

REFERENCE TITLE: criminal clearance cards; authorized company

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

SB 1391

Introduced by
Senator Pearce R

AN ACT

AMENDING SECTIONS 41-1758, 41-1758.02, 41-1758.03 AND 41-1758.07, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 12, ARTICLE 3.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1758.08; RELATING TO CRIMINAL 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 41-1758, Arizona Revised Statutes, is amended to
3 read:
4 ~~41-1758.~~ Definitions
5 In this article, unless the context otherwise requires:
6 1. "Agency" means the supreme court, the department of economic
7 security, the department of education, the department of health services, the
8 department of juvenile corrections, the department of emergency and military
9 affairs, the board of fingerprinting or the board of examiners of nursing
10 care institution administrators and assisted living facility managers.
11 2. "AUTHORIZED COMPANY" MEANS A CRIMINAL BACKGROUND INVESTIGATION
12 COMPANY THAT HAS BEEN AUTHORIZED BY THE DEPARTMENT OF ADMINISTRATION PURSUANT
13 TO SECTION 41-1758.08 TO CONDUCT CRIMINAL HISTORY RECORDS CHECKS.
14 ~~2-~~ 3. "Division" means the fingerprinting division in the department
15 of public safety.
16 ~~3-~~ 4. "Good cause exception" means the issuance of a ~~fingerprint~~
17 ~~CRIMINAL~~ clearance card to an employee pursuant to section 41-619.55.
18 ~~4-~~ 5. "Person" means a person who is required to be fingerprinted
19 pursuant to any of the following:
20 (a) Section 8-105.
21 (b) Section 8-322.
22 (c) Section 8-509.
23 (d) Section 8-802.
24 (e) Section 15-183.
25 (f) Section 15-503.
26 (g) Section 15-512.
27 (h) Section 15-534.
28 (i) Section 15-1330.
29 (j) Section 15-1881.
30 (k) Section 26-103.
31 (l) Section 36-411.
32 (m) Section 36-425.03.
33 (n) Section 36-446.04.
34 (o) Section 36-594.01.
35 (p) Section 36-594.02.
36 (q) Section 36-882.
37 (r) Section 36-883.02.
38 (s) Section 36-897.01.
39 (t) Section 36-897.03.
40 (u) Section 36-3008.
41 (v) Section 41-619.52.
42 (w) Section 41-619.53.
43 (x) Section 41-1964.
44 (y) Section 41-1967.01.
45 (z) Section 41-1968.

- 1 (aa) Section 41-1969.
- 2 (bb) Section 41-2814.
- 3 (cc) Section 46-141, subsection A.
- 4 (dd) Section 46-321.

5 ~~5-~~ 6. "Vulnerable adult" has the same meaning prescribed in section
6 13-3623.

7 Sec. 2. Section 41-1758.02, Arizona Revised Statutes, is amended to
8 read:

9 41-1758.02. Fingerprint checks; registration

10 A. The person, provider or agency shall submit a full set of
11 fingerprints to the division OR AN AUTHORIZED COMPANY for the purpose of
12 obtaining a state and federal criminal history records check pursuant to
13 section 41-1750 and Public Law 92-544. If the person can present a valid
14 ~~fingerprint~~ CRIMINAL clearance card or credible documentation that the
15 person's application for a ~~fingerprint~~ CRIMINAL clearance card is pending,
16 the person, provider or agency is not required to submit another application
17 for a ~~fingerprint~~ CRIMINAL clearance card. The division may, AND AN
18 AUTHORIZED COMPANY SHALL, exchange this fingerprint data with the federal
19 bureau of investigation.

20 B. The person shall submit a new set of fingerprints to the division
21 OR AUTHORIZED COMPANY for a fingerprint background check every ~~six~~ TWO
22 years. The division OR AUTHORIZED COMPANY shall conduct a new state and
23 federal criminal history records check on application for a new card. All
24 ~~class one or class two~~ fingerprint clearance cards that were issued before
25 ~~October 1, 2003~~ JANUARY 1, 2012 pursuant to this article shall remain valid
26 until their normal expiration dates at which time the cardholder shall apply
27 for a new ~~fingerprint~~ CRIMINAL clearance card.

28 C. In order to obtain a ~~fingerprint~~ CRIMINAL clearance card, a person
29 shall submit a completed application for a ~~fingerprint~~ CRIMINAL clearance
30 card ~~provided by~~ TO the division OR AUTHORIZED COMPANY.

