

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, 15-183, 15-203, 15-512, 15-1330, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 41-619.52, 41-619.53, 41-619.54, 41-619.55, 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 15-183, Arizona Revised Statutes, is amended to read:

24          15-183. Charter schools; application; requirements; immunity;  
25                 exemptions; renewal of application; reprisal

26          A. An applicant seeking to establish a charter school shall submit a  
27 written application to a proposed sponsor as prescribed in subsection C of  
28 this section. The application shall include a detailed business plan for the  
29 charter school and may include a mission statement for the charter school, a  
30 description of the charter school's organizational structure and the  
31 governing body, a financial plan for the first three years of operation of  
32 the charter school, a description of the charter school's hiring policy, the  
33 name of the charter school's applicant or applicants and requested sponsor, a  
34 description of the charter school's facility and the location of the school,  
35 a description of the grades being served and an outline of criteria designed  
36 to measure the effectiveness of the school.

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

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

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

1 (a) An applicant for a charter school may submit its application to a  
2 school district governing board, which shall either accept or reject  
3 sponsorship of the charter school within ninety days. An applicant may  
4 submit a revised application for reconsideration by the governing board. If  
5 the governing board rejects the application, the governing board shall notify  
6 the applicant in writing of the reasons for the rejection. The applicant may  
7 request, and the governing board may provide, technical assistance to improve  
8 the application.

9 (b) In the first year that a school district is determined to be out  
10 of compliance with the uniform system of financial records, within fifteen  
11 days of the determination of noncompliance, the school district shall notify  
12 by certified mail each charter school sponsored by the school district that  
13 the school district is out of compliance with the uniform system of financial  
14 records. The notification shall include a statement that if the school  
15 district is determined to be out of compliance for a second consecutive year,  
16 the charter school will be required to transfer sponsorship to another entity  
17 pursuant to subdivision (c) of this paragraph.

18 (c) In the second consecutive year that a school district is  
19 determined to be out of compliance with the uniform system of financial  
20 records, within fifteen days of the determination of noncompliance, the  
21 school district shall notify by certified mail each charter school sponsored  
22 by the school district that the school district is out of compliance with the  
23 uniform system of financial records. A charter school that receives a  
24 notification of school district noncompliance pursuant to this subdivision  
25 shall file a written sponsorship transfer application within forty-five days  
26 with the state board of education, the state board for charter schools or the  
27 school district governing board if the charter school is located within the  
28 geographic boundaries of that school district. A charter school that  
29 receives a notification of school district noncompliance may request an  
30 extension of time to file a sponsorship transfer application and the state  
31 board of education, the state board for charter schools or a school district  
32 governing board may grant an extension of not more than an additional thirty  
33 days if good cause exists for the extension. The state board of education  
34 and the state board for charter schools shall approve a sponsorship transfer  
35 application pursuant to this paragraph.

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

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

42 2. The applicant may submit the application to the state board of  
43 education or the state board for charter schools. The state board of  
44 education or the state board for charter schools may approve the application  
45 if the application meets the requirements of this article and may approve the

1 charter if the proposed sponsor determines, within its sole discretion, that  
2 the applicant is sufficiently qualified to operate a charter school. The  
3 state board of education or the state board for charter schools may approve  
4 any charter schools transferring charters. The state board of education and  
5 the state board for charter schools shall approve any charter schools  
6 transferring charters from a school district that is determined to be out of  
7 compliance with the uniform system of financial records pursuant to this  
8 section, but may require the charter school to sign a new charter that is  
9 equivalent to the charter awarded by the former sponsor. If the state board  
10 of education or the state board for charter schools rejects the preliminary  
11 application, the state board of education or the state board for charter  
12 schools shall notify the applicant in writing of the reasons for the  
13 rejection and of suggestions for improving the application. An applicant may  
14 submit a revised application for reconsideration by the state board of  
15 education or the state board for charter schools. The applicant may request,  
16 and the state board of education or the state board for charter schools may  
17 provide, technical assistance to improve the application.

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

27 4. All persons engaged in instructional work directly as a classroom,  
28 laboratory or other teacher or indirectly as a supervisory teacher, speech  
29 therapist or principal shall have a valid fingerprint clearance card that is  
30 issued pursuant to title 41, chapter 12, article 3.1, unless the person is a  
31 volunteer or guest speaker who is accompanied in the classroom by a person  
32 with a valid fingerprint clearance card. A charter school shall not employ a  
33 teacher whose certificate has been revoked for a violation of section 15-507  
34 or 15-550 or for any offense that placed a pupil in danger. All other  
35 personnel shall be fingerprint checked pursuant to section 15-512. **A CHARTER  
36 SCHOOL SHALL REFUSE TO HIRE OR MAY REVIEW OR TERMINATE PERSONNEL FINGERPRINT  
37 CHECKED PURSUANT TO SECTION 15-512 WHO HAVE BEEN CONVICTED OF OR ADMITTED  
38 COMMITTING ANY OF THE CRIMINAL OFFENSES PRESCRIBED IN SECTION 15-512,  
39 SUBSECTION D OR OF A SIMILAR OFFENSE IN ANOTHER JURISDICTION.** Before  
40 employment, the charter school shall make documented, good faith efforts to  
41 contact previous employers of a person to obtain information and  
42 recommendations that may be relevant to a person's fitness for employment as  
43 prescribed in section 15-512, subsection F. The charter school shall notify  
44 the department of public safety if the charter school or sponsor receives  
45 credible evidence that a person who possesses a valid fingerprint clearance

