec. 17. Section 41-619.51, Arizona Revised Statutes, is amended to
11 read:

12 41-619.51. Definitions

13 In this article, unless the context otherwise requires:

14 1. "Agency" means the supreme court, the department of economic
15 security, the department of education, the department of health services, the
16 department of juvenile corrections, the department of emergency and military
17 affairs or the board of examiners of nursing care institution administrators
18 and assisted living facility managers.

19 2. "Board" means the board of fingerprinting.

20 3. "Expedited review" means an examination, in accordance with board
21 rule, of the documents an applicant submits by the board or its hearing
22 officer without the applicant being present.

23 4. "Good cause exception" means the issuance of a fingerprint
24 clearance card to an employee pursuant to section 41-619.55.

25 5. "Person" means a person who is required to be fingerprinted
26 pursuant to this article and any of the following:

27 (a) Section 8-105.

28 (b) Section 8-322.

29 (c) Section 8-509.

30 (d) Section 8-802.

31 (e) Section 15-183.

32 (f) SECTION 15-512.

33 ~~(f)~~ (g) Section 15-534.

34 ~~(g)~~ (h) Section 15-1330.

35 ~~(h)~~ (i) Section 15-1881.

36 ~~(i)~~ (j) Section 26-103.

37 ~~(j)~~ (k) Section 36-411.

38 ~~(k)~~ (l) Section 36-425.03.

39 ~~(l)~~ (m) Section 36-446.04.

40 ~~(m)~~ (n) Section 36-594.01.

41 ~~(n)~~ (o) Section 36-594.02.

42 ~~(o)~~ (p) Section 36-882.

43 ~~(p)~~ (q) Section 36-883.02.

44 ~~(q)~~ (r) Section 36-897.01.

45 ~~(r)~~ (s) Section 36-897.03.

1 1. Determine good cause exceptions pursuant to section 41-619.55. The
2 board may appoint a hearing officer to recommend that an applicant be granted
3 or denied a good cause exception after the hearing officer conducts an
4 expedited review or a good cause exception hearing.

5 2. Adopt rules to implement this article, including rules to establish
6 good cause exceptions for the issuance of fingerprint clearance cards
7 pursuant to ~~section~~ SECTIONS 41-1758.03 AND 41-1758.07. This rule making is
8 exempt from the requirements of chapter 6 of this title.

9 3. Administer and enforce this article and rules adopted pursuant to
10 this article.

11 4. Furnish a copy of its rules, on request, to all applicants who
12 petition the board for a good cause exception pursuant to ~~section~~ SECTIONS
13 41-1758.03 AND 41-1758.07 and, on request, to licensees, contract providers
14 and state agencies.

15 5. Establish fees.

16 B. In order to grant a good cause exception, a majority plus an
17 additional member, of the members present, must vote to approve the
18 application. If the board grants a good cause exception, the board shall
19 request in writing that the department of public safety issue a card to the
20 applicant.

21 C. The board may employ clerical, professional and technical personnel
22 subject to fee monies that are collected and to the budget that is approved
23 by the board members and shall prescribe personnel duties and determine
24 personnel compensation. Personnel employed by the board must have a valid
25 fingerprint clearance card issued pursuant to ~~chapter 12, article 3.1 of this~~
26 ~~title~~ SECTION 41-1758.07. If the applicant is denied a fingerprint clearance
27 card, in order to be employed by the board, the board must grant a good cause
28 exception pursuant to this article by a unanimous vote.

29 D. In making any recommendation to the board to grant or deny a good
30 cause exception, the hearing officer shall consider all of the reasons and
31 criteria prescribed in section 41-619.55, subsection E.

32 E. Members and employees of the board are not liable for acts done or
33 actions taken by any board member or employee if the members or employees act
34 in good faith following the requirements of this article.

35 Sec. 20. Section 41-619.54, Arizona Revised Statutes, is amended to
36 read:

37 41-619.54. Confidentiality of criminal record information;
38 exception; reporting

39 A. All criminal history record information that is maintained by the
40 board is confidential, except that criminal history record information may be
41 disclosed pursuant to a determination for a good cause exception pursuant to
42 section 41-619.55.

43 B. Persons who are present at a good cause exception hearing shall not
44 discuss or share any criminal history record information outside of the good
45 cause exception hearing.

1 C. Except as provided in subsection D of this section, criminal
2 history record information and good cause exception determinations and
3 hearings are exempt from title 39, chapter 1.

4 D. On or before December 1 of each year the board shall report the
5 number of applications for a good cause exception and the number of good
6 cause exceptions that were granted for the twelve month period ending
7 September 30. The report shall itemize the number of applications and the
8 number of applications granted for each of the sections listed in section
9 41-619.51, paragraph ~~6~~ 5. For each of these sections, the report shall
10 further itemize each offense listed in section 41-1758.03, subsections B and
11 C AND SECTION 41-1758.07, SUBSECTIONS B AND C for which a good cause
12 exception was applied for and for which a good cause exception was granted.
13 The board shall provide a copy of the report to the governor, the speaker of
14 the house of representatives and the president of the senate.

15 Sec. 21. Section 41-619.55, Arizona Revised Statutes, is amended to
16 read:

17 41-619.55. Good cause exceptions; expedited review; hearing;
18 revocation

19 A. The board shall determine good cause exceptions. The board shall
20 determine a good cause exception after an expedited review or after a good
21 cause exception hearing. The board shall conduct an expedited review within
22 twenty days after receiving an application for a good cause exception.

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

29 C. When determining whether a person is eligible to receive a good
30 cause exception under an expedited review, the board shall consider whether
31 the person has shown to the board's satisfaction that the person is not
32 awaiting trial on or has not been convicted of committing any of the offenses
33 listed in section 41-1758.03, subsection B OR SECTION 41-1758.07, SUBSECTION
34 B or that the person is successfully rehabilitated and is not a recidivist.
35 Before granting a good cause exception under an expedited review, the board
36 shall consider all of the criteria listed in subsection E of this section.

37 D. The following persons shall be present during good cause exception
38 hearings:

39 1. The board or its hearing officer.

40 2. The person who requested the good cause exception hearing. The
41 person may be accompanied by a representative at the hearing.

42 E. The board may grant a good cause exception at a hearing if the
43 person shows to the board's satisfaction that the person is not awaiting
44 trial on or has not been convicted of committing any of the offenses listed
45 in section 41-1758.03, subsection B OR SECTION 41-1758.07, SUBSECTION B or

1 that the person is successfully rehabilitated and is not a recidivist.
2 Notwithstanding any other law, the board may require applicants to disclose
3 evidence regarding substantiated allegations of child abuse or neglect for
4 consideration in determining an applicant's successful rehabilitation. The
5 board shall grant or deny a good cause exception within eighty days after the
6 good cause exception hearing. Before granting a good cause exception at a
7 hearing the board shall consider all of the following in accordance with
8 board rule:

- 9 1. The extent of the person's criminal record.
- 10 2. The length of time that has elapsed since the offense was
11 committed.
- 12 3. The nature of the offense.
- 13 4. Any applicable mitigating circumstances.
- 14 5. The degree to which the person participated in the offense.
- 15 6. The extent of the person's rehabilitation, including:
 - 16 (a) Completion of probation, parole or community supervision.
 - 17 (b) Whether the person paid restitution or other compensation for the
18 offense.

19 (c) Evidence of positive action to change criminal behavior, such as
20 completion of a drug treatment program or counseling.

21 (d) Personal references attesting to the person's rehabilitation.

22 F. If the board grants a good cause exception to a person, the board
23 shall request in writing that the department of public safety issue a
24 fingerprint clearance card to the person.

25 G. The board's staff, under the direction of the executive director of
26 the board, shall review reports it receives of the arrest, charging or
27 conviction of a person for offenses listed in ~~section~~ **SECTIONS** 41-1758.03 **AND**
28 **41-1758.07** who previously received a fingerprint clearance card. Except as
29 provided by subsection J of this section, the executive director shall report
30 any arrest, charge or conviction of a prohibited crime to the state agencies
31 listed on the applicant's fingerprint clearance card application.

32 H. The board may request in writing that the department of public
33 safety revoke a person's fingerprint clearance card pursuant to section
34 41-1758.04 if the person received a fingerprint clearance card and the person
35 is subsequently convicted of an offense listed in section 41-1758.03,
36 subsection B or C **OR SECTION 41-1758.07, SUBSECTION B OR C.**

37 I. Pending the outcome of a good cause exception determination, the
38 board or its hearing officer may issue interim approval in accordance with
39 board rule to continue working to a good cause exception applicant.

40 J. If the board's staff, under the direction of the executive
41 director, receives a report of an arrest, charging or conviction of a
42 prohibited crime for a person who previously received a fingerprint clearance
43 card pursuant to section 15-1881, the executive director shall not report
44 this information to the state agency that is listed on the applicant's

1 fingerprint clearance card application but shall notify the person issued the
2 fingerprint clearance card of the report.

