

REFERENCE TITLE: Arizona background clearance card

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SB 1520

Introduced by
Senator Crandall

AN ACT

AMENDING SECTIONS 8-105, 8-322, 8-509, 8-802, 15-106, 15-183, 15-203, 15-503, 15-512, 15-531.01, 15-534, 15-550, 15-763.01, 15-1330, 15-1881, 26-103, 32-2108, 32-2108.01, 32-2123, 32-3280, 36-411, 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008, 38-431.08, 41-619.51, 41-619.52, 41-619.53, 41-619.55, 41-619.56, 41-1092.02, 41-1750, 41-1758, 41-1758.01, 41-1758.02, 41-1758.03, 41-1758.04, 41-1758.05, 41-1758.06 AND 41-1758.07, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 12, ARTICLE 3.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1758.08; AMENDING SECTIONS 41-1964, 41-1967, 41-1967.01, 41-1968, 41-1969, 41-2814, 41-3013.12, 46-141 AND 46-321, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 41, CHAPTER 3, ARTICLE 12, ARIZONA REVISED STATUTES, TO "BOARD OF ARIZONA BACKGROUND CLEARANCE CARDS"; RELATING TO THE ARIZONA BACKGROUND CLEARANCE CARD.

(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 special needs as defined in section 8-141.

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

24 D. The division shall not present for certification a prospective
25 adoptive parent unless that person and each other adult member of the
26 household have a valid fingerprint clearance card **OR A VALID ARIZONA**
27 **BACKGROUND CLEARANCE CARD** issued pursuant to section 41-1758.07. The
28 prospective adoptive parent and each other adult member of the household must
29 certify on forms that are provided by the division and that are notarized
30 whether that person is awaiting trial on or has ever been convicted of any of
31 the criminal offenses listed in section 41-1758.07, subsections B and C in
32 this state or similar offenses in another state or jurisdiction.

33 E. An officer of the court may obtain a state and federal criminal
34 records ~~check~~ **INVESTIGATION** pursuant to ~~section 41-1750 and Public Law~~
35 ~~92-544. The department of public safety may exchange this fingerprint data~~
36 ~~with the federal bureau of investigation~~ **TITLE 41, CHAPTER 12, ARTICLE 3.1.**

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

- 40 1. A complete social history.
- 41 2. The financial condition of the applicant.
- 42 3. The moral fitness of the applicant.
- 43 4. The religious background of the applicant.
- 44 5. The physical and mental health condition of the applicants.

1 6. Any court action for or adjudication of child abuse, abandonment of
2 children, dependency or termination of parent-child relationship in which the
3 applicant had control, care or custody of the child who was the subject of
4 the action.

5 7. Whether the person or persons wish to be placed on the central
6 registry established in subsection M of this section.

7 8. All other facts bearing on the issue of the fitness of the
8 prospective adoptive parents that the court, agency or division may deem
9 relevant.

10 G. The investigator shall not reveal to the prospective adoptive
11 parents the identity of a child or the child's parent or parents and shall
12 not reveal to the child or the child's parent or parents the identity of the
13 prospective adoptive parents if these facts are not already known.

14 H. Within ninety days after the original application prescribed by
15 subsection A of this section has been accepted, the division or the agency or
16 a person or agency designated by the court to conduct an investigation shall
17 present to the juvenile court the written report required by subsection F of
18 this section, which shall include a definite recommendation for certifying
19 the applicant as being acceptable or nonacceptable to adopt children and the
20 reasons for the recommendation.

21 I. Within sixty days after receiving the investigation report required
22 by subsections F and H of this section, the court shall certify the applicant
23 as being acceptable or nonacceptable to adopt children based on the
24 investigation report and recommendations of the report. A certification
25 remains in effect for eighteen months from the date of its issuance and may
26 be extended for additional one year periods if after review the court finds
27 that there have been no material changes in circumstances that would
28 adversely affect the acceptability of the applicant to adopt.

29 J. The court may require additional investigation if it finds that
30 additional information is necessary on which to make an appropriate decision
31 regarding certification.

32 K. Any applicant who has been certified as nonacceptable may petition
33 the court to review ~~such~~ THAT certification. Notice shall be given to all
34 interested parties and the matter shall be heard by the court, which may
35 affirm or reverse the certification.

36 L. If the applicant is certified as nonacceptable, the applicant may
37 not reapply for certification to the court, to any agency or to the division
38 for one year.

39 M. The division shall maintain a central adoption registry that
40 includes the names of all prospective adoptive parents currently certified by
41 the court as acceptable to adopt children, except those who request that
42 their names not be included, the names of all children who are under the
43 jurisdiction of the division and who are currently available for adoption,
44 the names of any other children who are currently available for adoption and
45 whose names are voluntarily entered in the registry by any agency, parent or

1 other person that has the right to give consent to the child's adoption, and
2 other information as the division may elect to include in aid of adoptive
3 placements. Access to information in the registry shall be made available on
4 request to any agency under assurances as the division may require that the
5 information sought is in furtherance of adoptive placements and that
6 confidentiality of the information is preserved.

7 N. This section does not apply if:

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

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

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

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

37 Sec. 2. Section 8-322, Arizona Revised Statutes, is amended to read:

38 8-322. Juvenile probation services fund; program and contract
39 requirements

40 A. The juvenile probation services fund is established. The supreme
41 court shall administer the fund. Monies in the juvenile probation services
42 fund are exempt from the provisions of section 35-190 relating to lapsing of
43 appropriations.

44 B. The supreme court shall allocate monies in the fund or appropriated
45 to the superior court's juvenile probation services fund line based on its

1 determination of the need for and probable effectiveness of each plan
2 submitted pursuant to this article. The supreme court shall require that the
3 presiding juvenile court judge submit in accordance with rules of the supreme
4 court a plan for the expenditure of monies that are allocated to the juvenile
5 court pursuant to this section. The supreme court may reject a plan or a
6 modification of a plan that is submitted pursuant to this subsection.

7 C. Monies shall be used to fund programs, the participation in which a
8 juvenile probation officer or community based alternative program
9 administered by the juvenile court has required as a condition of diversion
10 pursuant to section 8-321. Monies shall also be used to fund programs to
11 reduce the number of repetitive juvenile offenders and to provide services
12 for juveniles who are on probation, including treatment, testing, independent
13 living programs and residential, foster and shelter care, and for children
14 who are referred to the juvenile court for incorrigibility or delinquency
15 offenses. Monies may be used to provide the cost of care for persons who are
16 under twenty-one years of age and who were placed in an independent living
17 program or in foster care before eighteen years of age, who voluntarily
18 remain in care and who are currently enrolled in and regularly attending any
19 high school or certificate of equivalency program. Pursuant to section
20 8-341, subsection N, monies may also be used to provide services for persons
21 who are under twenty-one years of age and who voluntarily participate in
22 treatment. Except pursuant to section 8-341, subsection N, the cost of care
23 shall not be continued for a person who has received a high school diploma or
24 certificate of equivalency. These services shall be approved by the supreme
25 court. The juvenile court may develop and staff such programs, or the
26 supreme court may enter into the purchase of service contracts with community
27 youth serving agencies.

28 D. The administrative office of the courts may use monies appropriated
29 to the fund for the purchase of detention facilities, to expand existing
30 detention centers or to contract with private and public entities to expand
31 or operate secure care facilities.

32 E. All monies that are distributed or expended from the fund shall be
33 used to supplement, not supplant, funding to the juvenile court by the
34 county.

35 F. The supreme court shall contract for a periodic evaluation to
36 determine if the provisions of this article reduce the number of repetitive
37 juvenile offenders. The supreme court shall send a copy of the evaluation to
38 the speaker of the house of representatives, the president of the senate and
39 the governor.

40 G. A contract that is entered into between the supreme court or the
41 county attorney and any contract provider to provide services pursuant to
42 section 8-321 or this section to juveniles shall provide that, as a condition
43 of employment, personnel who are employed by any contract provider, whether
44 paid or not, and who are required or allowed to provide services directly to
45 juveniles shall have valid ~~fingerprint~~ ARIZONA BACKGROUND clearance cards

1 issued pursuant to title 41, chapter 12, article 3.1 or shall apply for
2 ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance card within seven working days
3 of employment.

4 H. AN APPLICANT FOR AN ARIZONA BACKGROUND CLEARANCE CARD SHALL APPLY
5 DIRECTLY WITH AN AUTHORIZED INVESTIGATIVE PROVIDER AND SHALL PAY FOR THE COST
6 OF THE INVESTIGATION RELATING TO THE ARIZONA BACKGROUND CLEARANCE CARD. The
7 contractor shall ~~assume the costs of fingerprint checks and may charge these~~
8 ~~costs to its fingerprinted personnel~~ VERIFY THAT THE ARIZONA BACKGROUND
9 CLEARANCE CARD HAS BEEN ISSUED BEFORE ALLOWING EMPLOYMENT.

10 I. A service contract or license with any contract provider that
11 involves the employment of persons who have contact with juveniles shall
12 provide that the contract or license may be canceled or terminated
13 immediately if a person certifies pursuant to subsections L and M of this
14 section that the person is awaiting trial on or has been convicted of any of
15 the offenses listed in subsections L and M of this section in this state or
16 of acts committed in another jurisdiction that would be offenses in this
17 state or if the person does not possess A VALID FINGERPRINT CLEARANCE CARD OR
18 A VALID ARIZONA BACKGROUND CLEARANCE CARD or is denied issuance of a valid
19 ~~fingerprint~~ ARIZONA BACKGROUND clearance card.

20 J. A contract provider may avoid cancellation or termination of the
21 contract or license under subsection I of this section if a person who does
22 not possess ~~or~~ A VALID FINGERPRINT CLEARANCE CARD OR A VALID ARIZONA
23 BACKGROUND CLEARANCE CARD, WHO has been denied issuance of a valid
24 ~~fingerprint~~ ARIZONA BACKGROUND clearance card or who certifies pursuant to
25 subsections L and M of this section that the person has been convicted of or
26 is awaiting trial on any of the offenses listed in section 41-1758.03,
27 subsection B is immediately prohibited from employment or service with the
28 licensee or contract provider in any capacity requiring or allowing contact
29 with juveniles.

30 K. A contract provider may avoid cancellation or termination of the
31 contract or license under subsection I of this section if a person who does
32 not possess ~~or~~ A VALID FINGERPRINT CLEARANCE CARD OR A VALID ARIZONA
33 BACKGROUND CLEARANCE CARD, WHO has been denied issuance of a valid
34 ~~fingerprint~~ ARIZONA BACKGROUND clearance card or who certifies pursuant to
35 subsections L and M of this section that the person has been convicted of or
36 is awaiting trial on any of the offenses listed in section 41-1758.03,
37 subsection C is immediately prohibited from employment or service with the
38 licensee or contract provider in any capacity requiring or allowing the
39 person to provide direct services to juveniles unless the person is granted a
40 good cause exception pursuant to section 41-619.55.

41 L. Personnel who are employed by any contract provider, whether paid
42 or not, and who are required or allowed to provide services directly to
43 juveniles shall certify on forms provided by the contracting agency OR AN
44 AUTHORIZED INVESTIGATIVE PROVIDER and notarized whether they are awaiting
45 trial on or have ever been convicted of any of the criminal offenses listed

1 in section 41-1758.03, subsections B and C in this state or similar offenses
2 in another state or jurisdiction.

3 M. Personnel who are employed by any contract provider, whether paid
4 or not, and who are required or allowed to provide services directly to
5 juveniles shall certify on forms provided by the contracting agency OR AN
6 AUTHORIZED INVESTIGATIVE PROVIDER and notarized whether they have ever
7 committed any act of sexual abuse of a child, including sexual exploitation
8 and commercial sexual exploitation, or any act of child abuse.

9 N. Federally recognized Indian tribes or military bases may submit and
10 the supreme court shall accept certifications that state that personnel who
11 are employed or who will be employed during the contract term and who provide
12 services directly to juveniles have not been convicted of, have not admitted
13 committing or are not awaiting trial on any offense under subsection L of
14 this section.

15 O. Adult clients of a contract provider who are receiving treatment
16 services are exempt from the requirements of this section, unless they
17 provide services directly to juveniles without supervision.

18 P. 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~~ ARIZONA BACKGROUND CLEARANCE CARD requirements of
21 this section.

22 Q. The ~~contracting~~ EMPLOYING agency shall notify the department of
23 public safety IF THE PERSON POSSESSES A FINGERPRINT CLEARANCE CARD OR THE
24 AUTHORIZED INVESTIGATIVE PROVIDER IF THE PERSON POSSESSES AN ARIZONA
25 BACKGROUND CLEARANCE CARD if the ~~contracting~~ EMPLOYING agency receives
26 credible evidence that ~~a person who possesses a valid fingerprint clearance~~
27 ~~card~~ THE CARDHOLDER either:

28 1. Is arrested for or charged with an offense listed in section
29 41-1758.03, subsection B.

30 2. Falsified information on the form required by subsection L of this
31 section.

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

33 8-509. Licensing of foster homes; renewal of license;
34 provisional license

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

37 B. The division shall not issue a license without satisfactory proof
38 that the foster parent or parents have completed six actual hours of approved
39 initial foster parent training as set forth in section 8-503 and that each
40 foster parent and each other adult member of the household has a valid
41 fingerprint clearance card OR A VALID ARIZONA BACKGROUND CLEARANCE CARD
42 issued pursuant to section 41-1758.07. The foster parent and each other
43 adult member of the household must certify on forms that are provided by the
44 division and that are notarized whether the foster parent or other adult
45 member of the household is awaiting trial on or has ever been convicted of

1 any of the criminal offenses listed in section 41-1758.07, subsections B and
2 C in this state or similar offenses in another state or jurisdiction.

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

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

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

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

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

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

27 Sec. 4. Section 8-802, Arizona Revised Statutes, is amended to read:
28 8-802. Child protective services worker; Arizona background
29 clearance cards; powers and duties; alteration of
30 files; violation; classification

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

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

44 C. A child protective services worker shall:

- 45 1. Promote the safety and protection of children.

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

1 department of economic security under this title, a copy of the report and
2 any additional investigative or other related reports shall be provided to
3 the board of directors of the agency or to the administrative head of the
4 agency unless the incident is alleged to have been committed by the person.
5 The department shall excise all information with regard to the identity of
6 the source of the reports.

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

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

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

17 D. A child shall not remain in temporary custody for a period
18 exceeding seventy-two hours, excluding Saturdays, Sundays and holidays,
19 unless a dependency petition is filed. If a petition is not filed and the
20 child is released to the child's parent, guardian or custodian, the worker
21 shall file a report of removal with the central registry within seventy-two
22 hours of the child's release. The report shall include:

23 1. The dates of previous referrals, investigations or temporary
24 custody.

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

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

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

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

1 ~~school or other entity with a~~ completed application form for ~~a fingerprint~~ AN
2 ARIZONA BACKGROUND clearance card, ~~the fingerprint card~~ with the requisite
3 demographic information SET FORTH ON THE APPLICATION and the required fee in
4 the form of a CREDIT CARD OR A money order or cashier's check ~~made out~~
5 PAYABLE to the ~~department of public safety~~ AUTHORIZED INVESTIGATIVE PROVIDER
6 THAT IS PERFORMING THE INVESTIGATION. ~~The law enforcement agency, school~~
7 ~~district, charter school or other entity shall verify the identity of the~~
8 ~~applicant through recognized means of photographic identification and a~~
9 ~~comparison of the demographic information on the photographic identification~~
10 ~~against the demographic information on the application form and the~~
11 ~~fingerprint card. The authorized person taking the fingerprints shall enter~~
12 ~~on the application form a description of the photographic identification~~
13 ~~presented by the applicant. The law enforcement agency, school district,~~
14 ~~charter school or other entity shall place the completed fingerprint card,~~
15 ~~completed application form or any other form required by the department of~~
16 ~~public safety and the fee provided by the applicant in the postage prepaid~~
17 ~~envelope provided by the department of public safety and mail it to the~~
18 ~~fingerprinting division in the department of public safety. A law~~
19 ~~enforcement agency, school district, charter school or other entity may~~
20 ~~charge the applicant a reasonable fee for services provided pursuant to this~~
21 ~~section.~~

22 ~~6.~~ 4. The ~~department of public safety~~ AUTHORIZED INVESTIGATIVE
23 PROVIDER shall process the application ~~packet~~ in the same manner prescribed
24 for ~~fingerprint~~ ARIZONA BACKGROUND clearance cards issued pursuant to title
25 41, chapter 12, article 3.1.