1 card is arrested for or is charged with an offense listed in section  
2 41-1758.03, subsection B. Charter schools may hire personnel that have not  
3 yet received a fingerprint clearance card if proof is provided of the  
4 submission of an application to the department of public safety for a  
5 fingerprint clearance card and if the charter school that is seeking to hire  
6 the applicant does all of the following:

7 (a) Documents in the applicant's file the necessity for hiring and  
8 placement of the applicant before receiving a fingerprint clearance card.

9 (b) Ensures that the department of public safety completes a statewide  
10 criminal records check on the applicant. A statewide criminal records check  
11 shall be completed by the department of public safety every one hundred  
12 twenty days until the date that the fingerprint check is completed.

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

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

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

21 (f) Verifies the fingerprint status of the applicant with the  
22 department of public safety.

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

27 ~~5-~~ 6. If a charter school operator is not already subject to a public  
28 meeting or hearing by the municipality in which the charter school is  
29 located, the operator of a charter school shall conduct a public meeting at  
30 least thirty days before the charter school operator opens a site or sites  
31 for the charter school. The charter school operator shall post notices of  
32 the public meeting in at least three different locations that are within  
33 three hundred feet of the proposed charter school site.

34 ~~6-~~ 7. A person who is employed by a charter school or who is an  
35 applicant for employment with a charter school, who is arrested for or  
36 charged with a nonappealable offense listed in section 41-1758.03, subsection  
37 B and who does not immediately report the arrest or charge to the person's  
38 supervisor or potential employer is guilty of unprofessional conduct and the  
39 person shall be immediately dismissed from employment with the charter school  
40 or immediately excluded from potential employment with the charter school.

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

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

2 (b) Notify the person's employer or potential employer of the  
3 conviction.

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

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

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

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

12 1. Compliance with federal, state and local rules, regulations and  
13 statutes relating to health, safety, civil rights and insurance. The  
14 department of education shall publish a list of relevant rules, regulations  
15 and statutes to notify charter schools of their responsibilities under this  
16 paragraph.

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

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

24 4. That it designs a method to measure pupil progress toward the pupil  
25 outcomes adopted by the state board of education pursuant to section  
26 15-741.01, including participation in the Arizona instrument to measure  
27 standards test and the nationally standardized norm-referenced achievement  
28 test as designated by the state board and the completion and distribution of  
29 an annual report card as prescribed in chapter 7, article 3 of this title.

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

33 6. That, except as provided in this article, it is subject to the same  
34 financial and electronic data submission requirements as a school district,  
35 including the uniform system of financial records as prescribed in chapter 2,  
36 article 4 of this title, procurement rules as prescribed in section 15-213  
37 and audit requirements. The auditor general shall conduct a comprehensive  
38 review and revision of the uniform system of financial records to ensure that  
39 the provisions of the uniform system of financial records that relate to  
40 charter schools are in accordance with commonly accepted accounting  
41 principles used by private business. A school's charter may include  
42 exceptions to the requirements of this paragraph that are necessary as  
43 determined by the district governing board, the state board of education or  
44 the state board for charter schools. The department of education or the

1 office of the auditor general may conduct financial, program or compliance  
2 audits.

3 7. Compliance with all federal and state laws relating to the  
4 education of children with disabilities in the same manner as a school  
5 district.

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

8 9. That it provides a minimum of one hundred seventy-five  
9 instructional days before June 30 of each fiscal year unless it is operating  
10 on an alternative calendar approved by its sponsor. The superintendent of  
11 public instruction shall adjust the apportionment schedule accordingly to  
12 accommodate a charter school utilizing an alternative calendar.

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

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

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

30 I. An approved plan to establish a charter school is effective for  
31 fifteen years from the first day of operation. At least eighteen months  
32 before the expiration of the approved plan, the sponsor shall notify the  
33 charter school that the charter school may apply for renewal. A charter  
34 school that elects to apply for renewal shall file an application for renewal  
35 at least fifteen months before the expiration of the approved plan. In  
36 addition to any other requirements, the application for renewal shall include  
37 a detailed business plan for the charter school. The sponsor may deny the  
38 request for renewal if, in its judgment, the charter school has failed to  
39 complete the obligations of the contract or has failed to comply with this  
40 article. A sponsor shall give written notice of its intent not to renew the  
41 charter school's request for renewal to the charter school at least twelve  
42 months before the expiration of the approved plan to allow the charter school  
43 an opportunity to apply to another sponsor to transfer the operation of the  
44 charter school. If the operation of the charter school is transferred to  
45 another sponsor, the fifteen year period of the current charter shall be