31 D. The person, provider or agency shall submit the application
32 required by subsection C of this section along with the fingerprints to the
33 division OR AUTHORIZED COMPANY for a criminal history records check.

34 Sec. 3. Section 41-1758.03, Arizona Revised Statutes, is amended to
35 read:

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

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

44 B. A person who is subject to registration as a sex offender in this
45 state or any other jurisdiction or who is awaiting trial on or who has been

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

1 34. Transporting persons for the purpose of prostitution, polygamy and
2 concubinage.

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

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

6 37. Unlawful sale or purchase of children.

7 38. Child bigamy.

8 C. A person who is awaiting trial on or who has been convicted of
9 committing or attempting, soliciting, facilitating or conspiring to commit
10 one or more of the following offenses in this state or the same or similar
11 offenses in another state or jurisdiction is precluded from receiving a
12 ~~fingerprint~~ CRIMINAL clearance card, except that the person may petition the
13 board of fingerprinting for a good cause exception pursuant to section
14 41-619.55:

15 1. Manslaughter.

16 2. Endangerment.

17 3. Threatening or intimidating.

18 4. Assault.

19 5. Unlawfully administering intoxicating liquors, narcotic drugs or
20 dangerous drugs.

21 6. Assault by vicious animals.

22 7. Drive by shooting.

23 8. Assaults on officers or fire fighters.

24 9. Discharging a firearm at a structure.

25 10. Indecent exposure.

26 11. Public sexual indecency.

27 12. Aggravated criminal damage.

28 13. Theft.

29 14. Theft by extortion.

30 15. Shoplifting.

31 16. Forgery.

32 17. Criminal possession of a forgery device.

33 18. Obtaining a signature by deception.

34 19. Criminal impersonation.

35 20. Theft of a credit card or obtaining a credit card by fraudulent
36 means.

37 21. Receipt of anything of value obtained by fraudulent use of a credit
38 card.

39 22. Forgery of a credit card.

40 23. Fraudulent use of a credit card.

41 24. Possession of any machinery, plate or other contrivance or
42 incomplete credit card.

43 25. False statement as to financial condition or identity to obtain a
44 credit card.

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

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

- 1 60. Aggravated taking identity of another person or entity.
- 2 61. Trafficking in the identity of another person or entity.
- 3 62. Cruelty to animals.
- 4 63. Prostitution.
- 5 64. Sale or distribution of material harmful to minors through vending
- 6 machines as prescribed in section 13-3513.
- 7 65. Welfare fraud.

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

18 E. Notwithstanding subsection C of this section, on receiving written
19 notice from the board of fingerprinting that a good cause exception was
20 granted pursuant to section 41-619.55, the division ~~OR AUTHORIZED COMPANY~~
21 shall issue a ~~fingerprint~~ ~~CRIMINAL~~ clearance card to the person.

22 F. If the division ~~OR AUTHORIZED COMPANY~~ denies a person's application
23 for a ~~fingerprint~~ ~~CRIMINAL~~ clearance card pursuant to subsection C of this
24 section and a good cause exception is requested pursuant to section
25 41-619.55, the division ~~OR AUTHORIZED COMPANY~~ shall release, on request by
26 the board of fingerprinting, the person's criminal history record to the
27 board of fingerprinting.

28 G. A person shall be granted a ~~fingerprint~~ ~~CRIMINAL~~ clearance card if
29 either of the following applies:

30 1. An agency granted a good cause exception before August 16, 1999 and
31 no new precluding offense is identified. The ~~fingerprint~~ ~~CRIMINAL~~ clearance
32 card shall specify only the program that granted the good cause exception.
33 On the request of the applicant, the agency that granted the prior good cause
34 exception shall notify the division ~~OR AUTHORIZED COMPANY~~ in writing of the
35 date on which the prior good cause exception was granted and the date of the
36 conviction and the name of the offense for which the good cause exception was
37 granted.

38 2. The board granted a good cause exception and no new precluding
39 offense is identified.

40 H. The licensee or contract provider shall assume the costs of
41 fingerprint checks and may charge these costs to persons required to be
42 fingerprinted.

43 I. A person who is under eighteen years of age or who is at least
44 ninety-nine years of age is exempt from the ~~fingerprint~~ ~~CRIMINAL~~ clearance
45 card requirements of this section. At all times the person shall be under

1 the direct visual supervision of personnel who have valid ~~fingerprint~~
2 CRIMINAL clearance cards.