26 ~~7.~~ The ~~department of public safety~~ shall provide for digital storage
27 and retrieval of identity verified fingerprints taken pursuant to this
28 section. The fingerprints taken pursuant to this section shall be digitally
29 designated in the fingerprint archive as identity verified fingerprint
30 records.

31 ~~8.~~ A person who has a set of identity verified fingerprints on file
32 with the department of public safety pursuant to this section shall not be
33 required to submit a new set of fingerprints to the department of public
34 safety to renew the person's fingerprint clearance card. On receipt of the
35 required application form and fee for a renewal fingerprint clearance card
36 from a person required to submit identity verified fingerprints, the
37 department of public safety shall attempt to use the electronic copy of the
38 applicant's identity verified fingerprints that are retained pursuant to this
39 section to conduct the state and national criminal records checks. The
40 department of public safety may require the applicant to submit a new set of
41 identity verified fingerprints if the department of public safety determines
42 that the original fingerprints submitted have been lost or damaged or are
43 found to be otherwise of insufficient quality to conduct a valid technical
44 fingerprint search either by the department of public safety or the federal
45 bureau of investigation.

1 ~~9.~~ B. A person who participates in a teacher preparation program that
2 is approved by the state board of education and who does not participate in
3 field experience or student teaching in this state shall not be required to
4 obtain ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance card pursuant to this
5 section.

6 Sec. 6. Section 15-183, Arizona Revised Statutes, is amended to read:
7 15-183. Charter schools; application; requirements; immunity;
8 exemptions; renewal of application; reprisal; fee;
9 fund

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

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

24 C. The sponsor of a charter school may be either a school district
25 governing board, the state board of education, the state board for charter
26 schools, a university under the jurisdiction of the Arizona board of regents,
27 a community college district with enrollment of more than fifteen thousand
28 full-time equivalent students or a group of community college districts with
29 a combined enrollment of more than fifteen thousand full-time equivalent
30 students, subject to the following requirements:

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

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

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

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

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

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

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

29 2. The applicant may submit the application to the state board of
30 education or the state board for charter schools. The state board of
31 education or the state board for charter schools may approve the application
32 if the application meets the requirements of this article and may approve the
33 charter if the proposed sponsor determines, within its sole discretion, that
34 the applicant is sufficiently qualified to operate a charter school and that
35 the applicant is applying to operate as a separate charter holder by
36 considering factors such as whether:

37 (a) The schools have separate governing bodies, governing body
38 membership, staff, facilities, and student population.

39 (b) Daily operations are carried out by different administrators.

40 (c) The applicant intends to have an affiliation agreement for the
41 purpose of providing enrollment preferences.

42 (d) The applicant's charter management organization has multiple
43 charter holders serving varied grade configurations on one physical site or
44 nearby sites serving one community.

1 (e) It is reconstituting an existing school site population at the
2 same or new site.

3 (f) It is reconstituting an existing grade configuration from a prior
4 charter holder with at least one grade remaining on the original site with
5 the other grade or grades moving to a new site.

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

21 3. The applicant may submit the application to a university under the
22 jurisdiction of the Arizona board of regents, a community college district or
23 a group of community college districts. A university, a community college
24 district or a group of community college districts may approve the
25 application if it meets the requirements of this article and if the proposed
26 sponsor determines, in its sole discretion, that the applicant is
27 sufficiently qualified to operate a charter school.

28 4. Each applicant seeking to establish a charter school shall submit
29 ~~a full set of fingerprints to the approving agency~~ AN ARIZONA BACKGROUND
30 CLEARANCE CARD APPLICATION TO AN AUTHORIZED INVESTIGATIVE PROVIDER for the
31 purpose of obtaining a state and federal criminal records ~~check~~
32 INVESTIGATION pursuant to ~~section 41-1750 and Public Law 92-544~~ TITLE 41,
33 CHAPTER 12, ARTICLE 3.1. If an applicant will have direct contact with
34 students, the applicant shall possess a valid fingerprint clearance card OR A
35 VALID ARIZONA BACKGROUND CLEARANCE CARD that is issued pursuant to title 41,
36 chapter 12, article 3.1. ~~The department of public safety may exchange this~~
37 ~~fingerprint data with the federal bureau of investigation.~~ The criminal
38 records ~~check~~ INVESTIGATION AND ISSUANCE OF THE ARIZONA BACKGROUND CLEARANCE
39 CARD shall be completed before the issuance of a charter.

40 5. All persons engaged in instructional work directly as a classroom,
41 laboratory or other teacher or indirectly as a supervisory teacher, speech
42 therapist or principal shall have a valid fingerprint clearance card OR A
43 VALID ARIZONA BACKGROUND CLEARANCE CARD that is issued pursuant to title 41,
44 chapter 12, article 3.1, unless the person is a ~~volunteer or~~ guest speaker
45 who is accompanied in the classroom by a person with a valid fingerprint

1 clearance card OR A VALID ARIZONA BACKGROUND CLEARANCE CARD. A charter
 2 school shall not employ a teacher whose certificate has been revoked for a
 3 violation of section 15-507 or 15-550 or for any offense that placed a pupil
 4 in danger. All other personnel shall ~~be~~ HAVE A VALID fingerprint ~~checked~~
 5 CLEARANCE CARD OR A VALID ARIZONA BACKGROUND CLEARANCE CARD pursuant to
 6 section 15-512. Before employment, the charter school shall make documented,
 7 good faith efforts to contact previous employers of a person to obtain
 8 information and recommendations that may be relevant to a person's fitness
 9 for employment as prescribed in section 15-512, subsection F. The charter
 10 school shall notify the department of public safety OR THE AUTHORIZED
 11 INVESTIGATIVE PROVIDER IF THE PERSON POSSESSES AN ARIZONA BACKGROUND
 12 CLEARANCE CARD if the charter school or sponsor receives credible evidence
 13 that a person who possesses a valid fingerprint clearance card OR A VALID
 14 ARIZONA BACKGROUND CLEARANCE CARD is arrested for or is charged with an
 15 offense listed in section 41-1758.03, subsection B. Charter schools may hire
 16 personnel that have not yet received ~~a fingerprint~~ AN ARIZONA BACKGROUND
 17 clearance card if proof is provided of the submission of an application to
 18 ~~the department of public safety~~ AN AUTHORIZED INVESTIGATIVE PROVIDER for
 19 ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance card and if the charter school
 20 that is seeking to hire the applicant does all of the following:

21 (a) Documents in the applicant's file the necessity for hiring and
 22 placement of the applicant before receiving ~~a fingerprint~~ AN ARIZONA
 23 BACKGROUND clearance card.

24 (b) Ensures AND VERIFIES that the ~~department of public safety~~
 25 AUTHORIZED INVESTIGATIVE PROVIDER completes a statewide criminal records
 26 ~~check~~ INVESTIGATION on the applicant AND ISSUES AN ARIZONA BACKGROUND
 27 CLEARANCE CARD WITHIN THIRTY DAYS. ~~A statewide criminal records check shall~~
 28 ~~be completed by the department of public safety every one hundred twenty days~~
 29 ~~until the date that the fingerprint check is completed.~~

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

33 (d) Provides general supervision of the applicant until the date that
 34 the ~~fingerprint~~ ARIZONA BACKGROUND CLEARANCE card is obtained.

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

38 ~~(f) Verifies the fingerprint status of the applicant with the~~
 39 ~~department of public safety.~~

40 6. A charter school that complies with the ~~fingerprinting~~ ARIZONA
 41 BACKGROUND CLEARANCE CARD requirements of this section ~~shall be~~ IS deemed to
 42 have complied with section 15-512 and is entitled to the same rights and
 43 protections provided to school districts by section 15-512.

44 7. If a charter school operator is not already subject to a public
 45 meeting or hearing by the municipality in which the charter school is

1 located, the operator of a charter school shall conduct a public meeting at
2 least thirty days before the charter school operator opens a site or sites
3 for the charter school. The charter school operator shall post notices of
4 the public meeting in at least three different locations that are within
5 three hundred feet of the proposed charter school site.

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

13 9. A person who is employed by a charter school and who is convicted
14 of any nonappealable offense listed in section 41-1758.03, subsection B or is
15 convicted of any nonappealable offense that amounts to unprofessional conduct
16 under section 15-550 shall immediately do all of the following:

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

18 (b) Notify the person's employer or potential employer of the
19 conviction.

20 (c) Notify the department of public safety of the conviction **IF THE**
21 **PERSON POSSESSES A FINGERPRINT CLEARANCE CARD OR THE AUTHORIZED INVESTIGATIVE**
22 **PROVIDER IF THE PERSON POSSESSES AN ARIZONA BACKGROUND CLEARANCE CARD.**

23 (d) Surrender the person's fingerprint clearance card **OR ARIZONA**
24 **BACKGROUND CLEARANCE CARD.**

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

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

31 1. Compliance with federal, state and local rules, regulations and
32 statutes relating to health, safety, civil rights and insurance. The
33 department of education shall publish a list of relevant rules, regulations
34 and statutes to notify charter schools of their responsibilities under this
35 paragraph.

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

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

43 4. That it designs a method to measure pupil progress toward the pupil
44 outcomes adopted by the state board of education pursuant to section
45 15-741.01, including participation in the Arizona instrument to measure

1 standards test and the nationally standardized norm-referenced achievement
2 test as designated by the state board and the completion and distribution of
3 an annual report card as prescribed in chapter 7, article 3 of this title.

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

7 6. That, except as provided in this article, it is subject to the same
8 financial and electronic data submission requirements as a school district,
9 including the uniform system of financial records as prescribed in chapter 2,
10 article 4 of this title, procurement rules as prescribed in section 15-213
11 and audit requirements. The auditor general shall conduct a comprehensive
12 review and revision of the uniform system of financial records to ensure that
13 the provisions of the uniform system of financial records that relate to
14 charter schools are in accordance with commonly accepted accounting
15 principles used by private business. A school's charter may include
16 exceptions to the requirements of this paragraph that are necessary as
17 determined by the district governing board, the state board of education or
18 the state board for charter schools. The department of education or the
19 office of the auditor general may conduct financial, program or compliance
20 audits.

21 7. Compliance with all federal and state laws relating to the
22 education of children with disabilities in the same manner as a school
23 district.

24 8. That it provides for a governing body for the charter school that
25 is responsible for the policy decisions of the charter school.
26 Notwithstanding section 1-216, if there is a vacancy or vacancies on the
27 governing body, a majority of the remaining members of the governing body
28 constitute a quorum for the transaction of business, unless that quorum is
29 prohibited by the charter school's operating agreement.

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

35 F. The charter of a charter school shall include a description of the
36 charter school's personnel policies, personnel qualifications and method of
37 school governance and the specific role and duties of the sponsor of the
38 charter school. A charter school shall keep on file the resumes of all
39 current and former employees who provide instruction to pupils at the charter
40 school. Resumes shall include an individual's educational and teaching
41 background and experience in a particular academic content subject area. A
42 charter school shall inform parents and guardians of the availability of the
43 resume information and shall make the resume information available for
44 inspection on request of parents and guardians of pupils enrolled at the
45 charter school. Nothing in this subsection shall be construed to require any

1 charter school to release personally identifiable information in relation to
2 any teacher or employee, including the teacher's or employee's address,
3 salary, social security number or telephone number.

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

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

7 I. An approved plan to establish a charter school is effective for
8 fifteen years from the first day of the fiscal year the charter school is in
9 operation, subject to the following:

10 1. At least eighteen months before the expiration of the approved
11 plan, the sponsor shall notify the charter school that the charter school may
12 apply for renewal. A charter school that elects to apply for renewal shall
13 file an application for renewal at least fifteen months before the expiration
14 of the approved plan. In addition to any other requirements, the application
15 for renewal shall include a detailed business plan for the charter school, a
16 review of fiscal audits and academic performance data for the charter school
17 that are annually collected by the sponsor and a review of the current
18 contract between the sponsor and the charter school. The sponsor may deny
19 the request for renewal if, in its judgment, the charter school has failed to
20 complete the obligations of the contract or has failed to comply with this
21 article. A sponsor shall give written notice of its intent not to renew the
22 charter school's request for renewal to the charter school at least twelve
23 months before the expiration of the approved plan to allow the charter school
24 an opportunity to apply to another sponsor to transfer the operation of the
25 charter school. If the operation of the charter school is transferred to
26 another sponsor, the fifteen year period of the current charter shall be
27 maintained.

28 2. A charter operator may apply for early renewal. At least nine
29 months before the charter school's intended renewal consideration, the
30 operator of the charter school shall submit a letter of intent to the sponsor
31 to apply for early renewal. The sponsor shall review fiscal audits and
32 academic performance data for the charter school that are annually collected
33 by the sponsor, review the current contract between the sponsor and the
34 charter school and provide the qualifying charter school with a renewal
35 application. On submission of a complete application, the sponsor shall give
36 written notice of its consideration of the renewal application.

37 3. A sponsor shall review a charter at five year intervals and may
38 revoke a charter at any time if the charter school breaches one or more
39 provisions of its charter. At least ninety days before the effective date of
40 the proposed revocation the sponsor shall give written notice to the operator
41 of the charter school of its intent to revoke the charter. Notice of the
42 sponsor's intent to revoke the charter shall be delivered personally to the
43 operator of the charter school or sent by certified mail, return receipt
44 requested, to the address of the charter school. The notice shall
45 incorporate a statement of reasons for the proposed revocation of the

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

5 J. The charter may be renewed for successive periods of twenty years
6 if the sponsor deems that the school is in compliance with its own charter
7 and this article.

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

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

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

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

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

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

44 M. Charter schools shall secure insurance for liability and property
45 loss. The governing body of a charter school that is sponsored by the state

1 board of education or the state board for charter schools may enter into an
2 intergovernmental agreement or otherwise contract to participate in an
3 insurance program offered by a risk retention pool established pursuant to
4 section 11-952.01 or 41-621.01 or the charter school may secure its own
5 insurance coverage. The pool may charge the requesting charter school
6 reasonable fees for any services it performs in connection with the insurance
7 program.

8 N. Charter schools do not have the authority to acquire property by
9 eminent domain.

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

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

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

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

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

28 T. All property accumulated by a charter school shall remain the
29 property of the charter school.

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

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

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

8 W. Notwithstanding subsection X of this section, the state board for
 9 charter schools shall charge a processing fee to any charter school that
 10 amends ~~their~~ ITS contract to participate in ~~the~~ Arizona online instruction
 11 ~~program~~ pursuant to section 15-808. The charter Arizona online instruction
 12 processing fund is established consisting of fees collected and administered
 13 by the state board for charter schools. The state board for charter schools
 14 shall use monies in the fund only for the processing of contract amendments
 15 for charter schools participating in Arizona online instruction ~~programs~~.
 16 Monies in the fund are continuously appropriated.