1 maintained. A sponsor shall review a charter at five year intervals and may  
2 revoke a charter at any time if the charter school breaches one or more  
3 provisions of its charter. At least ninety days before the effective date of  
4 the proposed revocation the sponsor shall give written notice to the operator  
5 of the charter school of its intent to revoke the charter. Notice of the  
6 sponsor's intent to revoke the charter shall be delivered personally to the  
7 operator of the charter school or sent by certified mail, return receipt  
8 requested, to the address of the charter school. The notice shall  
9 incorporate a statement of reasons for the proposed revocation of the  
10 charter. The sponsor shall allow the charter school at least ninety days to  
11 correct the problems associated with the reasons for the proposed revocation  
12 of the charter. The final determination of whether to revoke the charter  
13 shall be made at a public hearing called for such purpose.

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

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

21 L. A governing board or a school district employee who has control  
22 over personnel actions shall not take unlawful reprisal against another  
23 employee of the school district because the employee is directly or  
24 indirectly involved in an application to establish a charter school. A  
25 governing board or a school district employee shall not take unlawful  
26 reprisal against an educational program of the school or the school district  
27 because an application to establish a charter school proposes the conversion  
28 of all or a portion of the educational program to a charter school. For the  
29 purposes of this subsection, "unlawful reprisal" means an action that is  
30 taken by a governing board or a school district employee as a direct result  
31 of a lawful application to establish a charter school and that is adverse to  
32 another employee or an education program and:

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

- 35 (a) Disciplinary or corrective action.
- 36 (b) Detail, transfer or reassignment.
- 37 (c) Suspension, demotion or dismissal.
- 38 (d) An unfavorable performance evaluation.
- 39 (e) A reduction in pay, benefits or awards.
- 40 (f) Elimination of the employee's position without a reduction in  
41 force by reason of lack of monies or work.
- 42 (g) Other significant changes in duties or responsibilities that are  
43 inconsistent with the employee's salary or employment classification.

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

1 (a) Suspension or termination of the program.

2 (b) Transfer or reassignment of the program to a less favorable  
3 department.

4 (c) Relocation of the program to a less favorable site within the  
5 school or school district.

6 (d) Significant reduction or termination of funding for the program.

7 M. Charter schools shall secure insurance for liability and property  
8 loss. The governing body of a charter school that is sponsored by the state  
9 board of education or the state board for charter schools may enter into an  
10 intergovernmental agreement or otherwise contract to participate in an  
11 insurance program offered by a risk retention pool established pursuant to  
12 section 11-952.01 or 41-621.01 or the charter school may secure its own  
13 insurance coverage. The pool may charge the requesting charter school  
14 reasonable fees for any services it performs in connection with the insurance  
15 program.

16 N. Charter schools do not have the authority to acquire property by  
17 eminent domain.

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

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

24 Q. The sponsor of a charter school shall establish procedures to  
25 conduct administrative hearings on determination by the sponsor that grounds  
26 exist to revoke a charter. Procedures for administrative hearings shall be  
27 similar to procedures prescribed for adjudicative proceedings in title 41,  
28 chapter 6, article 10. Except as provided in section 41-1092.08, subsection  
29 H, final decisions of the state board of education and the state board for  
30 charter schools from hearings conducted pursuant to this subsection are  
31 subject to judicial review pursuant to title 12, chapter 7, article 6.

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

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

36 T. All property accumulated by a charter school shall remain the  
37 property of the charter school.

38 U. Charter schools may not locate a school on property that is less  
39 than one-fourth mile from agricultural land regulated pursuant to section  
40 3-365, except that the owner of the agricultural land may agree to comply  
41 with the buffer zone requirements of section 3-365. If the owner agrees in  
42 writing to comply with the buffer zone requirements and records the agreement  
43 in the office of the county recorder as a restrictive covenant running with  
44 the title to the land, the charter school may locate a school within the  
45 affected buffer zone. The agreement may include any stipulations regarding

1 the charter school, including conditions for future expansion of the school  
2 and changes in the operational status of the school that will result in a  
3 breach of the agreement.

4 V. A transfer of a charter to another sponsor, a transfer of a charter  
5 school site to another sponsor or a transfer of a charter school site to a  
6 different charter shall be completed before the beginning of the fiscal year  
7 that the transfer is scheduled to become effective. An entity that sponsors  
8 charter schools may accept a transferring school after the beginning of the  
9 fiscal year if the transfer is approved by the superintendent of public  
10 instruction. The superintendent of public instruction shall have the  
11 discretion to consider each transfer during the fiscal year on a case by case  
12 basis. If a charter school is sponsored by a school district that is  
13 determined to be out of compliance with this title, the uniform system of  
14 financial records or any other state or federal law, the charter school may  
15 transfer to another sponsoring entity at any time during the fiscal year.