3 K. The board is exempt from ~~title 41~~, chapter 6, article 10 OF THIS
4 TITLE.

5 L. A person who is required to obtain a fingerprint clearance card
6 pursuant to section 41-619.52 is not eligible to receive a good cause
7 exception pursuant to this section.

8 Sec. 22. Section 41-1758, Arizona Revised Statutes, is amended to
9 read:

10 41-1758. Definitions

11 In this article, unless the context otherwise requires:

12 1. "Agency" means the supreme court, the department of economic
13 security, the department of education, the department of health services, the
14 department of juvenile corrections, the department of emergency and military
15 affairs, the board of fingerprinting or the board of examiners of nursing
16 care institution administrators and assisted living facility managers.

17 2. "Division" means the fingerprinting division in the department of
18 public safety.

19 3. "Good cause exception" means the issuance of a fingerprint
20 clearance card to an employee pursuant to section 41-619.55.

21 4. "Person" means a person who is required to be fingerprinted
22 pursuant to any of the following:

- 23 (a) Section 8-105.
- 24 (b) Section 8-322.
- 25 (c) Section 8-509.
- 26 (d) Section 8-802.
- 27 (e) Section 15-183.
- 28 (f) SECTION 15-512.
- 29 ~~(f)~~ (g) Section 15-534.
- 30 ~~(g)~~ (h) Section 15-1330.
- 31 ~~(h)~~ (i) Section 15-1881.
- 32 ~~(i)~~ (j) Section 26-103.
- 33 ~~(j)~~ (k) Section 36-411.
- 34 ~~(k)~~ (l) Section 36-425.03.
- 35 ~~(l)~~ (m) Section 36-446.04.
- 36 ~~(m)~~ (n) Section 36-594.01.
- 37 ~~(n)~~ (o) Section 36-594.02.
- 38 ~~(o)~~ (p) Section 36-882.
- 39 ~~(p)~~ (q) Section 36-883.02.
- 40 ~~(q)~~ (r) Section 36-897.01.
- 41 ~~(r)~~ (s) Section 36-897.03.
- 42 ~~(s)~~ (t) Section 36-3008.
- 43 ~~(t)~~ (u) Section 41-619.52.
- 44 ~~(u)~~ (v) Section 41-619.53.
- 45 ~~(v)~~ (w) Section 41-1964.

1 ~~(w)~~ (x) Section 41-1967.01.

2 ~~(x)~~ (y) Section 41-1968.

3 ~~(y)~~ (z) Section 41-1969.

4 ~~(z)~~ (aa) Section 41-2814.

5 ~~(aa)~~ (bb) Section 46-141, subsection A.

6 ~~(bb)~~ (cc) Section 46-321.

7 5. "Vulnerable adult" has the same meaning prescribed in
8 section 13-3623.

9 Sec. 23. Section 41-1758.01, Arizona Revised Statutes, is amended to
10 read:

11 41-1758.01. Fingerprinting division; duties

12 The fingerprinting division is established in the department of public
13 safety and shall:

14 1. Conduct fingerprint background checks for persons and applicants
15 who are seeking employment with licensees, contract providers and state
16 agencies or seeking employment or educational opportunities with agencies
17 that require fingerprint background checks pursuant to sections 8-105, 8-322,
18 8-509, 8-802, 15-183, 15-512, 15-534, 15-1330, 15-1881, 26-103, 36-411,
19 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01,
20 36-897.03, 36-3008, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968,
21 41-1969 and 41-2814, section 46-141, subsection A and section 46-321.

22 2. Issue fingerprint clearance cards. On issuance, a fingerprint
23 clearance card becomes the personal property of the cardholder and the
24 cardholder shall retain possession of the fingerprint clearance card.

25 3. On submission of an application for a fingerprint clearance card,
26 collect the fees established by the board of fingerprinting pursuant to
27 section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the
28 monies collected in the board of fingerprinting fund.

29 4. Inform in writing each person who submits fingerprints for a
30 fingerprint background check of the person's right to petition the board of
31 fingerprinting for a good cause exception pursuant to ~~section~~ SECTIONS
32 41-1758.03 AND 41-1758.07.

33 5. Administer and enforce this article.

34 Sec. 24. Section 41-1758.03, Arizona Revised Statutes, is amended to
35 read:

36 41-1758.03. Fingerprint clearance cards; issuance; immunity

37 A. On receiving the state and federal criminal history record of a
38 person, the division shall compare the record with the list of criminal
39 offenses that preclude the person from receiving a fingerprint clearance
40 card. If the person's criminal history record does not contain any of the
41 offenses listed in subsections B and C of this section, the division shall
42 issue the person a fingerprint clearance card.

43 B. A person who is subject to registration as a sex offender in this
44 state or any other jurisdiction or who is awaiting trial on or who has been
45 convicted of committing or attempting, soliciting, facilitating or conspiring

- 1 to commit one or more of the following offenses in this state or the same or
2 similar offenses in another state or jurisdiction is precluded from receiving
3 a fingerprint clearance card:
- 4 1. Sexual abuse of a vulnerable adult.
 - 5 2. Incest.
 - 6 3. First or second degree murder.
 - 7 4. Sexual assault.
 - 8 5. Sexual exploitation of a minor.
 - 9 6. Sexual exploitation of a vulnerable adult.
 - 10 7. Commercial sexual exploitation of a minor.
 - 11 8. Commercial sexual exploitation of a vulnerable adult.
 - 12 9. Child prostitution as prescribed in section 13-3212.
 - 13 10. Child abuse.
 - 14 11. Abuse of a vulnerable adult.
 - 15 12. Sexual conduct with a minor.
 - 16 13. Molestation of a child.
 - 17 14. Molestation of a vulnerable adult.
 - 18 15. A dangerous crime against children as defined in section 13-705.
 - 19 16. Exploitation of minors involving drug offenses.
 - 20 17. Taking a child for the ~~purposes~~ PURPOSE of prostitution as
21 prescribed in section 13-3206.
 - 22 18. Neglect or abuse of a vulnerable adult.
 - 23 19. Sex trafficking.
 - 24 20. Sexual abuse.
 - 25 21. Production, publication, sale, possession and presentation of
26 obscene items as prescribed in section 13-3502.
 - 27 22. Furnishing harmful items to minors as prescribed in section
28 13-3506.
 - 29 23. Furnishing harmful items to minors by internet activity as
30 prescribed in section 13-3506.01.
 - 31 24. Obscene or indecent telephone communications to minors for
32 commercial purposes as prescribed in section 13-3512.
 - 33 25. Luring a minor for sexual exploitation.
 - 34 26. Enticement of persons for purposes of prostitution.
 - 35 27. Procurement by false pretenses of person for purposes of
36 prostitution.
 - 37 28. Procuring or placing persons in a house of prostitution.
 - 38 29. Receiving earnings of a prostitute.
 - 39 30. Causing one's spouse to become a prostitute.
 - 40 31. Detention of persons in a house of prostitution for debt.
 - 41 32. Keeping or residing in a house of prostitution or employment in
42 prostitution.
 - 43 33. Pandering.
 - 44 34. Transporting persons for the purpose of prostitution, polygamy and
45 concubinage.

1 35. Portraying adult as a minor as prescribed in section 13-3555.

2 36. Admitting minors to public displays of sexual conduct as prescribed
3 in section 13-3558.

4 37. UNLAWFUL SALE OR PURCHASE OF CHILDREN.

5 38. CHILD BIGAMY.

6 C. A person who is awaiting trial on or who has been convicted of
7 committing or attempting, soliciting, facilitating or conspiring to commit
8 one or more of the following offenses in this state or the same or similar
9 offenses in another state or jurisdiction is precluded from receiving a
10 fingerprint clearance card, except that the person may petition the board of
11 fingerprinting for a good cause exception pursuant to section 41-619.55:

12 1. Manslaughter.

13 2. Endangerment.

14 3. Threatening or intimidating.

15 4. Assault.

16 5. Unlawfully administering intoxicating liquors, narcotic drugs or
17 dangerous drugs.

18 6. Assault by vicious animals.

19 7. Drive by shooting.

20 8. Assaults on officers or fire fighters.

21 9. Discharging a firearm at a structure.

22 10. Indecent exposure.

23 11. Public sexual indecency.

24 12. Aggravated criminal damage.

25 13. Theft.

26 14. Theft by extortion.

27 15. Shoplifting.

28 16. Forgery.

29 17. Criminal possession of a forgery device.

30 18. Obtaining a signature by deception.

31 19. Criminal impersonation.

32 20. Theft of a credit card or obtaining a credit card by fraudulent
33 means.

34 21. Receipt of anything of value obtained by fraudulent use of a credit
35 card.

36 22. Forgery of a credit card.

37 23. Fraudulent use of a credit card.

38 24. Possession of any machinery, plate or other contrivance or
39 incomplete credit card.

40 25. False statement as to financial condition or identity to obtain a
41 credit card.