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

22 Y. Charter schools may enter into an intergovernmental agreement with
 23 a presiding judge of the juvenile court to implement a law related education
 24 program as defined in section 15-154. The presiding judge of the juvenile
 25 court may assign juvenile probation officers to participate in a law related
 26 education program in any charter school in the county. The cost of juvenile
 27 probation officers who participate in the program implemented pursuant to
 28 this subsection shall be funded by the charter school.

29 Z. The sponsor of a charter school shall modify previously approved
 30 curriculum requirements for a charter school that wishes to participate in
 31 the board examination system prescribed in chapter 7, article 6 of this
 32 title.

33 AA. If a charter school decides not to participate in the board
 34 examination system prescribed in chapter 7, article 6 of this title, pupils
 35 enrolled at that charter school may earn a Grand Canyon diploma by obtaining
 36 a passing score on the same board examinations.

37 Sec. 7. Section 15-203, Arizona Revised Statutes, is amended to read:
 38 15-203. Powers and duties

39 A. The state board of education shall:

- 40 1. Exercise general supervision over and regulate the conduct of the
- 41 public school system and adopt any rules and policies it deems necessary to
- 42 accomplish this purpose.
- 43 2. Keep a record of its proceedings.
- 44 3. Make rules for its own government.
- 45 4. Determine the policy and work undertaken by it.

1 5. Appoint its employees, on the recommendation of the superintendent
2 of public instruction.

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

4 7. Delegate to the superintendent of public instruction the execution
5 of board policies and rules.

6 8. Recommend to the legislature changes or additions to the statutes
7 pertaining to schools.

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

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

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

14 12. Prescribe a minimum course of study in the common schools, minimum
15 competency requirements for the promotion of pupils from the third grade and
16 minimum course of study and competency requirements for the promotion of
17 pupils from the eighth grade. The state board of education shall prepare a
18 fiscal impact statement of any proposed changes to the minimum course of
19 study or competency requirements and, on completion, shall send a copy to the
20 director of the joint legislative budget committee and the executive director
21 of the school facilities board. The state board of education shall not adopt
22 any changes in the minimum course of study or competency requirements in
23 effect on July 1, 1998 that will have a fiscal impact on school capital
24 costs.

25 13. Prescribe minimum course of study and competency requirements for
26 the graduation of pupils from high school. The state board of education
27 shall prepare a fiscal impact statement of any proposed changes to the
28 minimum course of study or competency requirements and, on completion, shall
29 send a copy to the director of the joint legislative budget committee and the
30 executive director of the school facilities board. The state board of
31 education shall not adopt any changes in the minimum course of study or
32 competency requirements in effect on July 1, 1998 that will have a fiscal
33 impact on school capital costs.

34 14. Supervise and control the certification of persons engaged in
35 instructional work directly as any classroom, laboratory or other teacher or
36 indirectly as a supervisory teacher, speech therapist, principal or
37 superintendent in a school district, including school district preschool
38 programs, or any other educational institution below the community college,
39 college or university level, and prescribe rules for certification, including
40 rules for certification of teachers who have teaching experience and who are
41 trained in other states, which are not unnecessarily restrictive and are
42 substantially similar to the rules prescribed for the certification of
43 teachers trained in this state. The rules shall:

44 (a) Allow a variety of alternative teacher and administrator
45 preparation programs, with variations in program sequence and design, to

1 apply for program approval. The STATE board shall adopt rules pursuant to
2 this subdivision designed to allow for a variety of formats and shall not
3 require a prescribed answer or design from the program provider in order to
4 obtain approval from the state board. The state board shall evaluate each
5 program provider based on the program's ability to prepare teachers and
6 administrators and to recruit teachers and administrators with a variety of
7 experiences and talents. The STATE board shall permit universities under the
8 jurisdiction of the ARIZONA board of regents, community colleges in this
9 state, private postsecondary institutions licensed by this state, school
10 districts, charter schools and professional organizations to apply for
11 program approval and shall create application procedures and certification
12 criteria that are less restrictive than those for traditional preparation
13 programs. Alternative preparation program graduates shall:

14 (i) Hold a bachelor's degree from an accredited postsecondary
15 education institution.

16 (ii) Demonstrate professional knowledge and subject knowledge
17 proficiency pursuant to section 15-533.

18 (iii) Obtain a fingerprint clearance card OR AN ARIZONA BACKGROUND
19 CLEARANCE CARD pursuant to section 15-534.

20 (iv) Complete training in structured English immersion as prescribed
21 by the STATE board.

22 (v) Complete training in research based systematic phonics instruction
23 as prescribed in subdivision (b) of this paragraph.

24 (vi) Demonstrate the required proficiency in the constitutions of the
25 United States and Arizona as prescribed in section 15-532.

26 (b) Require applicants for all certificates for common school
27 instruction to complete a minimum of forty-five classroom hours or three
28 college level credit hours, or the equivalent, of training in research based
29 systematic phonics instruction from a public or private provider.

30 (c) Not require a teacher to obtain a master's degree or to take any
31 additional graduate courses as a condition of certification or
32 recertification.

33 (d) Allow a general equivalency diploma to be substituted for a high
34 school diploma in the certification of emergency substitute teachers.

35 (e) Allow but shall not require the superintendent of a school
36 district to obtain certification from the state board of education.

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

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

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

3 18. Include within its budget the cost of contracting for the purchase,
4 distribution and scoring of the examinations as provided in paragraphs 16 and
5 17 of this subsection.

6 19. Supervise and control the qualifications of professional
7 nonteaching school personnel and prescribe standards relating to
8 qualifications. The standards shall not require the business manager of a
9 school district to obtain certification from the state board of education.

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

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

15 22. Adopt a rule to promote braille literacy pursuant to section
16 15-214.

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

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

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

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

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

42 27. Adopt rules that provide for teacher certification reciprocity.
43 The rules shall provide for a one year reciprocal teaching certificate with
44 minimum requirements, including valid teacher certification from a state with
45 substantially similar criminal history or teacher **fingerprinting BACKGROUND**

1 CLEARANCE CARD requirements and proof of the submission of an application for
2 ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance card pursuant to title 41,
3 chapter 12, article 3.1.

4 28. Adopt rules that provide for the presentation of an honorary high
5 school diploma to a person who has never obtained a high school diploma and
6 who meets both of the following requirements:

7 (a) Currently resides in this state.

8 (b) Provides documented evidence from the Arizona department of
9 veterans' services that the person enlisted in the armed forces of the United
10 States and served in World War I, World War II, the Korean conflict or the
11 Vietnam conflict.

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.

1 (e) Procedures for a pupil in grade nine to prepare a written proposal
2 that outlines the type of community service that the pupil would like to
3 perform and the goals that the pupil hopes to achieve as a result of
4 community service. The pupil's written proposal shall be reviewed by a
5 faculty advisor, a guidance counselor or any other school employee who is
6 designated as the community service program coordinator for that school. The
7 pupil may alter the written proposal at any time before performing community
8 service.

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

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

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

20 (i) The transfer of student records.

21 (ii) Awarding credit for completed course work.

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

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

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

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

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

1 36. Adopt rules to prohibit a person who violates the notification
2 requirements prescribed in section 15-183, subsection C, paragraph 8 or
3 section 15-550, subsection C from certification pursuant to this title until
4 the person is no longer charged or is acquitted of any offenses listed in
5 section 41-1758.03, subsection B. The board shall also adopt rules to
6 prohibit a person who violates the notification requirements, certification
7 surrender requirements or fingerprint clearance card OR ARIZONA BACKGROUND
8 CLEARANCE CARD surrender requirements prescribed in section 15-183,
9 subsection C, paragraph 9 or section 15-550, subsection D from certification
10 pursuant to this title for at least ten years after the date of the
11 violation.

12 37. Adopt rules for the alternative certification of teachers of
13 nontraditional foreign languages that allow for the passing of a nationally
14 accredited test to substitute for the education coursework required for
15 certification.

16 38. On or before December 15, 2011, adopt and maintain a model
17 framework for a teacher and principal evaluation instrument that includes
18 quantitative data on student academic progress that accounts for between
19 thirty-three per cent and fifty per cent of the evaluation outcomes and best
20 practices for professional development and evaluator training. School
21 districts and charter schools shall use an instrument that meets the data
22 requirements established by the state board of education to annually evaluate
23 individual teachers and principals beginning in school year 2012-2013.

24 B. The state board of education may:

25 1. Contract.

26 2. Sue and be sued.

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

29 4. Provide for an advisory committee to conduct hearings and
30 screenings to determine whether grounds exist to impose disciplinary action
31 against a certificated person, whether grounds exist to reinstate a revoked
32 or surrendered certificate and whether grounds exist to approve or deny an
33 initial application for certification or a request for renewal of a
34 certificate. The board may delegate its responsibility to conduct hearings
35 and screenings to its advisory committee. Hearings shall be conducted
36 pursuant to title 41, chapter 6, article 6.

37 5. Proceed with the disposal of any complaint requesting disciplinary
38 action or with any disciplinary action against a person holding a certificate
39 as prescribed in subsection A, paragraph 14 of this section after the
40 suspension or expiration of the certificate or surrender of the certificate
41 by the holder.

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

1 Sec. 8. Section 15-503, Arizona Revised Statutes, is amended to read:
2 15-503. Superintendents, principals, head teachers and school
3 psychologists; term of employment; evaluation;
4 contract delivery; nonretention notice

5 A. The governing board may:
6 1. Employ a superintendent or principal, or both. If the governing
7 board employs a superintendent, the governing board shall determine the
8 qualifications for the superintendent by action taken at a public meeting.
9 The governing board shall require a superintendent to have a valid
10 fingerprint clearance card OR A VALID ARIZONA BACKGROUND CLEARANCE CARD that
11 is issued pursuant to title 41, chapter 12, article 3.1.

12 2. Appoint a head teacher.
13 3. Jointly with another governing board employ a superintendent or a
14 principal, or both. If the governing board jointly employs a superintendent,
15 the governing boards shall jointly determine the qualifications for the
16 superintendent by action taken at a public meeting. The governing boards
17 shall require a superintendent to have a valid fingerprint clearance card OR
18 A VALID ARIZONA BACKGROUND CLEARANCE CARD that is issued pursuant to title
19 41, chapter 12, article 3.1.

20 B. The term of employment of superintendents or principals may be for
21 any period not exceeding three years, except that if the superintendent's or
22 principal's contract with the school district is for multiple years pursuant
23 to this subsection the school district shall not offer to extend or
24 renegotiate the contract until May of the year preceding the final year of
25 the contract. The school district governing board or the governing body of
26 the charter school shall communicate the superintendent's or principal's
27 duties with respect to the classroom site fund established by section 15-977.

28 C. The governing board shall establish systems for the evaluation of
29 the performance of principals and other school administrators and
30 certificated school psychologists in the school district. In the development
31 and adoption of these performance evaluation systems, the governing board
32 shall avail itself of the advice of its administrators and certificated
33 school psychologists. Each evaluation shall include recommendations as to
34 areas of improvement in the performance of the certificated school
35 psychologist if the performance of the certificated school psychologist
36 warrants improvement. After transmittal of an assessment, a board designee
37 shall confer with the certificated school psychologist to make specific
38 recommendations as to areas of improvement in the certificated school
39 psychologist's performance. The board designee shall provide assistance and
40 opportunities for the certificated school psychologist to improve his
41 performance and shall follow up with the certificated school psychologist
42 after a reasonable period of time for the purpose of ascertaining that the
43 certificated school psychologist is demonstrating adequate performance. The
44 evaluation process for certificated school psychologists shall include appeal
45 procedures for certificated school psychologists who disagree with the

1 evaluation of their performance, if the evaluation is for use as criteria for
 2 establishing compensation or dismissal.

3 D. On or before May 15 each year, the governing board shall offer a
 4 contract for the next school year to each certified administrator and
 5 certificated school psychologist who is in the last year of his contract
 6 unless, on or before April 15, the governing board, a member of the board
 7 acting on behalf of the board or the superintendent of the school district
 8 gives notice to the administrator or certificated school psychologist of the
 9 board's intention not to offer a new contract. If the governing board has
 10 called for an override election for the third Tuesday in May as provided in
 11 section 15-481, the governing board shall offer a contract for the next
 12 school year to each certified administrator or certificated school
 13 psychologist who is in the last year of his contract on or before June 15
 14 unless, no later than five days after the override election excluding
 15 Saturday, Sunday and legal holidays, the governing board, a member of the
 16 board acting on behalf of the board or the superintendent of the school
 17 district gives notice to the administrator or the certificated school
 18 psychologist of the board's intention not to offer a new contract. The
 19 administrator's or the certificated school psychologist's acceptance of the
 20 contract shall be indicated within thirty days from the date of the written
 21 contract or the offer is revoked. The administrator or certificated school
 22 psychologist accepts the contract by signing the contract and returning it to
 23 the governing board or by making a written instrument that accepts the terms
 24 of the contract and delivering the written instrument to the governing board.

25 E. Notice of the board's intention not to reemploy the administrator
 26 or certificated school psychologist shall be made by delivering the notice
 27 personally to the administrator or the certificated school psychologist or by
 28 sending the notice by certified mail, postmarked on or before the applicable
 29 deadline prescribed in subsection D of this section, and directed to the
 30 administrator or the certificated school psychologist at his place of
 31 residence as recorded in the school district records.

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

33 15-512. Noncertificated personnel; Arizona background clearance
 34 card requirements; background investigations;
 35 affidavit; civil immunity; violation; classification;
 36 definition

37 A. Noncertificated personnel and personnel who are not paid employees
 38 of the school district and who are not either the parent or the guardian of a
 39 pupil who attends school in the school district but who are required or
 40 allowed to provide services directly to pupils without the supervision of a
 41 certificated employee ~~and who are initially hired by a school district after~~
 42 ~~January 1, 1990 shall be fingerprinted~~ HAVE A VALID FINGERPRINT CLEARANCE
 43 CARD OR A VALID ARIZONA BACKGROUND CLEARANCE CARD PURSUANT TO TITLE 41,
 44 CHAPTER 12, ARTICLE 3.1 as a condition of employment OR VOLUNTEERING ~~except~~
 45 ~~for personnel who are required as a condition of licensing to be~~

1 ~~fingerprinted if the license is required for employment or for personnel who~~
2 ~~were previously employed by a school district and who reestablished~~
3 ~~employment with that district within one year after the date that the~~
4 ~~employee terminated employment with the district. A school district may~~
5 ~~release the results of a background check to another school district for~~
6 ~~employment purposes. The employee's fingerprints and the form prescribed in~~
7 ~~subsection D of this section shall be submitted to the school district within~~
8 ~~twenty days after the date an employee begins work. A school district may~~
9 terminate an employee if the information on the form provided under
10 subsection D of this section is inconsistent with the information received
11 from the fingerprint check. ~~The school district shall develop procedures for~~
12 ~~fingerprinting employees~~ CRIMINAL BACKGROUND INVESTIGATION PURSUANT TO TITLE
13 41, CHAPTER 12, ARTICLE 3.1. For the purposes of this subsection,
14 "supervision" means under the direction of and, except for brief periods of
15 time during a school day or a school activity, within sight of a certificated
16 employee when providing direct services to pupils.

17 B. ~~Fingerprints~~ THE APPLICATION FOR AN ARIZONA BACKGROUND CLEARANCE
18 CARD submitted pursuant to this section shall be used to conduct a state and
19 federal criminal records ~~check~~ INVESTIGATION pursuant to ~~section 41-1750 and~~
20 ~~Public Law 92-544~~ TITLE 41, CHAPTER 12, ARTICLE 3.1. ~~The department of~~
21 ~~public safety may exchange this fingerprint data with the federal bureau of~~
22 ~~investigation.~~ THE APPLICANT SHALL SUBMIT THE APPLICATION DIRECTLY TO THE
23 AUTHORIZED INVESTIGATIVE PROVIDER.