16 W. The sponsoring entity may not charge any fees to a charter school  
17 that it sponsors unless the sponsor has provided services to the charter  
18 school and the fees represent the full value of those services provided by  
19 the sponsor. On request, the value of the services provided by the sponsor  
20 to the charter school shall be demonstrated to the department of education.

21 Sec. 7. Section 15-203, Arizona Revised Statutes, is amended to read:

22 15-203. Powers and duties

23 A. The state board of education shall:

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

27 2. Keep a record of its proceedings.

28 3. Make rules for its own government.

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

30 5. Appoint its employees, on the recommendation of the superintendent  
31 of public instruction.

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

33 7. Delegate to the superintendent of public instruction the execution  
34 of board policies and rules.

35 8. Recommend to the legislature changes or additions to the statutes  
36 pertaining to schools.

37 9. Prepare, publish and distribute reports concerning the educational  
38 welfare of this state.

39 10. Prepare a budget for expenditures necessary for proper maintenance  
40 of the board and accomplishment of its purposes and present the budget to the  
41 legislature.

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

43 12. Prescribe a minimum course of study in the common schools, minimum  
44 competency requirements for the promotion of pupils from the third grade and  
45 minimum course of study and competency requirements for the promotion of

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

9 13. Prescribe minimum course of study and competency requirements for  
10 the graduation of pupils from high school. The state board of education  
11 shall prepare a fiscal impact statement of any proposed changes to the  
12 minimum course of study or competency requirements and, on completion, shall  
13 send a copy to the director of the joint legislative budget committee and the  
14 executive director of the school facilities board. The state board of  
15 education shall not adopt any changes in the minimum course of study or  
16 competency requirements in effect on July 1, 1998 that will have a fiscal  
17 impact on school capital costs.

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

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

42 16. Adopt rules governing the methods for the administration of all  
43 proficiency examinations.

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

1 18. Include within its budget the cost of contracting for the purchase,  
2 distribution and scoring of the examinations as provided in paragraphs 16 and  
3 17 of this subsection.

4 19. Supervise and control the qualifications of professional  
5 nonteaching school personnel and prescribe standards relating to  
6 qualifications.

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

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

12 22. Adopt a rule to promote braille literacy pursuant to section  
13 15-214.

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

17 24. For purposes of federal law, serve as the state board for  
18 vocational and technological education and meet at least four times each year  
19 solely to execute the powers and duties of the state board for vocational and  
20 technological education.

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

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

33 We hold these truths to be self-evident, that all men are  
34 created equal, that they are endowed by their creator with  
35 certain unalienable rights, that among these are life, liberty  
36 and the pursuit of happiness. That to secure these rights,  
37 governments are instituted among men, deriving their just powers  
38 from the consent of the governed. . . .

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

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

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

6           (b) Currently resides in this state.

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

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

12          29. Cooperate with the Arizona-Mexico commission in the governor's  
13 office and with researchers at universities in this state to collect data and  
14 conduct projects in the United States and Mexico on issues that are within  
15 the scope of the duties of the department of education and that relate to  
16 quality of life, trade and economic development in this state in a manner  
17 that will help the Arizona-Mexico commission to assess and enhance the  
18 economic competitiveness of this state and of the Arizona-Mexico region.

19          30. Adopt rules to define and provide guidance to schools as to the  
20 activities that would constitute immoral or unprofessional conduct of  
21 certificated persons.

22          31. Adopt guidelines to encourage pupils in grades nine, ten, eleven  
23 and twelve to volunteer for twenty hours of community service before  
24 graduation from high school. A school district that complies with the  
25 guidelines adopted pursuant to this paragraph is not liable for damages  
26 resulting from a pupil's participation in community service unless the school  
27 district is found to have demonstrated wanton or reckless disregard for the  
28 safety of the pupil and other participants in community service. For the  
29 purposes of this paragraph, "community service" may include service learning.  
30 The guidelines shall include the following:

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

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

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

36          (d) Orientation and notification procedures of community service  
37 opportunities for pupils entering grade nine including the development of a  
38 notification form. The notification form shall be signed by the pupil and  
39 the pupil's parent or guardian, except that a pupil shall not be required to  
40 participate in community service if the parent or guardian notifies the  
41 principal of the pupil's school in writing that the parent or guardian does  
42 not wish the pupil to participate in community service.

43          (e) Procedures for a pupil in grade nine to prepare a written proposal  
44 that outlines the type of community service that the pupil would like to  
45 perform and the goals that the pupil hopes to achieve as a result of

1 community service. The pupil's written proposal shall be reviewed by a  
2 faculty advisor, a guidance counselor or any other school employee who is  
3 designated as the community service program coordinator for that school. The  
4 pupil may alter the written proposal at any time before performing community  
5 service.