42 26. Fraud by persons authorized to provide goods or services.

43 27. Credit card transaction record theft.

44 28. Misconduct involving weapons.

45 29. Misconduct involving explosives.

- 1 30. Depositing explosives.
- 2 31. Misconduct involving simulated explosive devices.
- 3 32. Concealed weapon violation.
- 4 33. Possession and sale of peyote.
- 5 34. Possession and sale of a vapor-releasing substance containing a
6 toxic substance.
- 7 35. Sale of precursor chemicals.
- 8 36. Possession, use or sale of marijuana, dangerous drugs or narcotic
9 drugs.
- 10 37. Manufacture or distribution of an imitation controlled substance.
- 11 38. Manufacture or distribution of an imitation prescription-only drug.
- 12 39. Manufacture or distribution of an imitation over-the-counter drug.
- 13 40. Possession or possession with intent to use an imitation controlled
14 substance.
- 15 41. Possession or possession with intent to use an imitation
16 prescription-only drug.
- 17 42. Possession or possession with intent to use an imitation
18 over-the-counter drug.
- 19 43. Manufacture of certain substances and drugs by certain means.
- 20 44. Adding poison or other harmful substance to food, drink or
21 medicine.
- 22 45. A criminal offense involving criminal trespass and burglary under
23 title 13, chapter 15.
- 24 46. A criminal offense under title 13, chapter 23.
- 25 47. Child neglect.
- 26 48. Misdemeanor offenses involving contributing to the delinquency of a
27 minor.
- 28 49. Offenses involving domestic violence.
- 29 50. Arson.
- 30 51. Kidnapping.
- 31 52. Felony offenses involving sale, distribution or transportation of,
32 offer to sell, transport or distribute or conspiracy to sell, transport or
33 distribute marijuana, dangerous drugs or narcotic drugs.
- 34 53. Robbery.
- 35 54. Aggravated assault.
- 36 55. Felony offenses involving contributing to the delinquency of a
37 minor.
- 38 56. Negligent homicide.
- 39 57. Criminal damage.
- 40 58. Misappropriation of charter school monies as prescribed in section
41 13-1818.
- 42 59. Taking identity of another person or entity.
- 43 60. Aggravated taking identity of another person or entity.
- 44 61. Trafficking in the identity of another person or entity.
- 45 62. Cruelty to animals.

1 63. Prostitution.

2 64. Sale or distribution of material harmful to minors through vending
3 machines as prescribed in section 13-3513.

4 65. Welfare fraud.

5 D. A person who is awaiting trial on or who has been convicted of
6 committing or attempting ~~or conspiring~~ to commit a violation of section
7 28-1381, 28-1382 or 28-1383 in this state or the same or similar offense in
8 another state or jurisdiction within five years from the date of applying for
9 a fingerprint clearance card is precluded from driving any vehicle to
10 transport employees or clients of the employing agency as part of the
11 person's employment. The division shall place a notation on the fingerprint
12 clearance card that indicates this driving restriction. This subsection does
13 not preclude a person from driving a vehicle alone as part of the person's
14 employment.

15 E. Notwithstanding subsection C of this section, on receiving written
16 notice from the board of fingerprinting that a good cause exception was
17 granted pursuant to section 41-619.55, the division shall issue a fingerprint
18 clearance card to the person.

19 F. If the division denies a person's application for a fingerprint
20 clearance card pursuant to subsection C of this section and a good cause
21 exception is requested pursuant to section 41-619.55, the division shall
22 release, on request by the board of fingerprinting, the person's criminal
23 history record to the board of fingerprinting.

24 G. A person shall be granted a fingerprint clearance card if either of
25 the following applies:

26 1. An agency granted a good cause exception before August 16, 1999 and
27 no new precluding offense is identified. The fingerprint clearance card
28 shall specify only the program that granted the good cause exception. On the
29 request of the applicant, the agency that granted the prior good cause
30 exception shall notify the division in writing of the date on which the prior
31 good cause exception was granted and the date of the conviction and the name
32 of the offense for which the good cause exception was granted.

33 2. The board granted a good cause exception and no new precluding
34 offense is identified. ~~The fingerprint clearance card shall specify the~~
35 ~~programs for which the board granted the good cause exception.~~

36 H. The licensee or contract provider shall assume the costs of
37 fingerprint checks and may charge these costs to persons required to be
38 fingerprinted.

39 I. A person who is under eighteen years of age or who is at least
40 ninety-nine years of age is exempt from the fingerprint clearance card
41 requirements of this section. At all times the person shall be under the
42 direct visual supervision of personnel who have valid fingerprint clearance
43 cards.

1 J. The division may conduct periodic state criminal history records
2 checks for the purpose of updating the clearance status of current
3 fingerprint clearance card holders and may notify the board of fingerprinting
4 and the agency employing the person of the results of the records check.

5 K. The division shall revoke a person's fingerprint clearance card on
6 receipt of a written request for revocation from the board of fingerprinting
7 pursuant to section 41-619.55.

8 L. The division shall not issue a fingerprint clearance card to a
9 person if the division cannot determine, within thirty business days after
10 receipt of the person's state and federal criminal history record
11 information, whether the person is awaiting trial on or has been convicted of
12 committing any of the offenses listed in subsection B or C of this section.
13 If the division is unable to make the determination required by this section
14 and does not issue a fingerprint clearance card to a person, the person may
15 request a good cause exception pursuant to section 41-619.55.

16 M. Except as provided in subsection N of this section, if after
17 conducting a state and federal criminal history ~~record~~ RECORDS check the
18 division determines that it is not authorized to issue a fingerprint
19 clearance card to a person, the division shall notify the agency that
20 licenses or employs the person that the division is not authorized to issue a
21 fingerprint clearance card. This notice shall include the criminal history
22 information on which the denial was based. This criminal history information
23 is subject to dissemination restrictions pursuant to section 41-1750 and
24 Public Law 92-544.

25 N. If, after conducting a state and federal criminal history ~~record~~
26 RECORDS check on a person who requests a fingerprint clearance card pursuant
27 to section 15-1881, the division determines that it is not authorized to
28 issue a fingerprint clearance card to the person, the division shall not
29 notify the agency. The division shall notify the person who requested the
30 card that the division is not authorized to issue a fingerprint clearance
31 card.

32 O. The division is not liable for damages resulting from:

33 1. The issuance of a fingerprint clearance card to a person who is
34 later found to have been ineligible to receive a fingerprint clearance card
35 at the time the card was issued.

36 2. The denial of a fingerprint clearance card to a person who is later
37 found to have been eligible to receive a fingerprint clearance card at the
38 time issuance of the card was denied.

39 P. The issuance of a fingerprint clearance card does not entitle a
40 person to employment.

41 Q. NOTWITHSTANDING ANY LAW TO THE CONTRARY, A PERSON MAY APPLY FOR AND
42 RECEIVE A LEVEL I FINGERPRINT CLEARANCE CARD PURSUANT TO SECTION 41-1758.07
43 TO SATISFY A REQUIREMENT THAT THE PERSON HAVE A VALID FINGERPRINT CLEARANCE
44 CARD ISSUED PURSUANT TO THIS SECTION.

- 1 8. COMMERCIAL SEXUAL EXPLOITATION OF A VULNERABLE ADULT.
- 2 9. CHILD PROSTITUTION AS PRESCRIBED IN SECTION 13-3212.
- 3 10. CHILD ABUSE.
- 4 11. FELONY CHILD NEGLECT.
- 5 12. ABUSE OF A VULNERABLE ADULT.
- 6 13. SEXUAL CONDUCT WITH A MINOR.
- 7 14. MOLESTATION OF A CHILD.
- 8 15. MOLESTATION OF A VULNERABLE ADULT.
- 9 16. DANGEROUS CRIMES AGAINST CHILDREN AS DEFINED IN SECTION 13-705.
- 10 17. EXPLOITATION OF MINORS INVOLVING DRUG OFFENSES.
- 11 18. TAKING A CHILD FOR THE PURPOSE OF PROSTITUTION AS PRESCRIBED IN
- 12 SECTION 13-3206.
- 13 19. NEGLECT OR ABUSE OF A VULNERABLE ADULT.
- 14 20. SEX TRAFFICKING.
- 15 21. SEXUAL ABUSE.
- 16 22. PRODUCTION, PUBLICATION, SALE, POSSESSION AND PRESENTATION OF
- 17 OBSCENE ITEMS AS PRESCRIBED IN SECTION 13-3502.
- 18 23. FURNISHING HARMFUL ITEMS TO MINORS AS PRESCRIBED IN SECTION
- 19 13-3506.
- 20 24. FURNISHING HARMFUL ITEMS TO MINORS BY INTERNET ACTIVITY AS
- 21 PRESCRIBED IN SECTION 13-3506.01.
- 22 25. OBSCENE OR INDECENT TELEPHONE COMMUNICATIONS TO MINORS FOR
- 23 COMMERCIAL PURPOSES AS PRESCRIBED IN SECTION 13-3512.
- 24 26. LURING A MINOR FOR SEXUAL EXPLOITATION.
- 25 27. ENTICEMENT OF PERSONS FOR PURPOSES OF PROSTITUTION.
- 26 28. PROCUREMENT BY FALSE PRETENSES OF PERSON FOR PURPOSES OF
- 27 PROSTITUTION.
- 28 29. PROCURING OR PLACING PERSONS IN A HOUSE OF PROSTITUTION.
- 29 30. RECEIVING EARNINGS OF A PROSTITUTE.
- 30 31. CAUSING ONE'S SPOUSE TO BECOME A PROSTITUTE.
- 31 32. DETENTION OF PERSONS IN A HOUSE OF PROSTITUTION FOR DEBT.
- 32 33. KEEPING OR RESIDING IN A HOUSE OF PROSTITUTION OR EMPLOYMENT IN
- 33 PROSTITUTION.
- 34 34. PANDERING.
- 35 35. TRANSPORTING PERSONS FOR THE PURPOSE OF PROSTITUTION, POLYGAMY AND
- 36 CONCUBINAGE.
- 37 36. PORTRAYING ADULT AS A MINOR AS PRESCRIBED IN SECTION 13-3555.
- 38 37. ADMITTING MINORS TO PUBLIC DISPLAYS OF SEXUAL CONDUCT AS PRESCRIBED
- 39 IN SECTION 13-3558.
- 40 38. ANY FELONY OFFENSE INVOLVING CONTRIBUTING TO THE DELINQUENCY OF A
- 41 MINOR.
- 42 39. UNLAWFUL SALE OR PURCHASE OF CHILDREN.
- 43 40. CHILD BIGAMY.