24 C. The APPLICANT, WHETHER A PAID EMPLOYEE OR NOT, SHALL PAY FOR ~~school~~
25 ~~district shall assume~~ the costs of fingerprint checks and may charge these
26 costs to its fingerprinted employee, except that the school district may not
27 charge the costs of the fingerprint check to personnel of the school district
28 who are not paid employees. The fees charged for fingerprinting shall be
29 deposited with the county treasurer who shall credit the deposit to the
30 fingerprint fund of the school district. The costs charged to a
31 fingerprinted employee are limited to and the proceeds in the fund may only
32 be applied to the actual costs, including personnel costs, incurred as a
33 result of the fingerprint checks. ~~The fingerprint fund is a continuing fund~~
34 ~~which is not subject to reversion~~ THE CRIMINAL RECORDS BACKGROUND
35 INVESTIGATION CONDUCTED BY AN AUTHORIZED INVESTIGATIVE PROVIDER.

36 D. ALL personnel ARE required to ~~be fingerprinted~~ HAVE A VALID
37 FINGERPRINT CLEARANCE CARD OR A VALID ARIZONA BACKGROUND CLEARANCE CARD as
38 prescribed in subsection A of this section AND shall certify on forms that
39 are provided by the school OR AN AUTHORIZED INVESTIGATIVE PROVIDER and
40 notarized whether they are awaiting trial on or have ever been convicted of
41 or admitted in open court or pursuant to a plea agreement committing any of
42 the following criminal offenses in this state or similar offenses in another
43 jurisdiction:

- 44 1. Sexual abuse of a minor.
- 45 2. Incest.

- 1 3. First or second degree murder.
- 2 4. Kidnapping.
- 3 5. Arson.
- 4 6. Sexual assault.
- 5 7. Sexual exploitation of a minor.
- 6 8. Felony offenses involving contributing to the delinquency of a
7 minor.
- 8 9. Commercial sexual exploitation of a minor.
- 9 10. Felony offenses involving sale, distribution or transportation of,
10 offer to sell, transport, or distribute or conspiracy to sell, transport or
11 distribute marijuana or dangerous or narcotic drugs.
- 12 11. Felony offenses involving the possession or use of marijuana,
13 dangerous drugs or narcotic drugs.
- 14 12. Misdemeanor offenses involving the possession or use of marijuana
15 or dangerous drugs.
- 16 13. Burglary in the first degree.
- 17 14. Burglary in the second or third degree.
- 18 15. Aggravated or armed robbery.
- 19 16. Robbery.
- 20 17. A dangerous crime against children as defined in section 13-705.
- 21 18. Child abuse.
- 22 19. Sexual conduct with a minor.
- 23 20. Molestation of a child.
- 24 21. Manslaughter.
- 25 22. Aggravated assault.
- 26 23. Assault.
- 27 24. Exploitation of minors involving drug offenses.
- 28 E. A school district may refuse to hire or may review or terminate
29 personnel who have been convicted of or admitted committing any of the
30 criminal offenses prescribed in subsection D of this section or of a similar
31 offense in another jurisdiction. A school district which is considering
32 terminating an employee pursuant to this subsection shall hold a hearing to
33 determine whether a person already employed shall be terminated. In
34 conducting a review, the governing board shall utilize the guidelines,
35 including the list of offenses that are not subject to review, as prescribed
36 by the state board of education pursuant to section 15-534, subsection C. In
37 considering whether to hire or terminate the employment of a person the
38 governing board shall take into account the following factors:
39 1. The nature of the crime and the potential for crimes against
40 children.
- 41 2. Offenses committed as a minor for which proceedings were held under
42 the jurisdiction of a juvenile or an adult court.
- 43 3. Offenses that have been expunged by a court of competent
44 jurisdiction, if the person has been pardoned or if the person's sentence has
45 been commuted.

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

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

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

30 ~~G. A school district may fingerprint any other employee of the
31 district, whether paid or not, or any other applicant for employment with the
32 school district not otherwise required by this section to be fingerprinted on
33 the condition that the school district may not charge the costs of the
34 fingerprint check to the fingerprinted applicant or nonpaid employee.~~

35 **G. ALL SCHOOL DISTRICT EMPLOYEES AND VOLUNTEERS, WHETHER PAID OR NOT,
36 SHALL HAVE A VALID ARIZONA BACKGROUND CLEARANCE CARD.**

37 H. A contractor, subcontractor or vendor or any employee of a
38 contractor, subcontractor or vendor who is contracted to provide services on
39 a regular basis at an individual school shall obtain a valid fingerprint
40 clearance card **OR A VALID ARIZONA BACKGROUND CLEARANCE CARD** pursuant to title
41 41, chapter 12, article 3.1. By December 31, 2009, a school district
42 governing board shall adopt policies to be implemented sixty days after
43 adoption that may exempt ~~from the requirements of this subsection persons
44 who, as part of the normal job duties of the persons, are not likely to have
45 independent access to or unsupervised contact with pupils~~ **A PERSON FROM THE**

1 REQUIREMENTS OF THIS SUBSECTION IF THE PERSON'S NORMAL JOB DUTIES ARE NOT
 2 LIKELY TO RESULT IN INDEPENDENT ACCESS TO OR UNSUPERVISED CONTACT WITH
 3 PUPILS. A school district, its governing board members, its school council
 4 members and its employees are exempt from civil liability for the
 5 consequences of adoption and implementation of policies and procedures
 6 pursuant to this subsection unless the school district, its governing board
 7 members, its school council members or its employees are guilty of gross
 8 negligence or intentional misconduct.

9 ~~I. Subsection A of this section does not apply to a person who~~
 10 ~~provides instruction or other education services to a pupil, with the written~~
 11 ~~consent of the parent or guardian of the pupil, under a work release program,~~
 12 ~~advance placement course or other education program that occurs off school~~
 13 ~~property.~~

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

27 ~~K.~~ J. The superintendent of a school district or chief administrator
 28 of a charter school or the person's designee who is responsible for
 29 implementing the governing board's policy regarding background investigations
 30 required by subsection F of this section and who fails to carry out that
 31 responsibility is guilty of unprofessional conduct and shall be subject to
 32 disciplinary action by the state board.

33 ~~L.~~ K. A school district may hire noncertificated personnel before
 34 receiving the results of the ~~fingerprint check~~ STATE AND FEDERAL CRIMINAL
 35 INVESTIGATION but ~~may~~ SHALL terminate employment if the information on the
 36 form provided in subsection D of this section is inconsistent with the
 37 information received from the ~~fingerprint check~~ INVESTIGATION. In addition
 38 to any other conditions or requirements deemed necessary by the
 39 superintendent of public instruction to protect the health and safety of
 40 pupils, noncertificated personnel who are required or allowed unsupervised
 41 contact with pupils may be hired by school districts before the results of a
 42 ~~fingerprint check~~ STATE AND FEDERAL CRIMINAL INVESTIGATION are received if
 43 all of the following conditions are met:

44 1. The school district that is seeking to hire the applicant shall
 45 document in the applicant's file the necessity for hiring and placement of

1 the applicant before a ~~fingerprint check~~ MANDATED STATE AND FEDERAL CRIMINAL
2 INVESTIGATION could be completed.

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

5 (a) Ensure that ~~the department of public safety~~ AN AUTHORIZED
6 INVESTIGATIVE PROVIDER completes a ~~statewide~~ STATE AND FEDERAL criminal
7 history information ~~check~~ INVESTIGATION on the applicant WITHIN THIRTY DAYS.
8 ~~A statewide criminal history information check shall be completed by the~~
9 ~~department of public safety every one hundred twenty days until the date that~~
10 ~~the fingerprint check is completed.~~

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

14 (c) Provide general supervision of the applicant until the date that
15 the ~~fingerprint check is completed~~ ARIZONA BACKGROUND CLEARANCE CARD HAS BEEN
16 ISSUED OR DENIED.

17 (d) Report to the superintendent of public instruction on June 30 and
18 December 31 EACH YEAR the number of applicants hired before the completion of
19 a ~~fingerprint check~~ STATE AND FEDERAL INVESTIGATION AND ISSUANCE OF AN
20 ARIZONA BACKGROUND CLEARANCE CARD. In addition, the school district shall
21 report the number of applicants for whom ~~fingerprint checks~~ ARIZONA
22 BACKGROUND CLEARANCE CARDS were not received after ~~one hundred twenty days~~
23 ~~and after one hundred seventy-five~~ THIRTY days of hire.

24 ~~M.~~ L. Notwithstanding any other law, this section does not apply to
25 pupils who attend school in a school district and who are also employed by a
26 school district.

27 ~~N.~~ M. A person who makes a false statement, representation or
28 certification in any application for employment with the school district is
29 guilty of a class 3 misdemeanor.

30 ~~O.~~ N. For the purposes of this section, "background investigation"
31 means any communication with an employee's or applicant's former employer
32 that concerns the education, training, experience, qualifications and job
33 performance of the employee or applicant and that is used for the purpose of
34 evaluating the employee or applicant for employment. Background investigation
35 does not include the results of any state or federal criminal history ~~records~~
36 ~~check~~ INVESTIGATION COMPLETED FOR AN ARIZONA BACKGROUND CLEARANCE CARD.

37 Sec. 10. Section 15-531.01, Arizona Revised Statutes, is amended to
38 read:

39 15-531.01. Certification expiration; military service; one year
40 extension

41 A. A certificate issued pursuant to this article to any member of the
42 Arizona national guard or the United States armed forces reserves shall not
43 expire while the member is serving on federal active duty and shall be
44 extended one year after the member returns from federal active duty, provided
45 that the member, or the legal representative of the member, notifies the

1 state board of education of the federal active duty status of the member. A
2 certificate issued pursuant to this article to any member serving in the
3 regular component of the United States armed forces shall be extended one
4 year from the date of expiration, provided that the member, or the legal
5 representative of the member, notifies the state board of education of the
6 federal active duty status of the member.

7 B. A certificate issued pursuant to this article to any member of the
8 Arizona national guard, the United States armed forces reserves or the
9 regular component of the United States armed forces shall not expire and
10 shall be extended one year from the date the military member is able to
11 perform activities necessary under the certificate if the member both:

12 1. Is released from active duty service.

13 2. Suffers an injury as a result of active duty service that
14 temporarily prevents the member from being able to perform activities
15 necessary under the certificate.

16 C. If the certificate is renewed during the applicable extended time
17 period, the member is responsible only for normal fees and activities,
18 including maintaining a valid ~~fingerprint~~ ARIZONA BACKGROUND clearance card,
19 relating to renewal of the certificate and shall not be charged any
20 additional costs such as late fees or delinquency fees.

21 D. The member, or the legal representative of the member, shall
22 present to the state board of education a copy of the member's official
23 military orders, a redacted military identification card or a written
24 verification from the member's commanding officer before the end of the
25 applicable extended time period in order to qualify for the extension.

26 Sec. 11. Section 15-534, Arizona Revised Statutes, is amended to read:

27 15-534. Arizona background clearance card; review and
28 disciplinary action; violation; classification

29 A. A person who applies for a certificate as prescribed in section
30 15-203 shall have a valid fingerprint clearance card OR A VALID ARIZONA
31 BACKGROUND CLEARANCE CARD that is issued pursuant to title 41, chapter 12,
32 article 3.1. Applicants who possess a certificate pursuant to section 15-203
33 and who apply for additional certificates or who apply for renewal of any
34 certificate shall meet one of the following requirements:

35 1. Have a valid fingerprint clearance card OR A VALID ARIZONA
36 BACKGROUND CLEARANCE CARD issued pursuant to title 41, chapter 12,
37 article 3.1.

38 2. Provide proof of the submission of an application for ~~a fingerprint~~
39 AN ARIZONA BACKGROUND clearance card. Applicants who have been denied
40 ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance card shall also provide proof
41 that the applicant qualifies for a good cause exception hearing pursuant to
42 section 41-619.55.

43 B. A person who is certified pursuant to section 15-203 shall maintain
44 a valid fingerprint clearance card OR A VALID ARIZONA BACKGROUND CLEARANCE
45 CARD during the valid period of the person's certificate or certificates.

1 C. The state board of education may review and determine whether to
2 renew or not issue a certificate to an applicant for certification on a
3 finding that the applicant engaged in conduct that is immoral or
4 unprofessional or engaged in conduct that would warrant disciplinary action
5 if the person had been certified at the time that the alleged conduct
6 occurred. The board shall prescribe guidelines for this process.

7 D. The state board of education may take disciplinary action against
8 or not renew the certificate of a person on a finding that the certificated
9 person engaged in conduct that is immoral or unprofessional or engaged in
10 conduct that would warrant disciplinary action if the person had been
11 certified at the time that the alleged conduct occurred. The board shall
12 prescribe guidelines for this process.

13 E. The department of education may issue conditional certification
14 before an applicant has obtained a valid ~~fingerprint~~ ARIZONA BACKGROUND
15 clearance card. A conditional certificate may be used only for employment in
16 the school district that submits an application to the department of
17 education for conditional certification pursuant to this subsection. The
18 state board of education ~~may~~ SHALL revoke conditional certification if the
19 information on the application for a conditional certificate is false or
20 incomplete, the applicant is denied ~~a fingerprint~~ AN ARIZONA BACKGROUND
21 clearance card or the conditional certificate is used for employment in a
22 school district other than the school district that is indicated on the
23 application for conditional certification. In addition to any other
24 conditions or requirements deemed necessary by the superintendent of public
25 instruction to protect the health and safety of pupils, conditional
26 certification shall be issued before the applicant obtains ~~a fingerprint~~ AN
27 ARIZONA BACKGROUND clearance card if all of the following conditions are met:

28 1. The school district that is seeking to hire the applicant verifies
29 in writing on a form developed by the department of education the necessity
30 for hiring and placement of the applicant before a ~~fingerprint check~~ STATE
31 AND FEDERAL CRIMINAL RECORDS INVESTIGATION is completed.

32 2. The school district that is seeking to hire the applicant performs
33 all of the following:

34 (a) Ensures AND VERIFIES that the ~~department of public safety~~
35 AUTHORIZED INVESTIGATIVE PROVIDER completes a statewide criminal records
36 ~~check~~ INVESTIGATION on the applicant. A statewide criminal records ~~check~~
37 INVESTIGATION shall be completed by the ~~department of public safety every one~~
38 ~~hundred twenty days until the date that the fingerprint check is completed~~
39 AUTHORIZED INVESTIGATIVE PROVIDER WITHIN THIRTY DAYS.

40 (b) Completes a search of criminal records in all local jurisdictions
41 outside of this state in which the applicant has lived in the previous five
42 years.

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

1 (d) Provides general supervision of the applicant until the applicant
2 receives permanent certification from the department of education.

3 F. Before employment, schools or school districts shall verify the
4 certification and ~~fingerprint~~ STATE AND FEDERAL CRIMINAL RECORDS
5 INVESTIGATION status of applicants who apply for school or school district
6 positions that require certification.

7 G. Any person who participates in a teacher preparation program that
8 is approved by the state board of education or any person who is contracted
9 by this state, by a school district or by a charter school to provide
10 tutoring services shall obtain a VALID fingerprint clearance card OR A VALID
11 ARIZONA BACKGROUND CLEARANCE CARD pursuant to this section before the person
12 participates in field experience in this state in which services will be
13 provided directly to pupils. A person who participates in a teacher
14 preparation program that is approved by the state board OF EDUCATION and who
15 does not participate in field experience or student teaching in this state
16 shall not be required to obtain ~~a fingerprint~~ AN ARIZONA BACKGROUND
17 clearance card pursuant to this section.