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

10 32. To facilitate the transfer of military personnel and their  
11 dependents to and from the public schools of this state, pursue, in  
12 cooperation with the Arizona board of regents, reciprocity agreements with  
13 other states concerning the transfer credits for military personnel and their  
14 dependents. A reciprocity agreement entered into pursuant to this paragraph  
15 shall:

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

17 (i) The transfer of student records.

18 (ii) Awarding credit for completed course work.

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

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

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

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

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

42 36. Adopt rules to prohibit a person who violates the notification  
43 requirements prescribed in section 15-183, subsection C, paragraph ~~6~~ 7 or  
44 section 15-550, subsection C from certification pursuant to this title until  
45 the person is no longer charged or is acquitted of any offenses listed in

1 section 41-1758.03, subsection B. The board shall also adopt rules to  
2 prohibit a person who violates the notification requirements, certification  
3 surrender requirements or fingerprint clearance card surrender requirements  
4 prescribed in section 15-183, subsection C, paragraph ~~7~~ 8 or section 15-550,  
5 subsection D from certification pursuant to this title for at least ten years  
6 after the date of the violation.

7 B. The state board of education may:

8 1. Contract.

9 2. Sue and be sued.

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

12 4. Provide for an advisory committee to conduct hearings and  
13 screenings to determine whether grounds exist to impose disciplinary action  
14 against a certificated person, whether grounds exist to reinstate a revoked  
15 or surrendered certificate and whether grounds exist to approve or deny an  
16 initial application for certification or a request for renewal of a  
17 certificate. The board may delegate its responsibility to conduct hearings  
18 and screenings to its advisory committee. Hearings shall be conducted  
19 pursuant to title 41, chapter 6, article 6.

20 5. Proceed with the disposal of any complaint requesting disciplinary  
21 action or with any disciplinary action against a person holding a certificate  
22 as prescribed in subsection A, paragraph 14 of this section after the  
23 suspension or expiration of the certificate or surrender of the certificate  
24 by the holder.

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

29 Sec. 8. Section 15-512, Arizona Revised Statutes, is amended to read:

30 15-512. Noncertificated personnel; fingerprinting personnel;  
31 background investigations; affidavit; civil immunity;  
32 violation; classification; definition

33 A. Noncertificated personnel and personnel who are not paid employees  
34 of the school district and who are not either the parent or the guardian of a  
35 pupil who attends school in the school district but who are required or  
36 allowed to provide services directly to pupils without the supervision of a  
37 certificated employee and who are initially hired by a school district after  
38 January 1, 1990 shall be fingerprinted as a condition of employment except  
39 for personnel who are required as a condition of licensing to be  
40 fingerprinted if the license is required for employment or for personnel who  
41 were previously employed by a school district and who reestablished  
42 employment with that district within one year after the date that the  
43 employee terminated employment with the district, **EXCEPT THAT BEGINNING JULY**  
44 **1, 2009, NONCERTIFICATED PERSONNEL AND PERSONNEL WHO ARE NOT PAID EMPLOYEES**  
45 **OF THE SCHOOL DISTRICT MUST HAVE A VALID FINGERPRINT CLEARANCE CARD THAT IS**

1 ISSUED PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1. A school district may  
2 release the results of a background check to another school district for  
3 employment purposes. The employee's fingerprints and the form prescribed in  
4 subsection D of this section shall be submitted to the school district within  
5 ~~twenty~~ SEVEN WORKING days after the date an employee begins work. A school  
6 district may terminate an employee if the information on the form provided  
7 under subsection D of this section is inconsistent with the information  
8 received from the fingerprint check. The school district shall develop  
9 procedures for fingerprinting employees. For the purposes of this  
10 subsection, "supervision" means under the direction of and, except for brief  
11 periods of time during a school day or a school activity, within sight of a  
12 certificated employee when providing direct services to pupils.

13 B. Fingerprints submitted pursuant to this section shall be used to  
14 conduct a state and ~~national~~ FEDERAL criminal records check pursuant to  
15 section 41-1750 and Public Law 92-544. The department of public safety may  
16 exchange this fingerprint data with the federal bureau of investigation.

17 C. The school district shall assume the costs of fingerprint checks  
18 and may charge these costs to its fingerprinted employee, except that the  
19 school district may not charge the costs of the fingerprint check to  
20 personnel of the school district who are not paid employees. The fees charged  
21 for fingerprinting shall be deposited with the county treasurer who shall  
22 credit the deposit to the fingerprint fund of the school district. The costs  
23 charged to a fingerprinted employee are limited to and the proceeds in the  
24 fund may only be applied to the actual costs, including personnel costs,  
25 incurred as a result of the fingerprint checks. The fingerprint fund is a  
26 continuing fund which is not subject to reversion.