1 41. ANY FELONY OFFENSE INVOLVING DOMESTIC VIOLENCE AS DEFINED IN
2 SECTION 13-3601 EXCEPT FOR A FELONY OFFENSE ONLY INVOLVING CRIMINAL DAMAGE IN
3 AN AMOUNT OF MORE THAN TWO HUNDRED FIFTY DOLLARS BUT LESS THAN ONE THOUSAND
4 DOLLARS IF THE OFFENSE WAS COMMITTED BEFORE THE EFFECTIVE DATE OF THIS
5 SECTION.

6 42. ANY FELONY OFFENSE IN VIOLATION OF TITLE 13, CHAPTER 12 IF
7 COMMITTED WITHIN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A LEVEL I
8 FINGERPRINT CLEARANCE CARD.

9 43. FELONY DRUG OR ALCOHOL RELATED OFFENSES IF COMMITTED WITHIN FIVE
10 YEARS BEFORE THE DATE OF APPLYING FOR A LEVEL I FINGERPRINT CLEARANCE CARD.

11 44. FELONY INDECENT EXPOSURE.

12 45. FELONY PUBLIC SEXUAL INDECENCY.

13 46. TERRORISM.

14 47. ANY OFFENSE INVOLVING A VIOLENT CRIME AS DEFINED IN SECTION
15 13-901.03.

16 C. A PERSON WHO IS AWAITING TRIAL ON OR WHO HAS BEEN CONVICTED OF
17 COMMITTING OR ATTEMPTING, SOLICITING, FACILITATING OR CONSPIRING TO COMMIT
18 ONE OR MORE OF THE FOLLOWING OFFENSES IN THIS STATE OR THE SAME OR SIMILAR
19 OFFENSES IN ANOTHER STATE OR JURISDICTION IS PRECLUDED FROM RECEIVING A LEVEL
20 I FINGERPRINT CLEARANCE CARD, EXCEPT THAT THE PERSON MAY PETITION THE BOARD
21 OF FINGERPRINTING FOR A GOOD CAUSE EXCEPTION PURSUANT TO SECTION 41-619.55:

22 1. ANY MISDEMEANOR OFFENSE IN VIOLATION OF TITLE 13, CHAPTER 12.

23 2. MISDEMEANOR INDECENT EXPOSURE.

24 3. MISDEMEANOR PUBLIC SEXUAL INDECENCY.

25 4. AGGRAVATED CRIMINAL DAMAGE.

26 5. THEFT.

27 6. THEFT BY EXTORTION.

28 7. SHOPLIFTING.

29 8. FORGERY.

30 9. CRIMINAL POSSESSION OF A FORGERY DEVICE.

31 10. OBTAINING A SIGNATURE BY DECEPTION.

32 11. CRIMINAL IMPERSONATION.

33 12. THEFT OF A CREDIT CARD OR OBTAINING A CREDIT CARD BY FRAUDULENT
34 MEANS.

35 13. RECEIPT OF ANYTHING OF VALUE OBTAINED BY FRAUDULENT USE OF A CREDIT
36 CARD.

37 14. FORGERY OF A CREDIT CARD.

38 15. FRAUDULENT USE OF A CREDIT CARD.

39 16. POSSESSION OF ANY MACHINERY, PLATE OR OTHER CONTRIVANCE OR
40 INCOMPLETE CREDIT CARD.

41 17. FALSE STATEMENT AS TO FINANCIAL CONDITION OR IDENTITY TO OBTAIN A
42 CREDIT CARD.

43 18. FRAUD BY PERSONS AUTHORIZED TO PROVIDE GOODS OR SERVICES.

44 19. CREDIT CARD TRANSACTION RECORD THEFT.

45 20. MISCONDUCT INVOLVING WEAPONS.

- 1 21. MISCONDUCT INVOLVING EXPLOSIVES.
- 2 22. DEPOSITING EXPLOSIVES.
- 3 23. MISCONDUCT INVOLVING SIMULATED EXPLOSIVE DEVICES.
- 4 24. CONCEALED WEAPON VIOLATION.
- 5 25. MISDEMEANOR POSSESSION AND MISDEMEANOR SALE OF PEYOTE.
- 6 26. FELONY POSSESSION AND FELONY SALE OF PEYOTE IF COMMITTED MORE THAN
- 7 FIVE YEARS BEFORE THE DATE OF APPLYING FOR A LEVEL I FINGERPRINT CLEARANCE
- 8 CARD.
- 9 27. MISDEMEANOR POSSESSION AND MISDEMEANOR SALE OF A VAPOR-RELEASING
- 10 SUBSTANCE CONTAINING A TOXIC SUBSTANCE.
- 11 28. FELONY POSSESSION AND FELONY SALE OF A VAPOR-RELEASING SUBSTANCE
- 12 CONTAINING A TOXIC SUBSTANCE IF COMMITTED MORE THAN FIVE YEARS BEFORE THE
- 13 DATE OF APPLYING FOR A LEVEL I FINGERPRINT CLEARANCE CARD.
- 14 29. MISDEMEANOR SALE OF PRECURSOR CHEMICALS.
- 15 30. FELONY SALE OF PRECURSOR CHEMICALS IF COMMITTED MORE THAN FIVE
- 16 YEARS BEFORE THE DATE OF APPLYING FOR A LEVEL I FINGERPRINT CLEARANCE CARD.
- 17 31. MISDEMEANOR POSSESSION, MISDEMEANOR USE OR MISDEMEANOR SALE OF
- 18 MARIJUANA, DANGEROUS DRUGS OR NARCOTIC DRUGS.
- 19 32. FELONY POSSESSION, FELONY USE OR FELONY SALE OF MARIJUANA,
- 20 DANGEROUS DRUGS OR NARCOTIC DRUGS IF COMMITTED MORE THAN FIVE YEARS BEFORE
- 21 THE DATE OF APPLYING FOR A LEVEL I FINGERPRINT CLEARANCE CARD.
- 22 33. MISDEMEANOR MANUFACTURE OR MISDEMEANOR DISTRIBUTION OF AN IMITATION
- 23 CONTROLLED SUBSTANCE.
- 24 34. FELONY MANUFACTURE OR FELONY DISTRIBUTION OF AN IMITATION
- 25 CONTROLLED SUBSTANCE IF COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF
- 26 APPLYING FOR A LEVEL I FINGERPRINT CLEARANCE CARD.
- 27 35. MISDEMEANOR MANUFACTURE OR MISDEMEANOR DISTRIBUTION OF AN IMITATION
- 28 PRESCRIPTION-ONLY DRUG.
- 29 36. FELONY MANUFACTURE OR FELONY DISTRIBUTION OF AN IMITATION
- 30 PRESCRIPTION-ONLY DRUG IF COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF
- 31 APPLYING FOR A LEVEL I FINGERPRINT CLEARANCE CARD.
- 32 37. MISDEMEANOR MANUFACTURE OR MISDEMEANOR DISTRIBUTION OF AN IMITATION
- 33 OVER-THE-COUNTER DRUG.
- 34 38. FELONY MANUFACTURE OR FELONY DISTRIBUTION OF AN IMITATION
- 35 OVER-THE-COUNTER DRUG IF COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF
- 36 APPLYING FOR A LEVEL I FINGERPRINT CLEARANCE CARD.
- 37 39. MISDEMEANOR POSSESSION OR MISDEMEANOR POSSESSION WITH INTENT TO USE
- 38 AN IMITATION CONTROLLED SUBSTANCE.
- 39 40. FELONY POSSESSION OR FELONY POSSESSION WITH INTENT TO USE AN
- 40 IMITATION CONTROLLED SUBSTANCE IF COMMITTED MORE THAN FIVE YEARS BEFORE THE
- 41 DATE OF APPLYING FOR A LEVEL I FINGERPRINT CLEARANCE CARD.
- 42 41. MISDEMEANOR POSSESSION OR MISDEMEANOR POSSESSION WITH INTENT TO USE
- 43 AN IMITATION PRESCRIPTION-ONLY DRUG.