3 J. The division OR AUTHORIZED COMPANY may conduct periodic state
4 criminal history records checks for the purpose of updating the clearance
5 status of current ~~fingerprint~~ CRIMINAL clearance card holders and may notify
6 the board of fingerprinting and the agency employing the person of the
7 results of the records check.

8 K. The division OR AUTHORIZED COMPANY shall revoke a person's
9 ~~fingerprint~~ CRIMINAL clearance card on receipt of a written request for
10 revocation from the board of fingerprinting pursuant to section 41-619.55.

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

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

30 N. If, after conducting a state and federal criminal history records
31 check on a person who requests a ~~fingerprint~~ CRIMINAL clearance card pursuant
32 to section 15-1881, the division OR AUTHORIZED COMPANY determines that it is
33 not authorized to issue a ~~fingerprint~~ CRIMINAL clearance card to the person,
34 the division OR AUTHORIZED COMPANY shall not notify the agency. The division
35 OR AUTHORIZED COMPANY shall notify the person who requested the card that the
36 division OR AUTHORIZED COMPANY is not authorized to issue a ~~fingerprint~~
37 CRIMINAL clearance card.

38 O. The division OR AUTHORIZED COMPANY is not liable for damages
39 resulting from:

40 1. The issuance of a ~~fingerprint~~ CRIMINAL clearance card to a person
41 who is later found to have been ineligible to receive a ~~fingerprint~~ CRIMINAL
42 clearance card at the time the card was issued.

43 2. The denial of a ~~fingerprint~~ CRIMINAL clearance card to a person who
44 is later found to have been eligible to receive a ~~fingerprint~~ CRIMINAL
45 clearance card at the time issuance of the card was denied.

1 P. The issuance of a ~~fingerprint~~ CRIMINAL clearance card does not
2 entitle a person to employment.

3 Q. Notwithstanding any law to the contrary, a person may apply for and
4 receive a level I ~~fingerprint~~ CRIMINAL clearance card pursuant to section
5 41-1758.07 to satisfy a requirement that the person have a valid ~~fingerprint~~
6 CRIMINAL clearance card issued pursuant to this section.

7 Sec. 4. Section 41-1758.07, Arizona Revised Statutes, is amended to
8 read:

9 41-1758.07. Level I criminal clearance cards; definitions

10 A. On receiving the state and federal criminal history record of a
11 person who is required to be fingerprinted pursuant to this section, the
12 fingerprinting division in the department of public safety OR AN AUTHORIZED
13 COMPANY shall compare the record with the list of criminal offenses that
14 preclude the person from receiving a level I ~~fingerprint~~ CRIMINAL clearance
15 card. If the person's criminal history record does not contain any of the
16 offenses listed in subsections B and C of this section, the fingerprinting
17 division OR AN AUTHORIZED COMPANY shall issue the person a level I
18 ~~fingerprint~~ CRIMINAL clearance card.

19 B. A person who is subject to registration as a sex offender in this
20 state or any other jurisdiction or who is awaiting trial on or who has been
21 convicted of committing or attempting, soliciting, facilitating or conspiring
22 to commit one or more of the following offenses in this state or the same or
23 similar offenses in another state or jurisdiction is precluded from receiving
24 a level I ~~fingerprint~~ CRIMINAL clearance card:

- 25 1. Sexual abuse of a vulnerable adult.
- 26 2. Incest.
- 27 3. Homicide, including first or second degree murder, manslaughter and
28 negligent homicide.
- 29 4. Sexual assault.
- 30 5. Sexual exploitation of a minor.
- 31 6. Sexual exploitation of a vulnerable adult.
- 32 7. Commercial sexual exploitation of a minor.
- 33 8. Commercial sexual exploitation of a vulnerable adult.
- 34 9. Child prostitution as prescribed in section 13-3212.
- 35 10. Child abuse.
- 36 11. Felony child neglect.
- 37 12. Abuse of a vulnerable adult.
- 38 13. Sexual conduct with a minor.
- 39 14. Molestation of a child.
- 40 15. Molestation of a vulnerable adult.
- 41 16. Dangerous crimes against children as defined in section 13-705.
- 42 17. Exploitation of minors involving drug offenses.
- 43 18. Taking a child for the purpose of prostitution as prescribed in
44 section 13-3206.
- 45 19. Neglect or abuse of a vulnerable adult.