18 H. The state board of education shall notify the department of public
19 safety IF THE PERSON POSSESSES A FINGERPRINT CLEARANCE CARD OR THE AUTHORIZED
20 INVESTIGATIVE PROVIDER IF THE PERSON POSSESSES AN ARIZONA BACKGROUND
21 CLEARANCE CARD if the ~~state board of education~~ AGENCY receives credible
22 evidence that a ~~person who possesses a valid fingerprint clearance card~~
23 CARDHOLDER either:

24 1. Is arrested for or charged with an offense listed in section
25 41-1758.03, subsection B.

26 2. Falsified information on the form required by subsection A of this
27 section.

28 I. A person who makes a false statement, representation or
29 certification in any application for certification is guilty of a class 3
30 misdemeanor.

31 Sec. 12. Section 15-550, Arizona Revised Statutes, is amended to read:
32 15-550. Unprofessional conduct; penalty

33 A. A teacher who has been convicted of a dangerous crime against
34 children as defined in section 13-705 or has been convicted of a violation of
35 section 13-1404 or 13-1406 in which the victim was a minor or section 13-1405
36 or an act committed in another state or territory which if committed in this
37 state would have been a dangerous crime against children or a violation of
38 section 13-1404 or 13-1406 in which the victim was a minor or a violation of
39 section 13-1405 is guilty of unprofessional conduct and the teacher's
40 certificate shall be revoked permanently immediately on notification of
41 conviction by the clerk of the court or the magistrate.

42 B. A teacher who has been convicted of a preparatory offense as
43 prescribed in section 13-1001 of any of the offenses prescribed in subsection
44 A of this section or any crime that requires the teacher to register as a sex
45 offender is guilty of unprofessional conduct and the teacher's certificate

1 shall be permanently revoked on notification of the conviction by a court of
2 competent jurisdiction.

3 C. A person who is employed by a school district or who is an
4 applicant for employment with a school district, who is arrested for or
5 charged with any nonappealable offense listed in section 41-1758.03,
6 subsection B and who does not immediately report the arrest or charge to the
7 person's supervisor or potential employer is guilty of unprofessional conduct
8 and the person shall be immediately dismissed from employment with the school
9 district or immediately excluded from potential employment with the school
10 district. Nothing in this subsection shall be construed to entitle a person
11 dismissed pursuant to this subsection to a right to a hearing pursuant to
12 section 15-539, subsection G.

13 D. A person who is employed by a school district and who is convicted
14 of any nonappealable offense listed in section 41-1758.03, subsection B or is
15 convicted of any nonappealable offense that amounts to unprofessional conduct
16 under this section shall immediately do all of the following:

17 1. Surrender any certificates issued by the department of education.

18 2. Notify the person's employer or potential employer of the
19 conviction.

20 3. Notify the department of public safety of the conviction.

21 4. Surrender the person's fingerprint clearance card **OR ARIZONA**
22 **BACKGROUND CLEARANCE CARD.**

23 Sec. 13. Section 15-763.01, Arizona Revised Statutes, is amended to
24 read:

25 **15-763.01. Surrogate parent; notification; appointment**

26 A. A petition for the appointment of a surrogate parent for a child
27 with a disability shall be made to the department of education if any of the
28 following conditions has been met:

29 1. A parent as defined in 34 Code of Federal Regulations section
30 ~~300.20~~ **300.30** cannot be identified.

31 2. A public agency cannot determine the whereabouts of a parent, after
32 having made reasonable attempts.

33 3. The child is a ward of the state, and a parent as defined in 34
34 Code of Federal Regulations section ~~300.20~~ **300.30** cannot be identified or a
35 public agency cannot determine the location of a parent after having made
36 reasonable attempts. In the case of a child who is a ward of the state, the
37 surrogate parent may alternately be appointed by the judge who oversees the
38 child's case if the surrogate parent meets the requirements of this section.

39 4. The child meets the criteria of an unaccompanied youth as defined
40 in the McKinney-Vento homeless **ASSISTANCE** act (42 United States Code section
41 11434a(6)).

42 B. If allowed by state and federal law, the department of education
43 shall notify the court of competent jurisdiction if the department of
44 education appoints a surrogate parent for a ward of the state pursuant to
45 subsection A.

1 C. In order for a person to be eligible to receive an appointment as a
2 surrogate parent for a child with a disability, all of the following must be
3 true:

4 1. The person shall be determined by the department of education to
5 possess knowledge and skills that will ensure adequate representation of the
6 child.

7 2. The person may not be an employee of a state agency if that agency
8 is involved in the education or care of the child.

9 3. The person may not have any interests that would conflict with the
10 best interests of the child.

11 4. The person shall have a valid fingerprint clearance card OR A VALID
12 ARIZONA BACKGROUND CLEARANCE CARD issued pursuant to title 41, chapter 12,
13 article 3.1.

14 D. A person who is appointed as a surrogate parent for a child with a
15 disability shall not be deemed to be an employee of the state solely as a
16 result of serving as a surrogate parent and receiving compensation for that
17 service.

18 Sec. 14. Section 15-1330, Arizona Revised Statutes, is amended to
19 read:

20 15-1330. Personnel; background checks; affidavit

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

26 B. ~~In addition to the fingerprint requirement in subsection A of this~~
27 ~~section, certificated employees shall submit a second set of fingerprints to~~
28 ~~the school for the purposes of obtaining state and federal criminal records~~
29 ~~checks.~~ Employment with the schools is conditioned on the results of the
30 ~~fingerprint check~~ STATE AND FEDERAL CRIMINAL RECORDS INVESTIGATION required
31 under this subsection and the maintenance of the certificate or license
32 required for employment. ~~fingerprint checks~~ APPLICATION FOR AN ARIZONA
33 BACKGROUND CLEARANCE CARD shall be conducted pursuant to ~~section 41-1750 and~~
34 ~~Public Law 92-544~~ TITLE 41, CHAPTER 12, ARTICLE 3.1. The ~~fingerprints~~
35 APPLICATION shall be submitted on the form prescribed by the ~~school~~
36 AUTHORIZED INVESTIGATIVE PROVIDER.

37 C. Noncertificated personnel employed by the schools and nonpaid
38 personnel working in the schools shall ~~be fingerprinted~~ SUBMIT AN APPLICATION
39 FOR A STATE AND FEDERAL CRIMINAL RECORDS INVESTIGATION AND OBTAIN A VALID
40 FINGERPRINT CLEARANCE CARD OR A VALID ARIZONA BACKGROUND CLEARANCE CARD as a
41 condition of employment ~~for the purpose of obtaining state and federal~~
42 ~~criminal records checks.~~ Noncertificated employees and nonpaid personnel
43 shall submit ~~fingerprints on the form prescribed by the school to the~~
44 ~~superintendent~~ AN APPLICATION FOR AN ARIZONA BACKGROUND CLEARANCE CARD within
45 twenty days after the date an employee begins work. Employment with the

1 schools is conditioned on the results of the ~~fingerprint check~~ STATE AND
2 FEDERAL CRIMINAL RECORDS INVESTIGATION AND THE PERSON OBTAINING AN ARIZONA
3 BACKGROUND CLEARANCE CARD. ~~Fingerprint checks~~ INVESTIGATIONS shall be
4 conducted pursuant to ~~section 41-1750 and Public Law 92-544~~ TITLE 41, CHAPTER
5 12, ARTICLE 3.1.

6 ~~D. The department of public safety may exchange the fingerprint data~~
7 ~~collected pursuant to subsections B and C of this section with the federal~~
8 ~~bureau of investigation.~~

9 ~~E. The schools may charge the employee or nonpaid personnel for the~~
10 ~~costs of the fingerprint checks.~~

11 D. THE APPLICANT SHALL APPLY AND PAY FOR THE INVESTIGATION FOR THE
12 ARIZONA BACKGROUND CLEARANCE CARD DIRECTLY TO AN AUTHORIZED INVESTIGATIVE
13 PROVIDER.

14 ~~F.~~ E. Personnel employed by the schools shall certify on forms that
15 are provided by the schools OR AN AUTHORIZED INVESTIGATIVE PROVIDER and
16 notarized that they are not awaiting trial on and have never been convicted
17 of or admitted in open court or pursuant to a plea agreement of committing
18 any criminal offenses in this state or similar offenses in another state or
19 jurisdiction as specified in section 41-1758.03, subsections B and C.

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

38 ~~H.~~ G. The superintendent shall notify the department of public safety
39 IF THE PERSON POSSESSES A VALID FINGERPRINT CLEARANCE CARD OR THE AUTHORIZED
40 INVESTIGATIVE PROVIDER IF THE PERSON POSSESSES AN ARIZONA BACKGROUND
41 CLEARANCE CARD if the superintendent receives credible evidence that a ~~person~~
42 ~~who possesses a valid fingerprint clearance card~~ CARDHOLDER either:

1 1. Is arrested for or charged with an offense listed in section
2 41-1758.03, subsection B.

3 2. Falsified information on the form required by subsection ~~F~~ E of
4 this section.

5 Sec. 15. Section 15-1881, Arizona Revised Statutes, is amended to
6 read:

7 15-1881. Postsecondary health sciences programs; definitions

8 A. A program in a public or private postsecondary institution that
9 requires clinical training in hospitals or other health care facilities as
10 part of its educational program may require as a condition of acceptance as a
11 health sciences student or as a condition of employment as a clinical
12 assistant the person to obtain a valid ~~fingerprint~~ ARIZONA BACKGROUND
13 clearance card issued pursuant to title 41, chapter 12, article 3.1 or may
14 require that the card be obtained before placement in clinical training
15 rotations. The program may rescind the admission, remove the person from the
16 educational or training program or terminate the employment of any person who
17 fails to obtain a valid ~~fingerprint~~ ARIZONA BACKGROUND clearance card.

18 B. A person who is required to possess a ~~fingerprint~~ ARIZONA
19 BACKGROUND clearance card pursuant to subsection A of this section and who
20 does not possess a ~~fingerprint~~ VALID ARIZONA BACKGROUND clearance card before
21 enrollment or employment at the public or private postsecondary institution
22 shall verify to the public or private postsecondary institution, by
23 completing a signed notarized form provided by the public or private
24 postsecondary institution, that the person is not awaiting trial on or has
25 never been convicted of or admitted in open court pursuant to a plea
26 agreement to committing any offense listed in section 41-1758.03, subsection
27 B or C in this state or a similar offense committed in another state or
28 jurisdiction, pending receipt of the ~~fingerprint~~ ARIZONA BACKGROUND clearance
29 card.

30 C. Information contained in a form submitted pursuant to subsection B
31 of this section is confidential.

32 D. A person who is required to obtain a ~~fingerprint~~ AN ARIZONA
33 BACKGROUND clearance card pursuant to this section may be charged all costs
34 and fees associated with obtaining or renewing the card as prescribed by
35 ~~sections~~ SECTION 41-619.53 and ~~41-1750~~ TITLE 41, CHAPTER 12, ARTICLE 3.1.

36 E. For the purposes of this section:

37 1. "Clinical assistant" means a participant in a graduate medical or
38 pharmacy education program at a public or private postsecondary institution.

39 2. "Health sciences student" means a person who has applied to or is
40 enrolled in a public or private postsecondary institution program of study in
41 medicine, nursing, pharmacy, physical therapy, athletic training, dental
42 hygiene, communication sciences and disorders, speech and hearing sciences or
43 general health sciences.

1 Sec. 16. Section 26-103, Arizona Revised Statutes, is amended to read:
2 26-103. Department of emergency and military affairs
3 employees; Arizona background clearance card;
4 exemptions; definition

5 A. Except as provided in subsection B of this section, employees shall
6 submit the form prescribed in subsection C of this section to the department
7 and shall have a valid fingerprint clearance card **OR ARIZONA BACKGROUND**
8 **CLEARANCE CARD** issued pursuant to title 41, chapter 12, article 3.1 or shall
9 apply for a fingerprint clearance card **OR ARIZONA BACKGROUND CLEARANCE CARD**
10 within seven working days of employment.

11 B. A member of the national guard who has received security clearance
12 pursuant to national guard laws and regulations, except for a general officer
13 who is an employee of the department, is exempt from the **fingerprinting STATE**
14 **AND FEDERAL CRIMINAL RECORDS INVESTIGATION** requirements of subsection A of
15 this section.

16 C. An employee shall certify on a form that is provided by the
17 department of emergency and military affairs and notarized that the employee
18 is not awaiting trial on or has never been convicted of or admitted in open
19 court or pursuant to a plea agreement committing any of the offenses listed
20 in section 41-1758.03, subsections B and C in this state or a similar offense
21 in another state or jurisdiction.

22 D. The department of emergency and military affairs shall not allow a
23 person to be employed on any national guard reservation or facility in any
24 capacity if the person has been denied a fingerprint clearance card **OR**
25 **ARIZONA BACKGROUND CLEARANCE CARD** pursuant to title 41, chapter 12, article
26 3.1 or has not received an interim approval from the board of **fingerprinting**
27 **ARIZONA BACKGROUND CLEARANCE CARDS** pursuant to section 41-619.55,
28 subsection I.

29 E. For the purposes of this section, "employee" means any person who
30 works for the department of emergency and military affairs or any subdivision
31 of the department of emergency and military affairs, including project
32 challenge.

33 Sec. 17. Section 32-2108, Arizona Revised Statutes, is amended to
34 read:

35 32-2108. Powers and duties of commissioner to make
36 investigations and require information

37 A. The commissioner on the commissioner's own motion may, and upon a
38 verified complaint in writing shall, investigate the actions of any natural
39 person or entity engaged in the business or acting in the capacity of a
40 broker, salesperson or developer and may at any time examine the books and
41 records used in connection with the business insofar as the commissioner
42 reasonably believes the books or records pertain to the transfer, sale,
43 rental, lease, use or management of real property. In connection with an
44 investigation, the commissioner or the commissioner's representative may take
45 testimony and may examine and copy documents and other physical evidence that

1 relate to the investigation. If necessary, the commissioner or the
2 commissioner's representative may issue subpoenas to compel the testimony of
3 witnesses and the production of documents and other evidence. If a person
4 refuses to comply with a subpoena, the commissioner or the commissioner's
5 representative may apply to the superior court for an order to compel
6 compliance.

7 B. The commissioner shall establish a certification and enforcement
8 unit that is charged with investigative duties relevant to the rules of the
9 commissioner and the laws of this state, including applications for
10 certification, investigations and enforcement and other duties as the
11 commissioner prescribes.

12 C. The commissioner may require any additional information and
13 documents that are reasonably necessary to determine the good moral character
14 of an applicant for or holder of a license or public report or renewal or
15 amendment of a license or public report. For the purposes of this
16 subsection, "applicant" or "holder" means a person and, if an entity, any
17 officer, director, member, manager, partner, owner, trust beneficiary holding
18 ten per cent or more beneficial interest, stockholder owning ten per cent or
19 more stock and person exercising control of the entity. The information may
20 include:

21 1. Prior criminal records.

22 2. A valid ~~fingerprint~~ ARIZONA BACKGROUND clearance card issued
23 pursuant to section 41-1758.03.

24 3. An affidavit setting out whether the applicant or holder has:

25 (a) Been convicted of a felony or a misdemeanor.

26 (b) Had any business or professional license denied, suspended or
27 revoked or had any other disciplinary action taken or administrative order
28 entered against the applicant or holder by any regulatory agency.

29 (c) Had a public report denied or suspended.