1 42. FELONY POSSESSION OR FELONY POSSESSION WITH INTENT TO USE AN
2 IMITATION PRESCRIPTION-ONLY DRUG IF COMMITTED MORE THAN FIVE YEARS BEFORE THE
3 DATE OF APPLYING FOR A LEVEL I FINGERPRINT CLEARANCE CARD.

4 43. MISDEMEANOR POSSESSION OR MISDEMEANOR POSSESSION WITH INTENT TO USE
5 AN IMITATION OVER-THE-COUNTER DRUG.

6 44. FELONY POSSESSION OR FELONY POSSESSION WITH INTENT TO USE AN
7 IMITATION OVER-THE-COUNTER DRUG IF COMMITTED MORE THAN FIVE YEARS BEFORE THE
8 DATE OF APPLYING FOR A LEVEL I FINGERPRINT CLEARANCE CARD.

9 45. MISDEMEANOR MANUFACTURE OF CERTAIN SUBSTANCES AND DRUGS BY CERTAIN
10 MEANS.

11 46. FELONY MANUFACTURE OF CERTAIN SUBSTANCES AND DRUGS BY CERTAIN MEANS
12 IF COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A LEVEL I
13 FINGERPRINT CLEARANCE CARD.

14 47. ADDING POISON OR OTHER HARMFUL SUBSTANCE TO FOOD, DRINK OR
15 MEDICINE.

16 48. A CRIMINAL OFFENSE INVOLVING CRIMINAL TRESPASS AND BURGLARY UNDER
17 TITLE 13, CHAPTER 15.

18 49. A CRIMINAL OFFENSE UNDER TITLE 13, CHAPTER 23, EXCEPT TERRORISM.

19 50. MISDEMEANOR OFFENSES INVOLVING CHILD NEGLECT.

20 51. MISDEMEANOR OFFENSES INVOLVING CONTRIBUTING TO THE DELINQUENCY OF A
21 MINOR.

22 52. MISDEMEANOR OFFENSES INVOLVING DOMESTIC VIOLENCE AS DEFINED IN
23 SECTION 13-3601.

24 53. FELONY OFFENSES INVOLVING DOMESTIC VIOLENCE IF THE OFFENSE ONLY
25 INVOLVED CRIMINAL DAMAGE IN AN AMOUNT OF MORE THAN TWO HUNDRED FIFTY DOLLARS
26 BUT LESS THAN ONE THOUSAND DOLLARS AND THE OFFENSE WAS COMMITTED BEFORE THE
27 EFFECTIVE DATE OF THIS SECTION.

28 54. ARSON.

29 55. FELONY OFFENSES INVOLVING SALE, DISTRIBUTION OR TRANSPORTATION OF,
30 OFFER TO SELL, TRANSPORT OR DISTRIBUTE OR CONSPIRACY TO SELL, TRANSPORT OR
31 DISTRIBUTE MARIJUANA, DANGEROUS DRUGS OR NARCOTIC DRUGS IF COMMITTED MORE
32 THAN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A LEVEL I FINGERPRINT
33 CLEARANCE CARD.

34 56. CRIMINAL DAMAGE.

35 57. MISAPPROPRIATION OF CHARTER SCHOOL MONIES AS PRESCRIBED IN SECTION
36 13-1818.

37 58. TAKING IDENTITY OF ANOTHER PERSON OR ENTITY.

38 59. AGGRAVATED TAKING IDENTITY OF ANOTHER PERSON OR ENTITY.

39 60. TRAFFICKING IN THE IDENTITY OF ANOTHER PERSON OR ENTITY.

40 61. CRUELTY TO ANIMALS.

41 62. PROSTITUTION, AS PRESCRIBED IN SECTION 13-3214.

42 63. SALE OR DISTRIBUTION OF MATERIAL HARMFUL TO MINORS THROUGH VENDING
43 MACHINES AS PRESCRIBED IN SECTION 13-3513.

44 64. WELFARE FRAUD.

1 65. ANY FELONY OFFENSE IN VIOLATION OF TITLE 13, CHAPTER 12 IF
2 COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A LEVEL I
3 FINGERPRINT CLEARANCE CARD.

4 66. KIDNAPPING.

5 67. ROBBERY, AGGRAVATED ROBBERY OR ARMED ROBBERY.

6 D. A PERSON WHO IS AWAITING TRIAL ON OR WHO HAS BEEN CONVICTED OF
7 COMMITTING OR ATTEMPTING TO COMMIT A MISDEMEANOR VIOLATION OF SECTION
8 28-1381, 28-1382 OR 28-1383 IN THIS STATE OR THE SAME OR SIMILAR OFFENSE IN
9 ANOTHER STATE OR JURISDICTION WITHIN FIVE YEARS FROM THE DATE OF APPLYING FOR
10 A LEVEL I FINGERPRINT CLEARANCE CARD IS PRECLUDED FROM DRIVING ANY VEHICLE TO
11 TRANSPORT EMPLOYEES OR CLIENTS OF THE EMPLOYING AGENCY AS PART OF THE
12 PERSON'S EMPLOYMENT. THE DIVISION SHALL PLACE A NOTATION ON THE LEVEL I
13 FINGERPRINT CLEARANCE CARD THAT INDICATES THIS DRIVING RESTRICTION. THIS
14 SUBSECTION DOES NOT PRECLUDE A PERSON FROM DRIVING A VEHICLE ALONE AS PART OF
15 THE PERSON'S EMPLOYMENT.

16 E. NOTWITHSTANDING SUBSECTION C OF THIS SECTION, ON RECEIVING WRITTEN
17 NOTICE FROM THE BOARD OF FINGERPRINTING THAT A GOOD CAUSE EXCEPTION WAS
18 GRANTED PURSUANT TO SECTION 41-619.55, THE FINGERPRINTING DIVISION SHALL
19 ISSUE A LEVEL I FINGERPRINT CLEARANCE CARD TO THE APPLICANT.

20 F. IF THE FINGERPRINTING DIVISION DENIES A PERSON'S APPLICATION FOR A
21 LEVEL I FINGERPRINT CLEARANCE CARD PURSUANT TO SUBSECTION C OF THIS SECTION
22 AND A GOOD CAUSE EXCEPTION IS REQUESTED PURSUANT TO SECTION 41-619.55, THE
23 FINGERPRINTING DIVISION SHALL RELEASE, ON REQUEST BY THE BOARD OF
24 FINGERPRINTING, THE PERSON'S CRIMINAL HISTORY RECORD TO THE BOARD OF
25 FINGERPRINTING.

26 G. A PERSON SHALL BE GRANTED A LEVEL I FINGERPRINT CLEARANCE CARD
27 PURSUANT TO THIS SECTION IF EITHER OF THE FOLLOWING APPLIES:

28 1. AN AGENCY GRANTED A GOOD CAUSE EXCEPTION BEFORE AUGUST 16, 1999 AND
29 NO NEW PRECLUDING OFFENSE IS IDENTIFIED. THE FINGERPRINT CLEARANCE CARD
30 SHALL SPECIFY ONLY THE PROGRAM THAT GRANTED THE GOOD CAUSE EXCEPTION. ON THE
31 REQUEST OF THE APPLICANT, THE AGENCY THAT GRANTED THE PRIOR GOOD CAUSE
32 EXCEPTION SHALL NOTIFY THE FINGERPRINTING DIVISION IN WRITING OF THE DATE ON
33 WHICH THE PRIOR GOOD CAUSE EXCEPTION WAS GRANTED AND THE DATE OF THE
34 CONVICTION AND THE NAME OF THE OFFENSE FOR WHICH THE GOOD CAUSE EXCEPTION WAS
35 GRANTED.

36 2. THE BOARD GRANTED A GOOD CAUSE EXCEPTION AND NO NEW PRECLUDING
37 OFFENSE IS IDENTIFIED.

38 H. THE LICENSEE OR CONTRACT PROVIDER SHALL ASSUME THE COSTS OF
39 FINGERPRINT CHECKS CONDUCTED PURSUANT TO THIS SECTION AND MAY CHARGE THESE
40 COSTS TO PERSONS REQUIRED TO BE FINGERPRINTED.