- 1 20. Sex trafficking.
- 2 21. Sexual abuse.
- 3 22. Production, publication, sale, possession and presentation of
- 4 obscene items as prescribed in section 13-3502.
- 5 23. Furnishing harmful items to minors as prescribed in section
- 6 13-3506.
- 7 24. Furnishing harmful items to minors by internet activity as
- 8 prescribed in section 13-3506.01.
- 9 25. Obscene or indecent telephone communications to minors for
- 10 commercial purposes as prescribed in section 13-3512.
- 11 26. Luring a minor for sexual exploitation.
- 12 27. Enticement of persons for purposes of prostitution.
- 13 28. Procurement by false pretenses of person for purposes of
- 14 prostitution.
- 15 29. Procuring or placing persons in a house of prostitution.
- 16 30. Receiving earnings of a prostitute.
- 17 31. Causing one's spouse to become a prostitute.
- 18 32. Detention of persons in a house of prostitution for debt.
- 19 33. Keeping or residing in a house of prostitution or employment in
- 20 prostitution.
- 21 34. Pandering.
- 22 35. Transporting persons for the purpose of prostitution, polygamy and
- 23 concubinage.
- 24 36. Portraying adult as a minor as prescribed in section 13-3555.
- 25 37. Admitting minors to public displays of sexual conduct as prescribed
- 26 in section 13-3558.
- 27 38. Any felony offense involving contributing to the delinquency of a
- 28 minor.
- 29 39. Unlawful sale or purchase of children.
- 30 40. Child bigamy.
- 31 41. Any felony offense involving domestic violence as defined in
- 32 section 13-3601 except for a felony offense only involving criminal damage in
- 33 an amount of more than two hundred fifty dollars but less than one thousand
- 34 dollars if the offense was committed before ~~the effective date of this~~
- 35 ~~section~~ JUNE 29, 2009.
- 36 42. Any felony offense in violation of title 13, chapter 12 if
- 37 committed within five years before the date of applying for a level I
- 38 ~~fingerprint~~ CRIMINAL clearance card.
- 39 43. Felony drug or alcohol related offenses if committed within five
- 40 years before the date of applying for a level I ~~fingerprint~~ CRIMINAL
- 41 clearance card.
- 42 44. Felony indecent exposure.
- 43 45. Felony public sexual indecency.
- 44 46. Terrorism.

1 47. Any offense involving a violent crime as defined in section
2 13-901.03.

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

- 10 1. Any misdemeanor offense in violation of title 13, chapter 12.
- 11 2. Misdemeanor indecent exposure.
- 12 3. Misdemeanor public sexual indecency.
- 13 4. Aggravated criminal damage.
- 14 5. Theft.
- 15 6. Theft by extortion.
- 16 7. Shoplifting.
- 17 8. Forgery.
- 18 9. Criminal possession of a forgery device.
- 19 10. Obtaining a signature by deception.
- 20 11. Criminal impersonation.
- 21 12. Theft of a credit card or obtaining a credit card by fraudulent
22 means.
- 23 13. Receipt of anything of value obtained by fraudulent use of a credit
24 card.
- 25 14. Forgery of a credit card.
- 26 15. Fraudulent use of a credit card.
- 27 16. Possession of any machinery, plate or other contrivance or
28 incomplete credit card.
- 29 17. False statement as to financial condition or identity to obtain a
30 credit card.
- 31 18. Fraud by persons authorized to provide goods or services.
- 32 19. Credit card transaction record theft.
- 33 20. Misconduct involving weapons.
- 34 21. Misconduct involving explosives.
- 35 22. Depositing explosives.
- 36 23. Misconduct involving simulated explosive devices.
- 37 24. Concealed weapon violation.
- 38 25. Misdemeanor possession and misdemeanor sale of peyote.
- 39 26. Felony possession and felony sale of peyote if committed more than
40 five years before the date of applying for a level I ~~fingerprint~~ CRIMINAL
41 clearance card.
- 42 27. Misdemeanor possession and misdemeanor sale of a vapor-releasing
43 substance containing a toxic substance.