30 (d) Been permanently or temporarily enjoined by order, judgment or
31 decree from engaging in or continuing any conduct or practice in connection
32 with the sale or purchase of real estate, cemetery property, time-share
33 intervals, membership camping campgrounds or contracts or securities or
34 involving consumer fraud or the racketeering laws of this state.

35 (e) Had any adverse decision or judgment entered against the applicant
36 or holder arising out of the conduct of any business in or involving a
37 transaction in real estate, cemetery property, time-share intervals or
38 membership camping campgrounds or contracts involving fraud, dishonesty or
39 moral turpitude.

40 (f) Filed, or is subject to, a petition under any chapter of the
41 federal bankruptcy act.

42 (g) Participated in, operated or held an interest or exercised control
43 in any entity to which subdivision (b), (c), (d), (e) or (f) applies.

1 Sec. 19. Section 32-2123, Arizona Revised Statutes, is amended to
2 read:

3 32-2123. Application for license as broker or salesperson

4 A. Every application for an original license shall be either submitted
5 in writing and signed by the applicant or submitted electronically and
6 contain an electronic or digital identifier that the commissioner deems
7 appropriate. The application shall be accompanied by all applicable fees.

8 B. An application for an original license as a broker or salesperson
9 shall set forth:

10 1. The legal name and residence address of the applicant.

11 2. The applicant's employers and employment history for the
12 immediately preceding ten years and any experience in real estate sales,
13 appraisals, transfers or similar business in which the applicant previously
14 engaged, if the commissioner determines that this information is needed to
15 reasonably evaluate the good moral character of the applicant.

16 3. The name and place of business of the applicant's present employer,
17 if any.

18 4. Whether the applicant has ever been convicted of a felony and, if
19 so, the nature of the felony, where and when committed and the disposition of
20 the conviction, or whether the applicant has been disbarred or suspended from
21 the practice of law.

22 5. Whether the applicant has ever been refused a broker's or
23 salesperson's license or any other occupational license in this or any other
24 state, whether the applicant's license as a broker or salesperson has been
25 revoked or suspended in this or any other state or whether the applicant has
26 had any other occupational or professional license, certificate or
27 registration revoked or suspended in this or any other state.

28 6. The name of any corporation, company or partnership that is or ever
29 has been licensed by the department in which the applicant exercised any
30 control.

31 7. If the applicant is a natural person, the applicant's social
32 security number. If the applicant, due to bona fide religious convictions or
33 other bona fide reasons that the applicant documents on the application to
34 the satisfaction of the commissioner, does not have a social security number,
35 the applicant may provide the applicant's federal tax identification number
36 with the application. The state real estate department shall use the
37 applicant's social security number or federal tax identification number to
38 aid the department of economic security in locating noncustodial parents or
39 the assets of noncustodial parents, and for no other purpose.

40 C. An application for a license as a broker additionally shall set
41 forth:

42 1. The name under which the business is to be conducted.

43 2. The situs and mailing address of the applicant's place of business,
44 or if more than one, the situs and mailing addresses of each.

1 D. An applicant for a broker's or salesperson's license shall provide
2 information that the commissioner determines is reasonably necessary to
3 establish the character of the applicant. The information may include but
4 shall not be limited to:

5 1. Prior criminal records.

6 2. A valid fingerprint clearance card **OR A VALID ARIZONA BACKGROUND**
7 **CLEARANCE CARD** issued pursuant to section 41-1758.03.

8 3. An affidavit setting out whether the applicant has participated in,
9 operated or held an interest in any land development company which has filed,
10 or is subject to, a petition under any chapter of the federal bankruptcy act.

11 E. Each person licensed pursuant to this article, whether the license
12 is active or inactive, shall have available for the licensee's use a current
13 copy of the department's statutes, rules and annotations pertaining to real
14 estate laws. Failure to comply with this requirement shall not be deemed
15 grounds for a civil penalty or for denial, suspension or revocation of a
16 license.

17 Sec. 20. Section 32-3280, Arizona Revised Statutes, is amended to
18 read:

19 **32-3280. Arizona background clearance card**

20 A. An applicant for licensure under this article other than for a
21 temporary license, ~~must submit a full set of fingerprints to the board~~ **AN**
22 **APPLICATION TO AN AUTHORIZED INVESTIGATIVE PROVIDER PURSUANT TO SECTION**
23 **41-1758.01**, at the applicant's own expense, for the purpose of obtaining a
24 state and federal criminal ~~history records~~ **check INVESTIGATION** pursuant to
25 ~~section 41-1750 and P.L. 92-544. The department of public safety may~~
26 ~~exchange this fingerprint data with the federal bureau of investigation~~ **TITLE**
27 **41, CHAPTER 12, ARTICLE 3.1.**

28 B. As a condition of renewing a license, a person licensed pursuant to
29 this chapter ~~who has not previously done so~~ must submit ~~a full set of~~
30 ~~fingerprints to the board~~ **AN APPLICATION FOR RENEWAL TO THE AUTHORIZED**
31 **INVESTIGATIVE PROVIDER THAT ISSUED THE ORIGINAL CARD OR A NEW APPLICATION TO**
32 **ANOTHER PROVIDER**, at the licensee's own expense, for the purpose of obtaining
33 a state and federal criminal ~~history records~~ **check INVESTIGATION** pursuant to
34 ~~section 41-1750 and P.L. 92-544. The department of public safety may~~
35 ~~exchange this fingerprint data with the federal bureau of investigation~~ **TITLE**
36 **41, CHAPTER 12, ARTICLE 3.1.** The board shall provide written notice of this
37 requirement to all licensees at least six months before each licensee's
38 expiration date.

39 C. The board shall waive the records ~~check INVESTIGATION~~ required in
40 subsections A and B of this section for an applicant or licensee providing
41 evidence acceptable to the board that the applicant or licensee holds a
42 ~~current class one or class two~~ **VALID** fingerprint clearance card ~~issued by the~~
43 ~~department of public safety~~ **OR A VALID ARIZONA BACKGROUND CLEARANCE CARD.**

1 Sec. 21. Section 36-411, Arizona Revised Statutes, is amended to read:
2 36-411. Residential care institutions; home health agencies;
3 Arizona background clearance card; definitions

4 A. Subject to legislative appropriations, as a condition of licensure
5 or continued licensure of a residential care institution, a nursing care
6 institution or a home health agency and as a condition of employment in a
7 residential care institution, a nursing care institution or a home health
8 agency, employees and owners of residential care institutions, nursing care
9 institutions or home health agencies or contracted persons who provide direct
10 care, home health services or supportive services and who have not been
11 subject to the fingerprinting requirements of a health professional's
12 regulatory board pursuant to title 32 shall have valid fingerprint clearance
13 cards OR VALID ARIZONA BACKGROUND CLEARANCE CARDS that are issued pursuant to
14 title 41, chapter 12, article 3.1 or shall apply for ~~a fingerprint~~ AN ARIZONA
15 BACKGROUND clearance card within twenty working days of employment or
16 beginning volunteer work except as provided in ~~subsections~~ SUBSECTION F, G
17 ~~and H~~ of this section.

18 B. A health professional who has complied with the fingerprinting
19 requirements of the health professional's regulatory board as a condition of
20 licensure or certification pursuant to title 32 is not required to submit an
21 additional ~~set of fingerprints to the department of public safety~~ APPLICATION
22 TO AN AUTHORIZED INVESTIGATIVE PROVIDER FOR AN ARIZONA BACKGROUND CLEARANCE
23 CARD pursuant to this section.

24 C. Owners shall make documented, good faith efforts to:

25 1. Contact previous employers to obtain information or recommendations
26 that may be relevant to a person's fitness to work in a residential care
27 institution, nursing care institution or home health agency.

28 2. Verify the current status of a person's fingerprint clearance card
29 OR ARIZONA BACKGROUND CLEARANCE CARD.

30 D. An employee, an owner or a contracted person or a facility on
31 behalf of the employee, the owner or the contracted person shall submit a
32 completed application that is provided by ~~the department of public safety~~ AN
33 AUTHORIZED INVESTIGATIVE PROVIDER within twenty days after the date the
34 person begins work.

35 E. A residential care institution, nursing care institution or home
36 health agency shall not allow a person or contracted person to continue to
37 provide direct care, home health services or supportive services if the
38 person has been denied a fingerprint clearance card OR AN ARIZONA BACKGROUND
39 CLEARANCE CARD pursuant to title 41, chapter 12, article 3.1, has been denied
40 approval pursuant to this section before May 7, 2001 or has not received an
41 interim approval from the board of ~~fingerprinting~~ ARIZONA BACKGROUND
42 CLEARANCE CARDS pursuant to section 41-619.55, subsection I.

43 F. Volunteers who provide services to residents under the direct
44 visual supervision of a previously screened owner or employee are exempt from

1 the fingerprint clearance card OR ARIZONA BACKGROUND CLEARANCE CARD
2 requirements of this section.

3 ~~G. Notwithstanding the requirements of section 41-1758.02, subsection~~
4 ~~B, a person who provides direct care, home health services or supportive~~
5 ~~services for a residential care institution, home health agency or nursing~~
6 ~~care institution after meeting the fingerprinting and criminal records check~~
7 ~~requirements of this section is not required to meet the fingerprint and~~
8 ~~criminal records check requirements of this section again if that person~~
9 ~~remains employed by the same employer or changes employment within two years~~
10 ~~after satisfying the requirements of this section. For the purposes of this~~
11 ~~subsection, if the employer changes through sale, lease or operation of law,~~
12 ~~a person is deemed to be employed by the same employer if that person remains~~
13 ~~employed by the new employer.~~

14 ~~H. Notwithstanding the requirements of section 41-1758.02, subsection~~
15 ~~B, a person who has received approval pursuant to this section before May 7,~~
16 ~~2001 and who remains employed by the same employer is not required to apply~~
17 ~~for a fingerprint clearance card.~~

18 ~~I. If a person's employment record contains a six-month or longer time~~
19 ~~frame where the person was not employed by any employer, a completed~~
20 ~~application with a new set of fingerprints shall be submitted to the~~
21 ~~department of public safety.~~

22 ~~J.~~ G. For the purposes of this section:

23 1. "Home health services" has the same meaning prescribed in section
24 36-151.

25 2. "Supportive services" has the same meaning prescribed in section
26 36-151.

27 Sec. 22. Section 36-425.03, Arizona Revised Statutes, is amended to
28 read:

29 36-425.03. Children's behavioral health programs; personnel;
30 Arizona background clearance card; definitions

31 A. Except as provided in ~~subsections~~ SUBSECTION B ~~and C~~ of this
32 section, children's behavioral health program personnel, including
33 volunteers, shall submit the form prescribed in subsection ~~B~~ C of this
34 section to the employer and shall have a valid fingerprint clearance card OR
35 A VALID ARIZONA BACKGROUND CLEARANCE CARD issued pursuant to title 41,
36 chapter 12, article 3.1 or, within seven working days after employment or
37 beginning volunteer work, shall apply for ~~a fingerprint~~ AN ARIZONA BACKGROUND
38 clearance card.

39 B. Parents, foster parents and guardians who participate in activities
40 with their children under the supervision of and in the presence of
41 children's behavioral health program personnel are exempt from the
42 ~~fingerprinting~~ requirements of subsection A of this section if the parents
43 are not employees of the children's behavioral health program.

1 ~~C.~~ Applicants and employees who are fingerprinted pursuant to section
2 15-512 or 15-534 are exempt from the fingerprinting requirements of
3 subsection A of this section.

4 ~~D.~~ C. Children's behavioral health program personnel shall certify on
5 forms that are provided by the department and notarized that they are not
6 awaiting trial on or have never been convicted of or admitted in open court
7 or pursuant to a plea agreement to committing any of the offenses listed in
8 section 41-1758.03, subsection B or C in this state or similar offenses in
9 another state or jurisdiction.

10 ~~E.~~ D. Forms submitted pursuant to subsection ~~D~~ C of this section are
11 confidential.

12 ~~F.~~ E. Employers of children's behavioral health program personnel
13 shall make documented, good faith efforts to contact previous employers of
14 children's behavioral health program personnel to obtain information or
15 recommendations that may be relevant to an individual's fitness for
16 employment in a children's behavioral health program.

17 ~~G.~~ F. A person who is awaiting trial on or who has been convicted of
18 or who has admitted in open court or pursuant to a plea agreement to
19 committing a criminal offense listed in section 41-1758.03, subsection B is
20 prohibited from working in any capacity in a children's behavioral health
21 program that requires or allows contact with children.

22 ~~H.~~ G. A person who is awaiting trial on or who has been convicted of
23 or who has admitted in open court or pursuant to a plea agreement to
24 committing a criminal offense listed in section 41-1758.03, subsection C
25 shall not work in a children's behavioral health program in any capacity that
26 requires or allows the employee to provide direct services to children unless
27 the person has applied for and received the required fingerprint clearance
28 card OR ARIZONA BACKGROUND CLEARANCE CARD pursuant to title 41, chapter 12,
29 article 3.1.

30 ~~I.~~ H. The department of health services shall accept a certification
31 submitted by a United States military base or a federally recognized Indian
32 tribe that either:

33 1. Personnel who are employed or who will be employed and who provide
34 services directly to children have not been convicted of, have not admitted
35 committing or are not awaiting trial on any offense prescribed in subsection
36 ~~G~~ F of this section.

37 2. Personnel who are employed or who will be employed to provide
38 services directly to children have been convicted of, have admitted
39 committing or are awaiting trial on any offense prescribed in subsection ~~H~~ G
40 of this section if the personnel provide these services while under direct
41 visual supervision.

42 ~~J.~~ I. The employer shall notify the department of public safety if
43 the PERSON POSSESSES A FINGERPRINT CLEARANCE CARD OR THE AUTHORIZED
44 INVESTIGATIVE PROVIDER IF THE PERSON POSSESSES AN ARIZONA BACKGROUND

1 CLEARANCE CARD IF THE employer receives credible evidence that a ~~person who~~
2 ~~possesses a valid fingerprint clearance card~~ CARDHOLDER either:
3 1. Is arrested for or charged with an offense listed in section
4 41-1758.03, subsection B.
5 2. Falsified information on the form required by subsection ~~D~~ C of
6 this section.
7 ~~K~~ J. For the purposes of this section:
8 1. "Children's behavioral health program" means a program that
9 provides children's behavioral health services and that is licensed by the
10 department as a behavioral health service agency or that contracts with the
11 department to provide children's behavioral health services.
12 2. "Children's behavioral health program personnel" means an owner,
13 employee or volunteer who works at a children's behavioral health program.
14 Sec. 23. Section 36-446.04, Arizona Revised Statutes, is amended to
15 read:
16 36-446.04. Qualifications; period of validity; exemption
17 A. The board shall issue a license as a nursing care institution
18 administrator pursuant to its rules to any person who meets the following
19 qualifications:
20 1. Is of good character.
21 2. Has satisfactorily completed a course of instruction and training
22 approved by the board that:
23 (a) Is designed and sufficiently administered to give the applicant
24 knowledge of the proper needs to be served by nursing care institutions.
25 (b) Includes a thorough background in the laws and rules governing the
26 operation of nursing care institutions and the protection of the interests of
27 the patients in nursing care institutions.
28 (c) Includes thorough training in elements of good health care
29 facilities administration.
30 3. Has passed an examination administered by the board designed to
31 test for competency in the subject matter referred to in this subsection.
32 4. Has met one of the following ~~fingerprinting~~ requirements:
33 (a) Has a valid fingerprint clearance card ~~OR A VALID ARIZONA~~
34 ~~BACKGROUND CLEARANCE CARD~~ issued pursuant to title 41, chapter 12, article
35 3.1.
36 (b) Has provided proof of the submission of an application for
37 ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance card. An applicant who has
38 been denied a fingerprint clearance card ~~OR AN ARIZONA BACKGROUND CLEARANCE~~
39 ~~CARD~~ must also provide proof that the applicant qualifies for a good cause
40 exception hearing pursuant to section 41-619.55.
41 B. A person who is licensed pursuant to this section must maintain a
42 valid fingerprint clearance card ~~OR A VALID ARIZONA BACKGROUND CLEARANCE~~
43 ~~CARD~~ during the valid period of the person's license.