41 I. A PERSON WHO IS UNDER EIGHTEEN YEARS OF AGE OR WHO IS AT LEAST
42 NINETY-NINE YEARS OF AGE IS EXEMPT FROM THE LEVEL I FINGERPRINT CLEARANCE
43 CARD REQUIREMENTS OF THIS SECTION. AT ALL TIMES THE PERSON SHALL BE UNDER
44 THE DIRECT VISUAL SUPERVISION OF PERSONNEL WHO HAVE VALID LEVEL I FINGERPRINT
45 CLEARANCE CARDS.

1 J. THE FINGERPRINTING DIVISION MAY CONDUCT PERIODIC STATE CRIMINAL
2 HISTORY RECORDS CHECKS FOR THE PURPOSE OF UPDATING THE CLEARANCE STATUS OF
3 CURRENT LEVEL I FINGERPRINT CLEARANCE CARD HOLDERS PURSUANT TO THIS SECTION
4 AND MAY NOTIFY THE BOARD OF FINGERPRINTING AND THE AGENCY OF THE RESULTS OF
5 THE RECORDS CHECK.

6 K. THE FINGERPRINTING DIVISION SHALL REVOKE A PERSON'S LEVEL I
7 FINGERPRINT CLEARANCE CARD ON RECEIPT OF A WRITTEN REQUEST FOR REVOCATION
8 FROM THE BOARD OF FINGERPRINTING PURSUANT TO SECTION 41-619.55.

9 L. THE FINGERPRINTING DIVISION SHALL NOT ISSUE A LEVEL I FINGERPRINT
10 CLEARANCE CARD TO AN APPLICANT IF THE DIVISION CANNOT DETERMINE, WITHIN
11 THIRTY BUSINESS DAYS AFTER RECEIPT OF THE PERSON'S STATE AND FEDERAL CRIMINAL
12 HISTORY RECORD INFORMATION, WHETHER THE PERSON IS AWAITING TRIAL ON OR HAS
13 BEEN CONVICTED OF COMMITTING ANY OF THE OFFENSES LISTED IN SUBSECTION B OR C
14 OF THIS SECTION. IF THE DIVISION IS UNABLE TO MAKE THE DETERMINATION
15 REQUIRED BY THIS SECTION AND DOES NOT ISSUE A LEVEL I FINGERPRINT CLEARANCE
16 CARD TO A PERSON, THE PERSON MAY REQUEST A GOOD CAUSE EXCEPTION PURSUANT TO
17 SECTION 41-619.55.

18 M. IF AFTER CONDUCTING A STATE AND FEDERAL CRIMINAL HISTORY RECORDS
19 CHECK THE FINGERPRINTING DIVISION DETERMINES THAT IT IS NOT AUTHORIZED TO
20 ISSUE A LEVEL I FINGERPRINT CLEARANCE CARD TO AN APPLICANT, THE DIVISION
21 SHALL NOTIFY THE AGENCY THAT THE FINGERPRINTING DIVISION IS NOT AUTHORIZED TO
22 ISSUE A LEVEL I FINGERPRINT CLEARANCE CARD. THIS NOTICE SHALL INCLUDE THE
23 CRIMINAL HISTORY INFORMATION ON WHICH THE DENIAL WAS BASED. THIS CRIMINAL
24 HISTORY INFORMATION IS SUBJECT TO DISSEMINATION RESTRICTIONS PURSUANT TO
25 SECTION 41-1750 AND PUBLIC LAW 92-544.

26 N. THE FINGERPRINTING DIVISION IS NOT LIABLE FOR DAMAGES RESULTING
27 FROM:

28 1. THE ISSUANCE OF A LEVEL I FINGERPRINT CLEARANCE CARD TO AN
29 APPLICANT WHO IS LATER FOUND TO HAVE BEEN INELIGIBLE TO RECEIVE A LEVEL I
30 FINGERPRINT CLEARANCE CARD AT THE TIME THE CARD WAS ISSUED.

31 2. THE DENIAL OF A LEVEL I FINGERPRINT CLEARANCE CARD TO AN APPLICANT
32 WHO IS LATER FOUND TO HAVE BEEN ELIGIBLE TO RECEIVE A LEVEL I FINGERPRINT
33 CLEARANCE CARD AT THE TIME ISSUANCE OF THE CARD WAS DENIED.

34 O. NOTWITHSTANDING ANY LAW TO THE CONTRARY, AN INDIVIDUAL MAY APPLY
35 FOR AND RECEIVE A LEVEL I FINGERPRINT CLEARANCE CARD PURSUANT TO THIS SECTION
36 TO SATISFY A REQUIREMENT THAT THE PERSON HAVE A VALID FINGERPRINT CLEARANCE
37 CARD ISSUED PURSUANT TO SECTION 41-1758.03.

38 P. NOTWITHSTANDING ANY LAW TO THE CONTRARY, EXCEPT AS PRESCRIBED
39 PURSUANT TO SUBSECTION Q OF THIS SECTION, AN INDIVIDUAL WHO RECEIVES A
40 LEVEL I FINGERPRINT CLEARANCE CARD PURSUANT TO THIS SECTION ALSO SATISFIES A
41 REQUIREMENT THAT THE INDIVIDUAL HAVE A VALID FINGERPRINT CLEARANCE CARD
42 ISSUED PURSUANT TO SECTION 41-1758.03.

43 Q. UNLESS A CARDHOLDER COMMITS AN OFFENSE LISTED IN SUBSECTION B OR C
44 OF THIS SECTION AFTER THE EFFECTIVE DATE OF THIS SECTION, A FINGERPRINT
45 CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.03 BEFORE THE EFFECTIVE

1 DATE OF THIS SECTION AND ITS RENEWALS ARE VALID FOR ALL REQUIREMENTS FOR A
2 LEVEL I FINGERPRINT CLEARANCE CARD EXCEPT THOSE RELATING TO THE REQUIREMENTS
3 OF SECTION 8-105 OR 8-509. A FINGERPRINT CLEARANCE CARD ISSUED BEFORE THE
4 EFFECTIVE DATE OF THIS SECTION TO MEET THE REQUIREMENTS OF SECTION 8-105 OR
5 8-509 AND ITS RENEWALS ARE VALID AFTER THE EFFECTIVE DATE OF THIS SECTION TO
6 MEET ALL REQUIREMENTS FOR A LEVEL I FINGERPRINT CLEARANCE CARD, INCLUDING THE
7 REQUIREMENTS OF SECTION 8-105 OR 8-509 IF THE CARDHOLDER HAS BEEN CERTIFIED
8 BY THE COURT TO ADOPT OR HAS BEEN ISSUED A FOSTER HOME LICENSE BEFORE THE
9 EFFECTIVE DATE OF THIS SECTION.

10 R. THE ISSUANCE OF A LEVEL I FINGERPRINT CLEARANCE CARD DOES NOT
11 ENTITLE A PERSON TO EMPLOYMENT.

12 S. FOR THE PURPOSES OF THIS SECTION:

13 1. "PERSON" MEANS A PERSON WHO IS FINGERPRINTED PURSUANT TO:

14 (a) SECTION 8-105, 8-509, 8-802, 36-594.01, 36-594.02, 36-882,
15 36-883.02, 36-897.01, 36-897.03, 41-619.52, 41-619.53, 41-1964, 41-1967.01,
16 41-1968, 41-1969 OR 46-141.

17 (b) SUBSECTION O OF THIS SECTION.

18 2. "RENEWAL" MEANS THE ISSUANCE OF A FINGERPRINT CLEARANCE CARD TO AN
19 EXISTING FINGERPRINT CLEARANCE CARD HOLDER WHO APPLIES BEFORE THE PERSON'S
20 EXISTING FINGERPRINT CLEARANCE CARD EXPIRES.

21 Sec. 27. Section 41-1964, Arizona Revised Statutes, is amended to
22 read:

23 41-1964. Day care homes; child care personnel; fingerprints;
24 definition

25 A. Child care personnel shall have valid fingerprint clearance cards
26 issued pursuant to ~~chapter 12, article 3.1 of this title~~ SECTION 41-1758.07
27 or shall apply for a fingerprint clearance card no later than seven working
28 days from the date of certification by the department or within seven working
29 days after residing or working in the home of a child care home provider or
30 being designated as a backup provider.

31 B. Before certification or within seven working days after residing or
32 working in the home of a child care provider or being designated as a backup
33 provider, child care personnel shall certify on forms that are provided by
34 the department and notarized whether:

35 1. They are awaiting trial on or have been convicted of or admitted
36 committing any of the criminal offenses listed in section ~~41-1758.03~~
37 41-1758.07, subsections B and C in this state or similar offenses in another
38 state or jurisdiction.

39 2. They are parents or guardians of a child adjudicated to be a
40 dependent child as defined in section 8-201.

41 3. They have been denied a license to operate a facility for the care
42 of children for cause in this state or another state or had a license or
43 certificate to operate such a facility revoked.