- 1 28. Felony possession and felony sale of a vapor-releasing substance
2 containing a toxic substance if committed more than five years before the
3 date of applying for a level I ~~fingerprint~~ CRIMINAL clearance card.
- 4 29. Misdemeanor sale of precursor chemicals.
- 5 30. Felony sale of precursor chemicals if committed more than five
6 years before the date of applying for a level I ~~fingerprint~~ CRIMINAL
7 clearance card.
- 8 31. Misdemeanor possession, misdemeanor use or misdemeanor sale of
9 marijuana, dangerous drugs or narcotic drugs.
- 10 32. Felony possession, felony use or felony sale of marijuana,
11 dangerous drugs or narcotic drugs if committed more than five years before
12 the date of applying for a level I ~~fingerprint~~ CRIMINAL clearance card.
- 13 33. Misdemeanor manufacture or misdemeanor distribution of an imitation
14 controlled substance.
- 15 34. Felony manufacture or felony distribution of an imitation
16 controlled substance if committed more than five years before the date of
17 applying for a level I ~~fingerprint~~ CRIMINAL clearance card.
- 18 35. Misdemeanor manufacture or misdemeanor distribution of an imitation
19 prescription-only drug.
- 20 36. Felony manufacture or felony distribution of an imitation
21 prescription-only drug if committed more than five years before the date of
22 applying for a level I ~~fingerprint~~ CRIMINAL clearance card.
- 23 37. Misdemeanor manufacture or misdemeanor distribution of an imitation
24 over-the-counter drug.
- 25 38. Felony manufacture or felony distribution of an imitation
26 over-the-counter drug if committed more than five years before the date of
27 applying for a level I ~~fingerprint~~ CRIMINAL clearance card.
- 28 39. Misdemeanor possession or misdemeanor possession with intent to use
29 an imitation controlled substance.
- 30 40. Felony possession or felony possession with intent to use an
31 imitation controlled substance if committed more than five years before the
32 date of applying for a level I ~~fingerprint~~ CRIMINAL clearance card.
- 33 41. Misdemeanor possession or misdemeanor possession with intent to use
34 an imitation prescription-only drug.
- 35 42. Felony possession or felony possession with intent to use an
36 imitation prescription-only drug if committed more than five years before the
37 date of applying for a level I ~~fingerprint~~ CRIMINAL clearance card.
- 38 43. Misdemeanor possession or misdemeanor possession with intent to use
39 an imitation over-the-counter drug.
- 40 44. Felony possession or felony possession with intent to use an
41 imitation over-the-counter drug if committed more than five years before the
42 date of applying for a level I ~~fingerprint~~ CRIMINAL clearance card.
- 43 45. Misdemeanor manufacture of certain substances and drugs by certain
44 means.

- 1 46. Felony manufacture of certain substances and drugs by certain means
2 if committed more than five years before the date of applying for a level I
3 ~~fingerprint~~ CRIMINAL clearance card.
- 4 47. Adding poison or other harmful substance to food, drink or
5 medicine.
- 6 48. A criminal offense involving criminal trespass and burglary under
7 title 13, chapter 15.
- 8 49. A criminal offense under title 13, chapter 23, except terrorism.
- 9 50. Misdemeanor offenses involving child neglect.
- 10 51. Misdemeanor offenses involving contributing to the delinquency of a
11 minor.
- 12 52. Misdemeanor offenses involving domestic violence as defined in
13 section 13-3601.
- 14 53. Felony offenses involving domestic violence if the offense only
15 involved criminal damage in an amount of more than two hundred fifty dollars
16 but less than one thousand dollars and the offense was committed before ~~the~~
17 ~~effective date of this section~~ JUNE 29, 2009.
- 18 54. Arson.
- 19 55. Felony offenses involving sale, distribution or transportation of,
20 offer to sell, transport or distribute or conspiracy to sell, transport or
21 distribute marijuana, dangerous drugs or narcotic drugs if committed more
22 than five years before the date of applying for a level I ~~fingerprint~~
23 CRIMINAL clearance card.
- 24 56. Criminal damage.
- 25 57. Misappropriation of charter school monies as prescribed in section
26 13-1818.
- 27 58. Taking identity of another person or entity.
- 28 59. Aggravated taking identity of another person or entity.
- 29 60. Trafficking in the identity of another person or entity.
- 30 61. Cruelty to animals.
- 31 62. Prostitution, as prescribed in section 13-3214.
- 32 63. Sale or distribution of material harmful to minors through vending
33 machines as prescribed in section 13-3513.
- 34 64. Welfare fraud.
- 35 65. Any felony offense in violation of title 13, chapter 12 if
36 committed more than five years before the date of applying for a level I
37 ~~fingerprint~~ CRIMINAL clearance card.
- 38 66. Kidnapping.
- 39 67. Robbery, aggravated robbery or armed robbery.
- 40 D. A person who is awaiting trial on or who has been convicted of
41 committing or attempting to commit a misdemeanor violation of section
42 28-1381, 28-1382 or 28-1383 in this state or the same or A similar offense in
43 another state or jurisdiction within five years from the date of applying for
44 a level I ~~fingerprint~~ CRIMINAL clearance card is precluded from driving any
45 vehicle to transport employees or clients of the employing agency as part of