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

- 33 ~~1. Sexual abuse of a minor.~~
- 34 ~~2. Incest.~~
- 35 ~~3. First or second degree murder.~~
- 36 ~~4. Kidnapping.~~
- 37 ~~5. Arson.~~
- 38 ~~6. Sexual assault.~~
- 39 ~~7. Sexual exploitation of a minor.~~
- 40 ~~8. Felony offenses involving contributing to the delinquency of a~~  
41 ~~minor.~~
- 42 ~~9. Commercial sexual exploitation of a minor.~~

1           ~~10. Felony offenses involving sale, distribution or transportation of,~~  
2 ~~offer to sell, transport, or distribute or conspiracy to sell, transport or~~  
3 ~~distribute marijuana or dangerous or narcotic drugs.~~

4           ~~11. Felony offenses involving the possession or use of marijuana,~~  
5 ~~dangerous drugs or narcotic drugs.~~

6           ~~12. Misdemeanor offenses involving the possession or use of marijuana~~  
7 ~~or dangerous drugs.~~

8           ~~13. Burglary in the first degree.~~

9           ~~14. Burglary in the second or third degree.~~

10          ~~15. Aggravated or armed robbery.~~

11          ~~16. Robbery.~~

12          ~~17. A dangerous crime against children as defined in section 13-705.~~

13          ~~18. Child abuse.~~

14          ~~19. Sexual conduct with a minor.~~

15          ~~20. Molestation of a child.~~

16          ~~21. Manslaughter.~~

17          ~~22. Aggravated assault.~~

18          ~~23. Assault.~~

19          ~~24. Exploitation of minors involving drug offenses.~~

20          E. A school district ~~may~~ SHALL refuse to hire or may review or  
21 terminate personnel who have been convicted of or admitted committing any of  
22 the criminal offenses prescribed in ~~subsection D of this section~~ SECTION  
23 41-1758.03, SUBSECTIONS B AND C or of a similar offense in another  
24 jurisdiction. A school district which is considering terminating an employee  
25 pursuant to this subsection shall hold a hearing to determine whether a  
26 person already employed shall be terminated. In conducting a review, the  
27 governing board shall utilize the guidelines, including the list of offenses  
28 that are not subject to review, as prescribed by the state board of education  
29 pursuant to section 15-534, subsection C. In considering whether to ~~hire or~~  
30 terminate the employment of a person the governing board shall take into  
31 account the following factors:

32           1. The nature of the crime and the potential for crimes against  
33 children.

34           2. Offenses committed as a minor for which proceedings were held under  
35 the jurisdiction of a juvenile or an adult court.

36           3. Offenses that have been expunged by a court of competent  
37 jurisdiction, if the person has been pardoned or if the person's sentence has  
38 been commuted.

39           4. The employment record of the person since the commission of the  
40 crime if the crime was committed more than ten years before the governing  
41 board's consideration of whether to ~~hire or~~ terminate the person.

42           5. The reliability of the evidence of an admission of a crime unless  
43 made under oath in a court of competent jurisdiction.

1 F. Before employment with the school district, the district shall make  
2 documented, good faith efforts to contact previous employers of a person to  
3 obtain information and recommendations which may be relevant to a person's  
4 fitness for employment. A governing board shall adopt procedures for  
5 conducting background investigations required by this subsection, including  
6 one or more standard forms for use by school district officials to document  
7 their efforts to obtain information from previous employers. A school  
8 district may provide information received as a result of a background  
9 investigation required by this section to any other school district, to any  
10 other public school and to any public entity that agrees pursuant to a  
11 contract or intergovernmental agreement to perform background investigations  
12 for school districts or other public schools. School districts and other  
13 public schools may enter into intergovernmental agreements pursuant to  
14 section 11-952 and cooperative purchasing agreements pursuant to rules  
15 adopted in accordance with section 15-213 for the purposes of performing or  
16 contracting for the performance of background investigations and for sharing  
17 the results of background investigations required by this subsection.  
18 Information obtained about an employee or applicant for employment by any  
19 school district or other public school in the performance of a background  
20 investigation may be retained by that school district or the other public  
21 school or by any public entity that agrees pursuant to contract to perform  
22 background investigations for school districts or other public schools and  
23 may be provided to any school district or other public school that is  
24 performing a background investigation required by this subsection.

25 G. A school district may fingerprint any other employee of the  
26 district, whether paid or not, or any other applicant for employment with the  
27 school district not otherwise required by this section to be fingerprinted on  
28 the condition that the school district may not charge the costs of the  
29 fingerprint check to the fingerprinted applicant or nonpaid employee.

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

1 means services provided by a contractor, subcontractor or vendor at least  
2 five times each month on school property.

3 I. Subsection A of this section does not apply to a person who  
4 provides instruction or other education services to a pupil, with the written  
5 consent of the parent or guardian of the pupil, under a work release program,  
6 advance placement course or other education program that occurs off school  
7 property.

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

21 K. The superintendent of a school district or chief administrator of a  
22 charter school or the person's designee who is responsible for implementing  
23 the governing board's policy regarding background investigations required by  
24 subsection F of this section and who fails to carry out that responsibility  
25 is guilty of unprofessional conduct and shall be subject to disciplinary  
26 action by the state board.