44 C. The department shall make documented, good faith efforts to contact
45 previous employers of certified day care home personnel to obtain information

1 or recommendations that may be relevant to an individual's fitness for work
2 in a certified day care home.

3 D. The notarized forms are confidential.

4 E. The department of economic security shall notify the department of
5 public safety if the department of economic security receives credible
6 evidence that any child care personnel who possesses a valid fingerprint
7 clearance card either:

8 1. Is arrested for or charged with an offense listed in section
9 ~~41-1758.03~~ 41-1758.07, subsection B OR C.

10 2. Falsified information on the form required by subsection B of this
11 section.

12 F. For the purposes of this section, "child care personnel" means
13 child care home providers, in-home providers and noncertified relative
14 providers as defined in section 46-801 and designated backup providers and
15 all persons who are eighteen years of age or older and who work or reside in
16 the home of a child care home provider.

17 Sec. 28. Section 41-1967, Arizona Revised Statutes, is amended to
18 read:

19 41-1967. Child care resource and referral system; immunity

20 A. The department shall establish and maintain a statewide child care
21 resource and referral system, including a child care home provider registry,
22 through community-based organizations to:

23 1. Provide families with:

24 (a) Information on all types of child care.

25 (b) Referrals to child care providers and programs.

26 (c) Information about child care resources and services.

27 (d) Information about choosing child care.

28 (e) Information about registered child care home providers.

29 2. Assist child care providers and programs with:

30 (a) Information on training related to child care issues.

31 (b) Technical assistance that relates to initiating or providing child
32 care services.

33 (c) Parent referrals.

34 (d) Becoming registered as a child care home provider.

35 3. Coordinate with the community to:

36 (a) Develop statistics of the demand for and supply of child care.

37 (b) Maintain ongoing relationships with all local groups interested in
38 child care.

39 B. The child care resource and referral system shall:

40 1. Identify all available child care providers and programs through
41 coordination with public and private agencies.

42 2. Collect in a uniform method provider information for the referral
43 database that includes:

44 (a) The type of program.

45 (b) The hours of service.

- 1 (c) The ages of children served.
- 2 (d) Fees for service.
- 3 (e) The licensure, certification and registration status of providers.
- 4 (f) Other significant provider and program information.
- 5 3. Establish and maintain a referral process that responds to parental
- 6 need for information. The child care resource and referral system shall make
- 7 referrals to child care providers and programs that:
- 8 (a) Promote parental choice and meet the needs of families.
- 9 (b) Are included in the resource and referral database.
- 10 4. Collect in a uniform method family information for the referral
- 11 database that includes the:
- 12 (a) Number of calls and contacts.
- 13 (b) Ages of children in need of care.
- 14 (c) Days and times of care requested.
- 15 (d) Type of care requested.
- 16 (e) Special needs and requests made by the family.
- 17 (f) Reason that the care is needed.
- 18 5. Provide outreach services that include:
- 19 (a) Efforts to reach parents and providers in local communities.
- 20 (b) Involvement in the local communities.
- 21 (c) Publication of services through all available media sources,
- 22 agencies and other appropriate channels.
- 23 (d) Public awareness information to parents and providers about the
- 24 child care home provider registry and the benefits of using the registry or
- 25 becoming registered.
- 26 6. Provide technical assistance to existing and prospective child care
- 27 providers and programs that include:
- 28 (a) Information on all aspects of initiating new child care services
- 29 including child care regulations, zoning, program and budget development and
- 30 assistance in finding information from other sources.
- 31 (b) Educational information and resources that assist existing child
- 32 care providers and programs to better serve the children and parents in their
- 33 community.
- 34 (c) Local coordination of existing child care and child related
- 35 services.
- 36 7. Establish and maintain a child care home provider registry that
- 37 includes:
- 38 (a) Child care home providers that are registered pursuant to section
- 39 41-1967.01.
- 40 (b) A complaint tracking system that contains written complaints
- 41 concerning providers and written provider responses. The complaints and
- 42 responses are available to the public.
- 43 (c) A system for notifying a provider that is excluded or removed from
- 44 the registry that the provider may appeal directly to the entity making the
- 45 determination resulting in the exclusion or removal.

1 (d) Information provided by registered providers relating to the
2 services provided and child care environment.

3 C. The following child care providers are eligible to be considered
4 for inclusion in the child care resource and referral database, unless barred
5 by other provisions of law:

6 1. Child care providers licensed or certified by a government agency
7 ~~which~~ THAT is authorized by law to license, certify or approve child care
8 providers.

9 2. Child care home providers that are registered pursuant to section
10 41-1967.01. These providers shall submit and amend when necessary sworn,
11 written statements to the department or its designees, on forms approved by
12 the department, attesting that the provider is not subject to exclusion or
13 removal from the child care resource and referral database under any of the
14 grounds specified in subsection E of this section.

15 D. Child care providers identified in subsection C, paragraph 1 of
16 this section may be excluded or removed from the child care resource and
17 referral database whenever the provider's license or certification is
18 revoked, terminated or suspended, or when a child care facility is closed for
19 cause.

20 E. Child care home providers identified in subsection C, paragraph 2
21 of this section may be excluded or removed from the child care home provider
22 registry and the child care resource and referral database if:

23 1. The provider fails to obtain a fingerprint clearance card or the
24 provider's fingerprint clearance card is revoked or suspended.

25 2. The provider has been denied a license to operate a facility for
26 the care of children or had a license or certificate to operate a facility
27 revoked or has been removed for cause from participation in the child and
28 adult food program in this state or in any other state or jurisdiction.

29 3. The provider, the provider's employees or any person eighteen years
30 of age or older who resides in the provider's child care facility has been
31 convicted of or is awaiting trial on any of the criminal offenses listed in
32 section ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or similar
33 criminal offenses in any other state or jurisdiction.

34 4. The provider, the provider's employees or any person who resides in
35 the provider's child care facility has been the subject of an investigation
36 where a report of child abuse or neglect has been substantiated by a child
37 protective services agency or a law enforcement agency in this state or in
38 any other state or jurisdiction.

39 5. The provider fails to maintain current training and certification
40 in first aid and infant and child cardiopulmonary resuscitation.

41 6. The provider fails to enclose a pool pursuant to section 36-1681,
42 subsections A, B and C.

43 7. The provider fails to separately store firearms and ammunition
44 under lock and key or combination lock.

1 F. This section and section 41-1967.01 do not create an affirmative
2 obligation on the part of any state agency or any child care resource and
3 referral agency to review, monitor or investigate child care providers and
4 programs.

5 G. Neither this state nor its officers or employees, acting within the
6 scope of their employment, are liable for any damage or injury caused by
7 their conduct pursuant to this section or section 41-1967.01, except for
8 gross negligence or conduct intended to cause injury.

9 H. Neither a child care resource and referral agency nor its officers
10 and employees, acting within the scope of their employment, are liable for
11 any damage or injury caused by their conduct pursuant to this section or
12 section 41-1967.01, except for gross negligence or conduct intended to cause
13 injury.

14 I. The department shall adopt rules that are consistent with the terms
15 of this section.

16 Sec. 29. Section 41-1967.01, Arizona Revised Statutes, is amended to
17 read:

18 41-1967.01. Child care home provider; registration;
19 fingerprints; definition

20 A. A child care home provider who receives compensation to care for
21 four or fewer children and who has not been certified by the department of
22 economic security pursuant to section 46-807 or licensed or certified by the
23 department of health services pursuant to section 36-883 or 36-897.01 shall
24 register with the department of economic security if the child care home
25 provider wishes to be listed with the child care resource and referral
26 system.

27 B. Each applicant for registration shall submit a full set of
28 fingerprints to the department of public safety for the purpose of obtaining
29 a state and federal criminal records check pursuant to section 41-1750 and
30 Public Law 92-544. The department of public safety may exchange this
31 fingerprint data with the federal bureau of investigation.

32 C. Child care providers shall have a valid fingerprint clearance card
33 issued pursuant to ~~chapter 12, article 3.1 of this title~~ SECTION 41-1758.07
34 or shall apply for a fingerprint clearance card by the date of registration
35 with the department.

36 D. By the date of registration, child care providers shall certify on
37 forms that are provided by the department and notarized whether:

38 1. They are awaiting trial on or have been convicted of or admitted
39 committing any of the ~~following~~ criminal offenses LISTED IN SECTION
40 41-1758.07, SUBSECTION B OR C in this state or similar offenses in another
41 state or jurisdiction~~+-~~.