1 the person's employment. The division OR AUTHORIZED COMPANY shall place a
2 notation on the level I ~~fingerprint~~ CRIMINAL clearance card that indicates
3 this driving restriction. This subsection does not preclude a person from
4 driving a vehicle alone as part of the person's employment.

5 E. Notwithstanding subsection C of this section, on receiving written
6 notice from the board of fingerprinting that a good cause exception was
7 granted pursuant to section 41-619.55, the fingerprinting division OR
8 AUTHORIZED COMPANY shall issue a level I ~~fingerprint~~ CRIMINAL clearance card
9 to the applicant.

10 F. If the fingerprinting division OR AUTHORIZED COMPANY denies a
11 person's application for a level I ~~fingerprint~~ CRIMINAL clearance card
12 pursuant to subsection C of this section and a good cause exception is
13 requested pursuant to section 41-619.55, the fingerprinting division OR
14 AUTHORIZED COMPANY shall release, on request by the board of fingerprinting,
15 the person's criminal history record to the board of fingerprinting.

16 G. A person shall be granted a level I ~~fingerprint~~ CRIMINAL clearance
17 card pursuant to this section if either of the following applies:

18 1. An agency granted a good cause exception before August 16, 1999 and
19 no new precluding offense is identified. The ~~fingerprint~~ CRIMINAL clearance
20 card shall specify only the program that granted the good cause exception.
21 On the request of the applicant, the agency that granted the prior good cause
22 exception shall notify the fingerprinting division OR AUTHORIZED COMPANY in
23 writing of the date on which the prior good cause exception was granted, ~~and~~
24 the date of the conviction and the name of the offense for which the good
25 cause exception was granted.

26 2. The board granted a good cause exception and no new precluding
27 offense is identified.

28 H. The licensee or contract provider shall assume the costs of
29 fingerprint checks conducted pursuant to this section and may charge these
30 costs to persons required to be fingerprinted.

31 I. A person who is under eighteen years of age or who is at least
32 ninety-nine years of age is exempt from the level I ~~fingerprint~~ CRIMINAL
33 clearance card requirements of this section. At all times the person shall
34 be under the direct visual supervision of personnel who have valid level I
35 ~~fingerprint~~ CRIMINAL clearance cards.

36 J. The fingerprinting division OR AUTHORIZED COMPANY may conduct
37 periodic state criminal history records checks for the purpose of updating
38 the clearance status of current level I ~~fingerprint~~ CRIMINAL clearance
39 cardholders pursuant to this section and may notify the board of
40 fingerprinting and the agency of the results of the records check.

41 K. The fingerprinting division OR AUTHORIZED COMPANY shall revoke a
42 person's level I ~~fingerprint~~ CRIMINAL clearance card on receipt of a written
43 request for revocation from the board of fingerprinting pursuant to section
44 41-619.55.

1 L. The fingerprinting division OR AUTHORIZED COMPANY shall not issue a
2 level I ~~fingerprint~~ CRIMINAL clearance card to an applicant if the division
3 OR AUTHORIZED COMPANY cannot determine, within thirty business days after
4 receipt of the person's state and federal criminal history record
5 information, whether the person is awaiting trial on or has been convicted of
6 committing any of the offenses listed in subsection B or C of this section.
7 If the division OR AUTHORIZED COMPANY is unable to make the determination
8 required by this section and does not issue a level I ~~fingerprint~~ CRIMINAL
9 clearance card to a person, the person may request a good cause exception
10 pursuant to section 41-619.55.