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

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

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

41 (a) Ensure that the department of public safety completes a statewide  
42 criminal history information check on the applicant. A statewide criminal  
43 history information check shall be completed by the department of public  
44 safety every one hundred twenty days until the date that the fingerprint  
45 check is completed.

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

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

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

11 M. Notwithstanding any other law, this section does not apply to  
12 pupils who attend school in a school district and who are also employed by a  
13 school district.

14 N. A person who makes a false statement, representation or  
15 certification in any application for employment with the school district is  
16 guilty of a class 3 misdemeanor.

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

24 Sec. 9. Section 15-1330, Arizona Revised Statutes, is amended to read:  
25 15-1330. Fingerprinting personnel; affidavit

26 A. Certificated personnel employed by the schools shall have valid  
27 fingerprint clearance cards issued pursuant to title 41, chapter 12, article  
28 3.1 or shall apply for a fingerprint clearance card within seven working days  
29 of employment.

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

38 C. Noncertificated personnel employed by the schools and nonpaid  
39 personnel working in the schools shall be fingerprinted as a condition of  
40 employment for the purpose of obtaining state and federal criminal records  
41 checks. Noncertificated employees and nonpaid personnel shall submit  
42 fingerprints on the form prescribed by the school to the superintendent  
43 within ~~twenty~~ SEVEN WORKING days after the date an employee begins work.  
44 Employment with the schools is conditioned on the results of the fingerprint

1 check. Fingerprint checks shall be conducted pursuant to section 41-1750 and  
2 Public Law 92-544.

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

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

8 F. Personnel employed by the schools shall certify on forms that are  
9 provided by the schools and notarized that they are not awaiting trial on and  
10 have never been convicted of or admitted in open court or pursuant to a plea  
11 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. Before employment, the schools shall make documented, good faith  
15 efforts to contact previous employers of personnel to obtain information and  
16 recommendations that may be relevant to a person's fitness for employment.  
17 For certificated personnel, the schools may also contact the department of  
18 education to obtain information that is contained in the person's  
19 certification record and that may be relevant to the person's fitness for  
20 employment. For persons in other positions that require licensing, the  
21 schools may also contact the agency that issued the license for information  
22 relevant to the person's fitness for employment. Agencies and previous  
23 employers that provide information pursuant to this subsection are immune  
24 from civil liability unless the information provided is false and is acted on  
25 to the detriment of the employment applicant by the schools and the previous  
26 employer or agency knows the information is false or acts with reckless  
27 disregard of the truth or falsity of the information. Employees who rely on  
28 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. The superintendent shall notify the department of public safety if  
33 the superintendent receives credible evidence that a person who possesses a  
34 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 of this  
38 section.

39 Sec. 10. 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. 11. 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. 12. 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 41-1458.07.

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. 13. 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. 14. 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. 16. Section 41-619.52, Arizona Revised Statutes, is amended to  
11 read:

12 41-619.52. Board of fingerprinting; organization; meetings

13 A. The board of fingerprinting is established consisting of the  
14 following members:

15 1. A representative of the supreme court who is appointed by the chief  
16 justice of the supreme court.

17 2. A representative of the department of economic security who is  
18 appointed by the director of the department of economic security.

19 3. A representative of the department of education who is appointed by  
20 the superintendent of public instruction.

21 4. A representative of the department of health services who is  
22 appointed by the director of the department of health services.

23 5. A representative of the department of juvenile corrections who is  
24 appointed by the director of the department of juvenile corrections.

25 B. At its initial meeting and annually thereafter, the board shall  
26 elect a chairperson and vice-chairperson from among its members and any other  
27 officers that are deemed necessary or advisable.

28 C. The board shall meet at least once each calendar quarter and  
29 additionally as the chairperson deems necessary. A majority of the members  
30 constitutes a quorum for the transaction of business.

31 D. Board members:

32 1. Serve at the pleasure of the appointing authority.

33 2. Are not eligible for compensation but are eligible for  
34 reimbursement of expenses pursuant to title 38, chapter 4, article 2.

35 3. Shall have a valid fingerprint clearance card issued pursuant to  
36 ~~chapter 12, article 3.1 of this title~~ SECTION 41-1758.07.

37 E. The chief justice, the superintendent of public instruction or a  
38 department director may designate an alternate member to represent a member  
39 who is appointed pursuant to subsection A by the chief justice, the  
40 superintendent of public instruction or a department director, respectively.

41 Sec. 17. Section 41-619.53, Arizona Revised Statutes, is amended to  
42 read:

43 41-619.53. Board of fingerprinting; powers and duties;  
44 personnel; liability

45 A. The board of fingerprinting shall:

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. 18. 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. 19. 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. 20. Section 41-1758.01, Arizona Revised Statutes, is amended to  
9 read:

10 41-1758.01. Fingerprinting division; duties

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

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

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

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

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

32 5. Administer and enforce this article.