- 42 ~~(a) Sexual abuse of a minor.~~
43 ~~(b) Incest.~~
44 ~~(c) First or second degree murder.~~
45 ~~(d) Kidnapping.~~

- 1 ~~(e) Arson.~~
 - 2 ~~(f) Sexual assault.~~
 - 3 ~~(g) Sexual exploitation of a minor.~~
 - 4 ~~(h) Felony offenses involving contributing to the delinquency of a~~
 - 5 ~~minor.~~
 - 6 ~~(i) Commercial sexual exploitation of a minor.~~
 - 7 ~~(j) Felony offenses involving sale, distribution or transportation of,~~
 - 8 ~~offer to sell, transport or distribute or conspiracy to sell, transport or~~
 - 9 ~~distribute marijuana, dangerous drugs or narcotic drugs.~~
 - 10 ~~(k) Felony offenses involving the possession or use of marijuana,~~
 - 11 ~~dangerous drugs or narcotic drugs.~~
 - 12 ~~(l) Burglary.~~
 - 13 ~~(m) Aggravated or armed robbery.~~
 - 14 ~~(n) Robbery.~~
 - 15 ~~(o) A dangerous crime against children as defined in section 13-705.~~
 - 16 ~~(p) Child abuse.~~
 - 17 ~~(q) Sexual conduct with a minor.~~
 - 18 ~~(r) Molestation of a child.~~
 - 19 ~~(s) Manslaughter.~~
 - 20 ~~(t) Assault or aggravated assault.~~
 - 21 ~~(u) Exploitation of minors involving drug offenses.~~
 - 22 ~~(v) A violation of section 28-1381, 28-1382 or 28-1383.~~
 - 23 ~~(w) Offenses involving domestic violence.~~
- 24 2. They are parents or guardians of a child adjudicated to be a
- 25 dependent child as defined in section 8-201.
- 26 3. They have been denied a license to operate a child care facility
- 27 for cause in this state or another state or had a license or certificate to
- 28 operate a child care facility revoked.
- 29 E. The notarized forms are confidential.
- 30 F. Each applicant for registration shall not have been the subject of
- 31 an investigation where a report of child abuse or neglect has been
- 32 substantiated.
- 33 G. Each applicant shall maintain current training and certification in
- 34 first aid and infant and child cardiopulmonary resuscitation.
- 35 H. The applicant shall enclose any pool on the applicant's premises
- 36 pursuant to section 36-1681, subsections A, B and C.
- 37 I. The applicant shall separately store firearms and ammunition under
- 38 lock and key or combination lock.
- 39 J. The department shall adopt rules to carry out this section.
- 40 K. The director shall charge a fee for processing the fingerprint
- 41 information required pursuant to this section.
- 42 L. Any obligation or liability under this section is governed by the
- 43 provisions of section 41-1967, subsections F, G and H.
- 44 M. For the purposes of this section, "child care provider" means a
- 45 registered child care home provider pursuant to subsection A of this section.

1 Sec. 30. Section 41-1968, Arizona Revised Statutes, is amended to
2 read:

3 41-1968. DES employees; fingerprint requirement; definition

4 Each employee of the department who has contact with children or
5 vulnerable adults shall have a valid fingerprint clearance card issued
6 pursuant to ~~chapter 12, article 3.1 of this title~~ SECTION 41-1758.07 or
7 provide to the department documentation of the person's application for a
8 fingerprint clearance card. The employee shall certify on forms that are
9 provided by the department and that are notarized whether the employee is
10 awaiting trial on or has ever been convicted of any of the criminal offenses
11 listed in section ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or
12 similar offenses in another state or jurisdiction. For the purposes of this
13 section, "vulnerable adult" has the same meaning prescribed in section
14 13-3623.

15 Sec. 31. Section 41-1969, Arizona Revised Statutes, is amended to
16 read:

17 41-1969. Information technology personnel; criminal history
18 records

19 A. Each employee of the department of economic security who is
20 employed in an information technology position shall have a valid fingerprint
21 clearance card issued pursuant to ~~chapter 12, article 3.1 of this title~~
22 SECTION 41-1758.07 or provide to the department documentation of the person's
23 application for a fingerprint clearance card. Before accepting an offer of
24 employment, an applicant for an information technology position in the
25 department of economic security shall have a valid fingerprint clearance card
26 issued pursuant to ~~chapter 12, article 3.1 of this title~~ SECTION 41-1758.07
27 or provide to the department documentation of the person's application for a
28 fingerprint clearance card.

29 B. The department of economic security shall not disclose information
30 obtained pursuant to subsection A of this section except to members of the
31 department's staff solely for employment purposes.

32 Sec. 32. Section 46-141, Arizona Revised Statutes, is amended to read:

33 46-141. Criminal record information checks; fingerprinting
34 employees and applicants

35 A. Each license granted by the department of economic security and
36 each contract entered into between the department of economic security and
37 any contract provider for the provision of services to juveniles shall
38 provide that, as a condition of employment, personnel who are employed by the
39 licensee or contractor, whether paid or not, and who are required or allowed
40 to provide services directly to juveniles shall have a valid fingerprint
41 clearance card issued pursuant to ~~title 41, chapter 12, article 3.1~~ SECTION
42 41-1758.07 or shall apply for a fingerprint clearance card within seven
43 working days of employment.

44 B. The licensee or contractor shall assume the costs of fingerprint
45 checks and may charge these costs to its fingerprinted personnel. The

1 department may allow all or part of the costs of fingerprint checks to be
2 included as an allowable cost in a contract.

3 C. A service contract or license with any contract provider or
4 licensee that involves the employment of persons who have contact with
5 juveniles shall provide that the contract or license may be canceled or
6 terminated immediately if a person certifies pursuant to subsections F and G
7 of this section that the person is awaiting trial on or has been convicted of
8 any of the offenses listed in subsections F and G of this section in this
9 state or similar offenses in another state or jurisdiction or if the person
10 does not possess or is denied issuance of a valid fingerprint clearance card.

11 D. A contract provider or licensee may avoid cancellation or
12 termination of the contract or license under subsection C of this section if
13 a person who does not possess or has been denied issuance of a valid
14 fingerprint clearance card or who certifies pursuant to subsections F and G
15 of this section that the person has been convicted of or is awaiting trial on
16 any of the offenses listed in section ~~41-1758.03~~ 41-1758.07, subsection B is
17 immediately prohibited from employment or service with the contract provider
18 or licensee in any capacity requiring or allowing contact with juveniles.

19 E. A contract provider or licensee may avoid cancellation or
20 termination of the contract or license under subsection C of this section if
21 a person who does not possess or has been denied issuance of a valid
22 fingerprint clearance card or who certifies pursuant to subsections F and G
23 of this section that the person has been convicted of or is awaiting trial on
24 any of the offenses listed in section ~~41-1758.03~~ 41-1758.07, subsection C is
25 immediately prohibited from employment or service with the contract provider
26 or licensee in any capacity requiring contact with juveniles unless the
27 person is granted a good cause exception pursuant to section 41-619.55.

28 F. Personnel who are employed by any contract provider or licensee,
29 whether paid or not, and who are required or allowed to provide services
30 directly to juveniles shall certify on forms provided by the department of
31 economic security and notarized whether they are awaiting trial on or have
32 ever been convicted of any of the criminal offenses listed in section
33 ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or similar offenses
34 in another state or jurisdiction.

35 G. Personnel who are employed by any contract provider or licensee,
36 whether paid or not, and who are required or allowed to provide services
37 directly to juveniles shall certify on forms provided by the department of
38 economic security and notarized whether they have ever committed any act of
39 sexual abuse of a child, including sexual exploitation and commercial sexual
40 exploitation, or any act of child abuse.

41 H. Federally recognized Indian tribes or military bases may submit and
42 the department of economic security shall accept certifications that state
43 that personnel who are employed or who will be employed during the contract
44 term have not been convicted of, have not admitted committing or are not
45 awaiting trial on any offense under subsection F of this section.

1 I. A person who applies to the department of economic security for a
2 license or certificate or for paid or unpaid employment, including contract
3 services, and who will provide direct services to juveniles or vulnerable
4 adults shall submit a full set of fingerprints to the department for the
5 purpose of obtaining a state and federal criminal records check pursuant to
6 section 41-1750 and Public Law 92-544. The department of public safety may
7 exchange this fingerprint data with the federal bureau of investigation.
8 This subsection does not apply to those persons who are subject to section
9 8-105, 8-509, 8-802 or 41-1968.

10 J. The special services unit of the department of economic security
11 may use the department of public safety automated system to update all
12 criminal history record information in order to ensure, to the maximum extent
13 reasonably possible, complete disposition information. The department of
14 economic security may deny employment or issuance or renewal of the contract
15 or license applied for in these cases if it determines that the criminal
16 history record information indicates that such employee, applicant or
17 contractor is not qualified or suitable.

18 K. Volunteers who provide services to juveniles under the direct
19 visual supervision of the contractor's or licensee's employees are exempt
20 from the fingerprinting requirements of this section.

21 L. The department of economic security shall notify the department of
22 public safety if the department of economic security receives credible
23 evidence that a person who possesses a valid fingerprint clearance card
24 pursuant to subsection A of this section either:

25 1. Is arrested for or charged with an offense listed in section
26 ~~41-1758.03~~ 41-1758.07, subsection B OR C.

27 2. Falsified information on the form required by subsection F of this
28 section.

29 Sec. 33. Emergency

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