11 M. If after conducting a state and federal criminal history records
12 check the fingerprinting division OR AUTHORIZED COMPANY determines that it is
13 not authorized to issue a level I ~~fingerprint~~ CRIMINAL clearance card to an
14 applicant, the division OR AUTHORIZED COMPANY shall notify the agency that
15 the fingerprinting division OR AUTHORIZED COMPANY is not authorized to issue
16 a level I ~~fingerprint~~ CRIMINAL clearance card. This notice shall include the
17 criminal history information on which the denial was based. This criminal
18 history information is subject to dissemination restrictions pursuant to
19 section 41-1750 and Public Law 92-544.

20 N. The fingerprinting division OR AUTHORIZED COMPANY is not liable for
21 damages resulting from:

22 1. The issuance of a level I ~~fingerprint~~ CRIMINAL clearance card to an
23 applicant who is later found to have been ineligible to receive a level I
24 ~~fingerprint~~ CRIMINAL clearance card at the time the card was issued.

25 2. The denial of a level I ~~fingerprint~~ CRIMINAL clearance card to an
26 applicant who is later found to have been eligible to receive a level I
27 ~~fingerprint~~ CRIMINAL clearance card at the time issuance of the card was
28 denied.

29 O. Notwithstanding any law to the contrary, an individual may apply
30 for and receive a level I ~~fingerprint~~ CRIMINAL clearance card pursuant to
31 this section to satisfy a requirement that the person have a valid
32 ~~fingerprint~~ CRIMINAL clearance card issued pursuant to section 41-1758.03.

33 P. Notwithstanding any law to the contrary, except as prescribed
34 pursuant to subsection Q of this section, an individual who receives a
35 level I ~~fingerprint~~ CRIMINAL clearance card pursuant to this section also
36 satisfies a requirement that the individual have a valid ~~fingerprint~~ CRIMINAL
37 clearance card issued pursuant to section 41-1758.03.

38 Q. Unless a cardholder commits an offense listed in subsection B or C
39 of this section after ~~the effective date of this section~~ JUNE 29, 2009, a
40 ~~fingerprint~~ CRIMINAL clearance card issued pursuant to section 41-1758.03
41 before ~~the effective date of this section~~ JUNE 29, 2009 and its renewals are
42 valid for all requirements for a level I ~~fingerprint~~ CRIMINAL clearance card
43 except those relating to the requirements of section 8-105 or 8-509. A
44 ~~fingerprint~~ CRIMINAL clearance card issued before ~~the effective date of this~~
45 ~~section~~ JUNE 29, 2009 to meet the requirements of section 8-105 or 8-509 and

1 its renewals are valid after ~~the effective date of this section~~ JUNE 29, 2009
2 to meet all requirements for a level I ~~fingerprint~~ CRIMINAL clearance card,
3 including the requirements of section 8-105 or 8-509 if the cardholder has
4 been certified by the court to adopt or has been issued a foster home license
5 before ~~the effective date of this section~~ JUNE 29, 2009.

6 R. The issuance of a level I ~~fingerprint~~ CRIMINAL clearance card does
7 not entitle a person to employment.

8 S. For the purposes of this section:

9 1. "Person" means a person who is fingerprinted pursuant to:

10 (a) Section 8-105, 8-509, 8-802, 36-594.01, 36-594.02, 36-882,
11 36-883.02, 36-897.01, 36-897.03, 41-619.52, 41-619.53, 41-1964, 41-1967.01,
12 41-1968, 41-1969 or 46-141.

13 (b) Subsection 0 of this section.

14 2. "Renewal" means the issuance of a ~~fingerprint~~ CRIMINAL clearance
15 card to an existing ~~fingerprint~~ CRIMINAL clearance cardholder who applies
16 before the person's existing ~~fingerprint~~ CRIMINAL clearance card expires.

17 Sec. 5. Title 41, chapter 12, article 3.1, Arizona Revised Statutes,
18 is amended by adding section 41-1758.08, to read:

19 41-1758.08. Criminal background investigation company;
20 designation as an authorized company;
21 requirements; duties

22 A. THE DEPARTMENT OF ADMINISTRATION MAY DESIGNATE A CRIMINAL
23 BACKGROUND INVESTIGATION COMPANY AS AN AUTHORIZED COMPANY FOR THE PURPOSE OF
24 CONDUCTING A STATE AND FEDERAL CRIMINAL HISTORY RECORDS CHECKS OF PERSONS AS
25 REQUIRED BY THIS ARTICLE. ON RECEIVING SUCH A DESIGNATION, THE AUTHORIZED
26 COMPANY MAY RECEIVE AN ORIGINATING AGENCY'S CASE NUMBER FROM THE FEDERAL
27 BUREAU OF INVESTIGATION.