1 C. The board shall issue a certificate as an assisted living facility
2 manager pursuant to its rules to a person who meets the following
3 qualifications:

4 1. Is of good character.

5 2. Has satisfactorily completed a course of instruction and training
6 approved by the department.

7 3. Has passed an examination administered by the board.

8 4. Provides documentation satisfactory to the board that the applicant
9 has completed two thousand eighty hours of paid work experience in a health
10 related field within the preceding five years as prescribed by board rule.

11 5. Has met one of the following ~~fingerprinting~~ requirements:

12 (a) Has a valid fingerprint clearance card ~~OR A VALID ARIZONA~~
13 ~~BACKGROUND CLEARANCE CARD~~ issued pursuant to title 41, chapter 12,
14 article 3.1.

15 (b) Has provided proof of the submission of an application for
16 ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance card. An applicant who has
17 been denied a fingerprint clearance card ~~OR AN ARIZONA BACKGROUND CLEARANCE~~
18 ~~CARD~~ must also provide proof that the applicant qualifies for a good cause
19 exception hearing pursuant to section 41-619.55.

20 D. A person who is certified pursuant to this section must maintain a
21 valid fingerprint clearance card ~~OR A VALID ARIZONA BACKGROUND CLEARANCE CARD~~
22 during the valid period of the person's certificate.

23 E. In lieu of the requirements contained in subsection A, paragraph 2
24 or subsection C, paragraph 2, an applicant may present satisfactory evidence
25 to the board of sufficient education and training in the areas listed in that
26 paragraph.

27 F. A license is nontransferable and remains in effect until the
28 following June 30 of an even numbered year, at which time the license may be
29 renewed if the licensee otherwise complies with this article and unless the
30 license has been surrendered, suspended or revoked.

31 G. A certificate is nontransferable and remains in effect until the
32 following June 30 of an odd numbered year, at which time the certificate may
33 be renewed if the certificate holder otherwise complies with this article and
34 the certificate has not been surrendered, suspended or revoked.

35 H. This section does not apply to managers of adult foster care homes
36 as defined in section 36-401.

37 Sec. 24. Section 36-594.01, Arizona Revised Statutes, is amended to
38 read:

39 ~~36-594.01.~~ Arizona background clearance card for contract
40 providers and home and community based service
41 providers

42 A. The following persons shall ~~be fingerprinted~~ OBTAIN A VALID
43 FINGERPRINT CLEARANCE CARD OR A VALID ARIZONA BACKGROUND CLEARANCE CARD
44 pursuant to 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~~ HAVE A VALID
8 FINGERPRINT CLEARANCE CARD OR A VALID ARIZONA BACKGROUND CLEARANCE CARD
9 pursuant to subsection A, paragraph 1 of this section shall have a valid
10 fingerprint clearance card OR A VALID ARIZONA BACKGROUND CLEARANCE CARD or
11 shall apply for ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance card before
12 providing services to persons with developmental disabilities.

13 C. A person who is required to ~~be fingerprinted~~ OBTAIN A VALID
14 FINGERPRINT CLEARANCE CARD OR A VALID ARIZONA BACKGROUND CLEARANCE CARD
15 pursuant to subsection A, paragraph 2 of this section shall not be certified
16 unless the person has a valid fingerprint clearance card OR A VALID ARIZONA
17 BACKGROUND CLEARANCE CARD or provides to the division of developmental
18 disabilities documentation of the person's application for ~~a fingerprint~~ AN
19 ARIZONA BACKGROUND clearance card.

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

23 E. Persons who are required to ~~be fingerprinted~~ OBTAIN A VALID
24 FINGERPRINT CLEARANCE CARD OR A VALID ARIZONA BACKGROUND CLEARANCE CARD
25 pursuant to subsection A of this section shall certify on forms that are
26 provided by the department whether the person is awaiting trial on or has
27 been convicted of any of the offenses listed in section 41-1758.07,
28 subsections B and C.

29 F. The division of developmental disabilities in the department of
30 economic security shall notify the department of public safety IF THE PERSON
31 POSSESSES A FINGERPRINT CLEARANCE CARD OR THE AUTHORIZED INVESTIGATIVE
32 PROVIDER IF THE PERSON POSSESSES AN ARIZONA BACKGROUND CLEARANCE CARD if the
33 division receives credible evidence that a ~~person who possesses a valid~~
34 ~~fingerprint clearance card~~ CARDHOLDER either:

35 1. Is arrested for or charged with an offense listed in section
36 41-1758.07, subsection B or C.

37 2. Falsified information on the form required by subsection E of this
38 section.

39 Sec. 25. Section 36-594.02, Arizona Revised Statutes, is amended to
40 read:

41 36-594.02. Arizona background clearance cards for adult
42 developmental home licensees and child
43 developmental foster home licensees

44 A person who applies for a license for an adult developmental home or a
45 child developmental foster home shall have a valid fingerprint clearance card

1 OR A VALID ARIZONA BACKGROUND CLEARANCE CARD issued pursuant to section
2 41-1758.07. The person shall certify on forms that are provided by the
3 department whether the person is awaiting trial on or has been convicted of
4 any of the offenses listed in section 41-1758.07, subsections B and C in this
5 state or similar offenses in another state or jurisdiction.

6 Sec. 26. Section 36-882, Arizona Revised Statutes, is amended to read:
7 36-882. License; posting; transfer prohibited; fees;
8 provisional license; renewal; exemption from rule
9 making

10 A. A child care facility shall not receive any child for care,
11 supervision or training unless the facility is licensed by the department of
12 health services.

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

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

17 2. The name and business or residential address of each controlling
18 person.

19 3. An affirmation by the applicant that no controlling person has been
20 denied a certificate to operate a child care group home or a license to
21 operate a child care facility for the care of children in this state or
22 another state or has had a license to operate a child care facility or a
23 certificate to operate a child care group home revoked for reasons that
24 relate to the endangerment of the health and safety of children.

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

26 1. The form that is required pursuant to section 36-883.02, subsection
27 C and that is completed by the applicant.

28 2. A copy of a valid fingerprint clearance card OR A VALID ARIZONA
29 BACKGROUND CLEARANCE CARD issued to the applicant pursuant to section
30 41-1758.07.

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

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

1 renewal of a license for a child care facility located in the same location
2 for which a child care facility license was previously issued.

3 E. On receipt of an application for an initial license, the department
4 shall inspect the applicant's physical space, activities and standards of
5 care. If the department determines that the applicant and the applicant's
6 facility are in substantial compliance with this chapter and rules adopted
7 pursuant to this chapter and the applicant agrees to carry out a plan
8 acceptable to the department to eliminate any deficiencies, the department
9 shall issue an initial license to the applicant.

10 F. Beginning January 1, 2010, subject to the availability of monies,
11 the department may establish a discount program for licensing fees paid by
12 child care facilities, including a public health discount.

13 G. The director, by rule, may establish and collect fees for child
14 care facilities and a fee for late filing of applications. Beginning January
15 1, 2010, ninety per cent of the fees collected pursuant to this section shall
16 be deposited, pursuant to sections 35-146 and 35-147, in the health services
17 licensing fund established by section 36-414 and ten per cent of the fees
18 collected pursuant to this section shall be deposited, pursuant to sections
19 35-146 and 35-147, in the state general fund.

20 H. Pursuant to available funding, the department shall collect annual
21 fees.

22 I. A license is valid from the date of issuance unless it is
23 subsequently revoked or suspended or the licensee does not pay the licensure
24 fee and shall specify the following:

- 25 1. The name of the applicant.
- 26 2. The exact address where the applicant will locate the facility.
- 27 3. The maximum number and age limitations of children that shall be
28 cared for at any one time.
- 29 4. The classification of services that the facility is licensed to
30 provide.

31 J. The department may issue a provisional license, not to exceed six
32 months, to an applicant or a licensed child care facility if:

- 33 1. The facility changes director.
- 34 2. The department determines that an applicant for an initial license
35 or a licensed child care facility is not in substantial compliance with this
36 chapter and rules adopted pursuant to this chapter and the immediate
37 interests of children, families and the general public are best served if the
38 child care facility or the applicant is given an opportunity to correct
39 deficiencies.

40 K. A provisional license shall state the reason for the provisional
41 status.

1 L. On the expiration of a provisional license, the department shall
2 issue a regular license if the department determines that the licensee and
3 the child care facility are in substantial compliance with this chapter and
4 rules adopted pursuant to this chapter and the applicant agrees to carry out
5 a plan acceptable to the department to eliminate any deficiencies.

6 M. The licensee shall notify the department in writing within ten days
7 of any change in the child care facility's director.

8 N. The license is not transferable from person to person and is valid
9 only for the quarters occupied at the time of issuance.

10 O. The license shall be conspicuously posted in the child care
11 facility.

12 P. The licensee shall conspicuously post a schedule of fees charged
13 for services and the established policy for a refund of fees for services not
14 rendered.

15 Q. The licensee shall keep current department inspection reports at
16 the child care facility and shall make them available to parents on request.
17 The licensee shall conspicuously post a notice that identifies the location
18 where these inspection reports are available for review.

19 R. The department of health services shall notify the department of
20 public safety **IF THE PERSON POSSESSES A FINGERPRINT CLEARANCE CARD OR THE**
21 **AUTHORIZED INVESTIGATIVE PROVIDER IF THE PERSON POSSESSES AN ARIZONA**
22 **BACKGROUND CLEARANCE CARD** if the department of health services receives
23 credible evidence that a licensee who possesses a valid fingerprint clearance
24 card **OR AN ARIZONA BACKGROUND CLEARANCE CARD** either:

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

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

28 S. Licensees may pay licensure fees by installment payments based on
29 procedures established by the department.

30 T. The department shall review its actual costs to administer this
31 article at least once every two years. If the department determines that its
32 administrative costs are lower than the fees it has collected pursuant to
33 this section, it shall adjust fees.

34 U. If the department lowers fees, the department may refund or credit
35 fees to licensees.

36 V. Fee reductions are exempt from the rule making requirements of
37 title 41, chapter 6.

38 Sec. 27. Section 36-883.02, Arizona Revised Statutes, is amended to
39 read:

40 **36-883.02. Child care personnel; Arizona background clearance**
41 **card; exemptions; definition**

42 A. Except as provided in subsection B of this section, child care
43 personnel, including volunteers, shall submit the form prescribed in
44 subsection C of this section to the employer and shall have valid fingerprint
45 clearance cards **OR VALID ARIZONA BACKGROUND CLEARANCE CARDS** issued pursuant

1 to section 41-1758.07 or shall apply for ~~a fingerprint~~ AN ARIZONA BACKGROUND
2 clearance card within seven working days of employment or beginning volunteer
3 work.

4 B. Exempt from the fingerprinting AND ARIZONA BACKGROUND CLEARANCE
5 CARD requirements of subsection A of this section are parents, including
6 foster parents and guardians, who are not employees of the child care
7 facility and who participate in activities with their children under the
8 supervision of and in the presence of child care personnel.

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

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

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

17 3. They have not been denied or had revoked a certificate to operate a
18 child care group home or a license to operate a child care facility in this
19 or any other state or that they have not been denied or had revoked a
20 certification to work in a child care facility or child care group home.

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

25 E. The forms required by subsection C of this section are
26 confidential.

27 F. A child care facility shall not allow a person to be employed or
28 volunteer in the facility in any capacity if the person has been denied a
29 fingerprint clearance card OR AN ARIZONA BACKGROUND CLEARANCE CARD pursuant
30 to section 41-1758.07 or has not received an interim approval from the board
31 of ~~fingerprinting~~ ARIZONA BACKGROUND CLEARANCE CARDS pursuant to section
32 41-619.55, subsection I.

33 G. The employer shall notify the department of public safety IF THE
34 PERSON POSSESSES A FINGERPRINT CLEARANCE CARD OR THE AUTHORIZED INVESTIGATIVE
35 PROVIDER IF THE PERSON POSSESSES AN ARIZONA BACKGROUND CLEARANCE CARD if the
36 employer receives credible evidence that any child care personnel WHO IS A
37 CARDHOLDER either:

38 1. Is arrested for or charged with an offense listed in section
39 41-1758.07, subsection B.

40 2. Falsified information on the form required by subsection C of this
41 section.

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

- 1 G. A certificate is valid unless it is revoked or suspended or the
2 ~~licensee~~ CERTIFICATE HOLDER does not pay the ~~licensure~~ CERTIFICATION fee and
3 may be renewed by submitting the certification fee as prescribed by the
4 department pursuant to subsection C of this section.
- 5 H. In order to ensure that the equipment and services of a child care
6 group home and the good character of an applicant are conducive to the
7 welfare of children, the department by rule shall establish the criteria for
8 granting, denying, suspending and revoking a certificate.
- 9 I. The director shall adopt rules and prescribe forms as may be
10 necessary for the proper administration and enforcement of this article.
- 11 J. The certificate shall be conspicuously posted in the child care
12 group home for viewing by parents and the public.
- 13 K. Current department inspection reports shall be kept at the child
14 care group home and shall be made available to parents on request.
- 15 L. A certificate is not transferable and is valid only for the
16 location occupied at the time it is issued.
- 17 M. An application for an initial certificate shall include:
18 1. The form that is required pursuant to section 36-897.03, subsection
19 B and that is completed by the applicant.
20 2. A copy of a valid fingerprint clearance card OR A VALID ARIZONA
21 BACKGROUND CLEARANCE CARD issued to the applicant pursuant to section
22 41-1758.07.
- 23 N. The department of health services shall notify the department of
24 public safety IF THE PERSON POSSESSES A FINGERPRINT CLEARANCE CARD OR THE
25 AUTHORIZED INVESTIGATIVE PROVIDER IF THE PERSON POSSESSES AN ARIZONA
26 BACKGROUND CLEARANCE CARD if the department of health services receives
27 credible evidence that a ~~person who possesses a valid fingerprint clearance~~
28 ~~card~~ CARDHOLDER either:
29 1. Is arrested for or charged with an offense listed in section
30 41-1758.07, subsection B.
31 2. Falsified information on any form required by section 36-897.03.
- 32 O. Certificate holders may pay fees by installment payments based on
33 procedures established by the department.
- 34 P. The department shall review its actual costs to administer this
35 article at least once every two years. If the department determines that its
36 administrative costs are lower than the fees it has collected pursuant to
37 this section, it shall adjust fees.
- 38 Q. If the department lowers fees, the department may refund or credit
39 fees to ~~licensees~~ CERTIFICATE HOLDERS.
- 40 R. Fee reductions are exempt from the rule making requirements of
41 title 41, chapter 6.

1 Sec. 29. Section 36-897.03, Arizona Revised Statutes, is amended to
2 read:

3 36-897.03. Child care group homes; child care personnel;
4 Arizona background clearance card; definition

5 A. Child care personnel, including volunteers, shall submit the form
6 prescribed in subsection B of this section to the employer and shall have
7 valid fingerprint clearance cards **OR VALID ARIZONA BACKGROUND CLEARANCE CARDS**
8 issued pursuant to section 41-1758.07 or shall apply for ~~a fingerprint~~ **AN**
9 **ARIZONA BACKGROUND** clearance card within seven working days of employment or
10 beginning volunteer work.