33 Sec. 21. Section 41-1758.03, Arizona Revised Statutes, is amended to  
34 read:

35 41-1758.03. Fingerprint clearance cards; issuance; immunity

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

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

- 1 similar offenses in another state or jurisdiction is precluded from receiving  
2 a fingerprint clearance card:
- 3 1. Sexual abuse of a vulnerable adult.
  - 4 2. Incest.
  - 5 3. First or second degree murder.
  - 6 4. Sexual assault.
  - 7 5. Sexual exploitation of a minor.
  - 8 6. Sexual exploitation of a vulnerable adult.
  - 9 7. Commercial sexual exploitation of a minor.
  - 10 8. Commercial sexual exploitation of a vulnerable adult.
  - 11 9. Child prostitution as prescribed in section 13-3212.
  - 12 10. Child abuse.
  - 13 11. Abuse of a vulnerable adult.
  - 14 12. Sexual conduct with a minor.
  - 15 13. Molestation of a child.
  - 16 14. Molestation of a vulnerable adult.
  - 17 15. A dangerous crime against children as defined in section 13-705.
  - 18 16. Exploitation of minors involving drug offenses.
  - 19 17. Taking a child for the ~~purposes~~ PURPOSE of prostitution as  
20 prescribed in section 13-3206.
  - 21 18. Neglect or abuse of a vulnerable adult.
  - 22 19. Sex trafficking.
  - 23 20. Sexual abuse.
  - 24 21. Production, publication, sale, possession and presentation of  
25 obscene items as prescribed in section 13-3502.
  - 26 22. Furnishing harmful items to minors as prescribed in section  
27 13-3506.
  - 28 23. Furnishing harmful items to minors by internet activity as  
29 prescribed in section 13-3506.01.
  - 30 24. Obscene or indecent telephone communications to minors for  
31 commercial purposes as prescribed in section 13-3512.
  - 32 25. Luring a minor for sexual exploitation.
  - 33 26. Enticement of persons for purposes of prostitution.
  - 34 27. Procurement by false pretenses of person for purposes of  
35 prostitution.
  - 36 28. Procuring or placing persons in a house of prostitution.
  - 37 29. Receiving earnings of a prostitute.
  - 38 30. Causing one's spouse to become a prostitute.
  - 39 31. Detention of persons in a house of prostitution for debt.
  - 40 32. Keeping or residing in a house of prostitution or employment in  
41 prostitution.
  - 42 33. Pandering.
  - 43 34. Transporting persons for the purpose of prostitution, polygamy and  
44 concubinage.
  - 45 35. Portraying adult as a minor as prescribed in section 13-3555.

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

3           37. UNLAWFUL SALE OR PURCHASE OF CHILDREN.

4           38. CHILD BIGAMY.

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

- 11           1. Manslaughter.
- 12           2. Endangerment.
- 13           3. Threatening or intimidating.
- 14           4. Assault.
- 15           5. Unlawfully administering intoxicating liquors, narcotic drugs or  
16 dangerous drugs.
- 17           6. Assault by vicious animals.
- 18           7. Drive by shooting.
- 19           8. Assaults on officers or fire fighters.
- 20           9. Discharging a firearm at a structure.
- 21           10. Indecent exposure.
- 22           11. Public sexual indecency.
- 23           12. Aggravated criminal damage.
- 24           13. Theft.
- 25           14. Theft by extortion.
- 26           15. Shoplifting.
- 27           16. Forgery.
- 28           17. Criminal possession of a forgery device.
- 29           18. Obtaining a signature by deception.
- 30           19. Criminal impersonation.
- 31           20. Theft of a credit card or obtaining a credit card by fraudulent  
32 means.
- 33           21. Receipt of anything of value obtained by fraudulent use of a credit  
34 card.
- 35           22. Forgery of a credit card.
- 36           23. Fraudulent use of a credit card.
- 37           24. Possession of any machinery, plate or other contrivance or  
38 incomplete credit card.
- 39           25. False statement as to financial condition or identity to obtain a  
40 credit card.
- 41           26. Fraud by persons authorized to provide goods or services.
- 42           27. Credit card transaction record theft.
- 43           28. Misconduct involving weapons.
- 44           29. Misconduct involving explosives.
- 45           30. Depositing explosives.

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

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

3           65. Welfare fraud.

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

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

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

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

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

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

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

38           I. A person who is under eighteen years of age or who is at least  
39 ninety-nine years of age is exempt from the fingerprint clearance card  
40 requirements of this section. At all times the person shall be under the  
41 direct visual supervision of personnel who have valid fingerprint clearance  
42 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 AFTER THE DATE OF APPLYING  
10 FOR A LEVEL I FINGERPRINT CLEARANCE CARD IS PRECLUDED FROM DRIVING ANY  
11 VEHICLE TO TRANSPORT EMPLOYEES OR CLIENTS OF THE EMPLOYING AGENCY AS PART OF  
12 THE 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 R 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. 24. 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. 25. 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. 26. 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. 27. 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. 28. 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. 29. 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. 30. 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.