28 B. TO BE DESIGNATED AS AN AUTHORIZED COMPANY, THE CRIMINAL BACKGROUND
29 INVESTIGATION COMPANY SHALL SHOW TO THE SATISFACTION OF THE DEPARTMENT OF
30 ADMINISTRATION THAT:

31 1. THE COMPANY IS A CORPORATION OR LIMITED LIABILITY COMPANY THAT IS
32 INCORPORATED IN THIS STATE AND THAT HAS ITS PRINCIPLE OFFICE LOCATED IN THIS
33 STATE.

34 2. THE MAJORITY SHAREHOLDERS ARE RESIDENTS OF THIS STATE AND ARE
35 PRIVATE INVESTIGATORS LICENSED PURSUANT TO TITLE 32, CHAPTER 24.

36 3. ALL EMPLOYEES WHO CONDUCT CRIMINAL BACKGROUND INVESTIGATIONS ARE
37 PRIVATE INVESTIGATORS LICENSED PURSUANT TO TITLE 32, CHAPTER 24.

38 4. THE COMPANY HAS THE ABILITY TO CONDUCT INVESTIGATIONS BY SEARCHING
39 CURRENT DISPOSITION DATA DIRECTLY FROM THE FEDERAL OR STATE COURTS. THE
40 COMPANY MUST SHOW THAT THE COMPANY CAN ACCESS COURT DISPOSITION RECORDS
41 DIRECTLY FROM THE COURTS.

42 5. THE COMPANY HAS THE ABILITY TO VERIFY A CRIMINAL CLEARANCE CARD
43 THROUGH THE COMPANY'S WEBSITE AND INCLUDE INFORMATION DETERMINED NECESSARY BY
44 THE DEPARTMENT INCLUDING NAME, ADDRESS AND TELEPHONE NUMBER OF THE COMPANY,

1 THE ISSUE AND EXPIRATION DATE OF THE CRIMINAL CLEARANCE CARD AND THE
2 CARDHOLDER'S PHOTOGRAPH, SEX, HEIGHT, WEIGHT, HAIR COLOR AND EYE COLOR.

3 C. IF THE AUTHORIZED COMPANY REQUESTS A HARD COPY OF A DISPOSITION
4 RECORD FROM A COURT OF THIS STATE, THE COURT SHALL RELEASE THE DISPOSITION
5 RECORD TO THE AUTHORIZED COMPANY AT NO CHARGE AND IN A REASONABLE TIME. A
6 DISPOSITION RECORD SHALL INCLUDE ANY PLEA AGREEMENT, JUDGMENT OR ORDER OF THE
7 COURT REGARDING THE CASE AND THE CASE HISTORY OF THE PROCEEDINGS.

8 D. ALL INFORMATION OBTAINED BY THE AUTHORIZED COMPANY IS NOT A PUBLIC
9 RECORD AND MAY NOT BE SHARED WITH ANY PERSON OR AGENCY, EXCEPT AS PROVIDED BY
10 THIS ARTICLE. THE INFORMATION SHALL NOT BE STORED PHYSICALLY OR
11 ELECTRONICALLY IN ANY FOREIGN COUNTRY.

12 E. IF AT ANY TIME THE AUTHORIZED COMPANY DETERMINES THAT A PERSON HAS
13 BEEN INDICTED, CHARGED WITH, CONVICTED OF, PLED GUILTY TO OR PLEAD NO CONTEST
14 TO ANY CRIME PRESCRIBED IN SECTION 41-1758.03 OR 41-1758.07, THE COMPANY
15 SHALL TERMINATE THE PERSON'S CRIMINAL CLEARANCE CARD AND PROVIDE NOTICE OF
16 THE TERMINATION ON THE AUTHORIZED COMPANY'S WEBSITE. THE CRIMINAL CLEARANCE
17 CARD SHALL BE REINSTATED IF THE PERSON'S CHARGE HAS BEEN DISMISSED BEFORE
18 CONVICTION OR PLEA.

19 Sec. 6. Conforming legislation

20 The legislative council staff shall prepare proposed legislation
21 conforming the Arizona Revised Statutes to the provisions of this act for
22 consideration in the fiftieth legislature, first regular session.

23 Sec. 7. Effective date

24 This act is effective from and after December 31, 2011.