11 B. Applicants, certificate holders and child care personnel shall
12 attest on forms that are provided by the department that:

13 1. They are not awaiting trial on or have never been convicted of or
14 admitted in open court or pursuant to a plea agreement committing any of the
15 offenses listed in section 41-1758.07, subsection B or C in this state or
16 similar offenses in another state or jurisdiction.

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

19 3. They have not been denied a certificate to operate a child care
20 group home or a license to operate a child care facility for the care of
21 children in this state or another state or had a license to operate a child
22 care facility or a certificate to operate a child care group home revoked for
23 reasons that relate to the endangerment of the health and safety of children.

24 C. The provider shall make documented, good faith efforts to contact
25 previous employers of child care personnel to obtain information or
26 recommendations that may be relevant to an individual's fitness to work in a
27 certified child care group home.

28 D. The director may adopt rules prescribing the exclusion from child
29 care group homes of individuals whose presence may be detrimental to the
30 welfare of children.

31 E. The forms required by subsection B of this section are
32 confidential.

33 F. A person who is awaiting trial on or who has been convicted of or
34 who has admitted in open court or pursuant to a plea agreement to committing
35 a criminal offense listed in section 41-1758.07, subsection B or subsection
36 B, paragraph 2 or 3 of this section is prohibited from being employed in any
37 capacity in a child care group home.

38 G. A person who is awaiting trial on or who has been convicted of or
39 who has admitted in open court or pursuant to a plea agreement to committing
40 a criminal offense listed in section 41-1758.07, subsection C shall not work
41 in a child care group home without direct visual supervision unless the
42 person has applied for and received the required fingerprint clearance card
43 **OR ARIZONA BACKGROUND CLEARANCE CARD** pursuant to section 41-1758 and is
44 registered as child care personnel. A person who is subject to this
45 subsection shall not be employed in any capacity in a child care group home

1 if that person is denied the required fingerprint clearance card OR ARIZONA
2 BACKGROUND CLEARANCE CARD.

3 H. The employer shall notify the department of public safety IF THE
4 PERSON POSSESSES A FINGERPRINT CLEARANCE CARD OR THE AUTHORIZED INVESTIGATIVE
5 PROVIDER IF THE PERSON POSSESSES AN ARIZONA BACKGROUND CLEARANCE CARD if the
6 employer receives credible evidence that any child care personnel CARDHOLDER
7 either:

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

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

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

15 Sec. 30. Section 36-3008, Arizona Revised Statutes, is amended to
16 read:

17 36-3008. Shelters for victims of domestic violence; personnel;
18 Arizona background clearance card

19 A. Employees and volunteers of a shelter for victims of domestic
20 violence, as defined in section 36-3001, shall have valid fingerprint
21 clearance cards OR VALID ARIZONA BACKGROUND CLEARANCE CARDS that are issued
22 pursuant to title 41, chapter 12, article 3.1 or shall apply for
23 ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance card within seven working days
24 of employment or beginning volunteer work. Federally recognized Indian
25 tribes or military bases may submit and the department shall accept
26 certifications that state that employees of a shelter for victims of domestic
27 violence who are employed by a shelter and who provide services directly to
28 victims of domestic violence have not been convicted of, have not admitted
29 committing or are not awaiting trial on any offense under subsection B,
30 paragraph 1 of this section.

31 B. Personnel shall certify on forms that are provided by the
32 department and notarized that:

33 1. They are not awaiting trial on and have never been convicted of or
34 admitted committing any of the criminal offenses listed in section
35 41-1758.03, subsections B and C in this state or similar offenses in another
36 state or jurisdiction.

37 2. They have not been denied a license to operate a shelter for cause
38 in this state or another state or had a license to operate a shelter revoked.

39 C. The notarized forms are confidential.

40 D. The shelter shall make good faith efforts to contact previous
41 employers to obtain information or recommendations that may be relevant to an
42 individual's fitness to work in the shelter.

43 E. The department of health services shall notify the department of
44 public safety IF THE PERSON POSSESSES A FINGERPRINT CLEARANCE CARD OR THE
45 AUTHORIZED INVESTIGATIVE PROVIDER IF THE PERSON POSSESSES AN ARIZONA

1 BACKGROUND CLEARANCE CARD if the department of health services receives
2 credible evidence that a ~~person who possesses a fingerprint clearance card~~
3 CARDHOLDER either:

4 1. Is arrested for or charged with an offense listed in section
5 41-1758.03, subsection B.

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

8 Sec. 31. Section 38-431.08, Arizona Revised Statutes, is amended to
9 read:

10 38-431.08. Exceptions; limitation

11 A. This article does not apply to:

12 1. Any judicial proceeding of any court or any political caucus of the
13 legislature.

14 2. Any conference committee of the legislature, except that all such
15 meetings shall be open to the public.

16 3. The commissions on appellate and trial court appointments and the
17 commission on judicial qualifications.

18 4. Good cause exception determinations and hearings conducted by the
19 board of ~~fingerprinting~~ ARIZONA BACKGROUND CLEARANCE CARDS pursuant to
20 section 41-619.55.

21 B. A hearing held within a prison facility by the board of executive
22 clemency is subject to this article, except that the director of the state
23 department of corrections may:

24 1. Prohibit, on written findings that are made public within five days
25 of so finding, any person from attending a hearing whose attendance would
26 constitute a serious threat to the life or physical safety of any person or
27 to the safe, secure and orderly operation of the prison.

28 2. Require a person who attends a hearing to sign an attendance log.
29 If the person is over sixteen years of age, the person shall produce
30 photographic identification which verifies the person's signature.

31 3. Prevent and prohibit any articles from being taken into a hearing
32 except recording devices, and if the person who attends a hearing is a member
33 of the media, cameras.

34 4. Require that a person who attends a hearing submit to a reasonable
35 search on entering the facility.

36 C. The exclusive remedies available to any person who is denied
37 attendance at or removed from a hearing by the director of the state
38 department of corrections in violation of this section shall be those
39 remedies available in section 38-431.07, as against the director only.

40 D. Either house of the legislature may adopt a rule or procedure
41 pursuant to article IV, part 2, section 8, Constitution of Arizona, to
42 provide an exemption to the notice and agenda requirements of this article or
43 to allow standing or conference committees to meet through technological
44 devices rather than only in person.

1 Sec. 32. Heading change

2 The article heading of title 41, chapter 3, article 12, Arizona Revised
3 Statutes, is changed from "BOARD OF FINGERPRINTING" to "BOARD OF ARIZONA
4 BACKGROUND CLEARANCE CARDS".

5 Sec. 33. Section 41-619.51, Arizona Revised Statutes, is amended to
6 read:

7 41-619.51. Definitions

8 In this article, unless the context otherwise requires:

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

15 2. "Board" means the board of ~~fingerprinting~~ ARIZONA BACKGROUND
16 CLEARANCE CARDS.

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

20 4. "Good cause exception" means the issuance of ~~a fingerprint~~ AN
21 ARIZONA BACKGROUND clearance card to an employee pursuant to section
22 41-619.55.

23 5. "Person" means a person who is required to ~~be fingerprinted~~ HAVE AN
24 ARIZONA BACKGROUND CLEARANCE CARD pursuant to this article and any of the
25 following:

- 26 (a) Section 8-105.
- 27 (b) Section 8-322.
- 28 (c) Section 8-509.
- 29 (d) Section 8-802.
- 30 (e) Section 15-183.
- 31 (f) Section 15-534.
- 32 (g) Section 15-1330.
- 33 (h) Section 15-1881.
- 34 (i) Section 26-103.
- 35 (j) Section 32-2108.01.
- 36 (k) Section 32-2123.
- 37 (l) Section 36-411.
- 38 (m) Section 36-425.03.
- 39 (n) Section 36-446.04.
- 40 (o) Section 36-594.01.
- 41 (p) Section 36-594.02.
- 42 (q) Section 36-882.
- 43 (r) Section 36-883.02.

- 1 (s) Section 36-897.01.
- 2 (t) Section 36-897.03.
- 3 (u) Section 36-3008.
- 4 (v) Section 41-619.53.
- 5 (w) Section 41-1964.
- 6 (x) Section 41-1967.01.
- 7 (y) Section 41-1968.
- 8 (z) Section 41-1969.
- 9 (aa) Section 41-2814.
- 10 (bb) Section 46-141, subsection A.
- 11 (cc) Section 46-321.
- 12 Sec. 34. Section 41-619.52, Arizona Revised Statutes, is amended to
- 13 read:

14 41-619.52. Board of Arizona background clearance cards;
15 organization; meetings

16 A. The board of ~~fingerprinting~~ ARIZONA BACKGROUND CLEARANCE CARDS is
17 established consisting of the following members:

18 1. A representative of the supreme court who is appointed by the chief
19 justice of the supreme court.

20 2. A representative of the department of economic security who is
21 appointed by the director of the department of economic security.

22 3. A representative of the department of education who is appointed by
23 the superintendent of public instruction.

24 4. A representative of the department of health services who is
25 appointed by the director of the department of health services.

26 5. A representative of the department of juvenile corrections who is
27 appointed by the director of the department of juvenile corrections.

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

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

34 D. Board members:

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

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

38 3. Shall have a valid fingerprint clearance card ~~OR A VALID ARIZONA~~
39 ~~BACKGROUND CLEARANCE CARD~~ issued pursuant to section 41-1758.07.

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

- 1 5. The degree to which the person participated in the offense.
- 2 6. The extent of the person's rehabilitation, including:
- 3 (a) Completion of probation, parole or community supervision.
- 4 (b) Whether the person paid restitution or other compensation for the
- 5 offense.
- 6 (c) Evidence of positive action to change criminal behavior, such as
- 7 completion of a drug treatment program or counseling.
- 8 (d) Personal references attesting to the person's rehabilitation.
- 9 F. If the board grants a good cause exception to a person, the board
- 10 shall request in writing that the ~~department of public safety~~ AUTHORIZED
- 11 INVESTIGATIVE PROVIDER issue ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance
- 12 card to the person.
- 13 G. The board's staff, under the direction of the executive director of
- 14 the board, shall review reports it receives of the arrest, charging or
- 15 conviction of a person for offenses listed in sections 41-1758.03 and
- 16 41-1758.07 who previously received a fingerprint clearance card OR AN ARIZONA
- 17 BACKGROUND CLEARANCE CARD. Except as provided by subsection J of this
- 18 section, the executive director shall report any arrest, charge or conviction
- 19 of a prohibited crime to the state agencies listed on the applicant's
- 20 fingerprint clearance card OR ARIZONA BACKGROUND CLEARANCE CARD application.
- 21 H. The board may request in writing that the department of public
- 22 safety IF THE PERSON POSSESSES A FINGERPRINT CLEARANCE CARD OR THE AUTHORIZED
- 23 INVESTIGATIVE PROVIDER IF THE PERSON POSSESSES AN ARIZONA BACKGROUND
- 24 CLEARANCE CARD revoke a person's fingerprint clearance card OR ARIZONA
- 25 BACKGROUND CLEARANCE CARD pursuant to section 41-1758.04 if the person
- 26 received a fingerprint clearance card OR AN ARIZONA BACKGROUND CLEARANCE CARD
- 27 and the person is subsequently convicted of an offense listed in section
- 28 41-1758.03, subsection B or C or section 41-1758.07, subsection B or C.
- 29 I. Pending the outcome of a good cause exception determination, the
- 30 board or its hearing officer may issue interim approval in accordance with
- 31 board rule to continue working to a good cause exception applicant.
- 32 J. If the board's staff, under the direction of the executive
- 33 director, receives a report of an arrest, charging or conviction of a
- 34 prohibited crime for a person who previously received a fingerprint clearance
- 35 card OR AN ARIZONA BACKGROUND CLEARANCE CARD pursuant to section 15-1881, the
- 36 executive director shall not report this information to the state agency that
- 37 is listed on the applicant's fingerprint clearance card OR ARIZONA BACKGROUND
- 38 CLEARANCE CARD application but shall notify the person issued the fingerprint
- 39 clearance card OR ARIZONA BACKGROUND CLEARANCE CARD of the report.
- 40 K. The board is exempt from chapter 6, article 10 of this title.
- 41 L. A person who is required to obtain a fingerprint clearance card OR
- 42 AN ARIZONA BACKGROUND CLEARANCE CARD pursuant to section 41-619.52 is not
- 43 eligible to receive a good cause exception pursuant to this section.

1 C. Except as provided in subsection A of this section:

2 1. A contested case heard by the office of administrative hearings
3 regarding taxes administered under title 42 shall be subject to the
4 provisions under section 42-1251.

5 2. A final decision of the office of administrative hearings regarding
6 taxes administered under title 42 may be appealed by either party to the
7 director of the department of revenue, or a taxpayer may file and appeal
8 directly to the board of tax appeals pursuant to section 42-1253.

9 D. Except as provided in subsections A, B, E, F and G of this section
10 and notwithstanding any other administrative proceeding or judicial review
11 process established in statute or administrative rule, this article applies
12 to all appealable agency actions and to all contested cases.

13 E. Except for a contested case or an appealable agency action
14 regarding unclaimed property, sections 41-1092.03, 41-1092.08 and 41-1092.09
15 do not apply to the department of revenue.

16 F. The board of appeals established by section 37-213 is exempt from:

17 1. The time frames for hearings and decisions provided in section
18 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09.

19 2. The requirement in section 41-1092.06, subsection A to hold an
20 informal settlement conference at the appellant's request if the sole subject
21 of an appeal pursuant to section 37-215 is the estimate of value reported in
22 an appraisal of lands or improvements.

23 G. Auction protest procedures pursuant to title 37, chapter 2, article
24 4.1 are exempt from this article.

25 Sec. 39. Section 41-1750, Arizona Revised Statutes, is amended to
26 read:

27 41-1750. Central state repository; department of public safety;
28 duties; funds; accounts; definitions

29 A. The department is responsible for the effective operation of the
30 central state repository in order to collect, store and disseminate complete
31 and accurate Arizona criminal history records and related criminal justice
32 information. The department shall:

33 1. Procure from all criminal justice agencies in this state accurate
34 and complete personal identification data, fingerprints, charges, process
35 control numbers and dispositions and such other information as may be
36 pertinent to all persons who have been charged with, arrested for, convicted
37 of or summoned to court as a criminal defendant for a felony offense or an
38 offense involving domestic violence as defined in section 13-3601 or a
39 violation of title 13, chapter 14 or title 28, chapter 4.

40 2. Collect information concerning the number and nature of offenses
41 known to have been committed in this state and of the legal steps taken in
42 connection with these offenses, such other information that is useful in the
43 study of crime and in the administration of criminal justice and all other
44 information deemed necessary to operate the statewide uniform crime reporting

- 1 program and to cooperate with the federal government uniform crime reporting
2 program.
- 3 3. Collect information concerning criminal offenses that manifest
4 evidence of prejudice based on race, color, religion, national origin, sexual
5 orientation, gender or disability.
- 6 4. Cooperate with the central state repositories in other states and
7 with the appropriate agency of the federal government in the exchange of
8 information pertinent to violators of the law.
- 9 5. Ensure the rapid exchange of information concerning the commission
10 of crime and the detection of violators of the law among the criminal justice
11 agencies of other states and of the federal government.
- 12 6. Furnish assistance to peace officers throughout this state in crime
13 scene investigation for the detection of latent fingerprints and in the
14 comparison of latent fingerprints.
- 15 7. Conduct periodic operational audits of the central state repository
16 and of a representative sample of other agencies that contribute records to
17 or receive criminal justice information from the central state repository or
18 through the Arizona criminal justice information system.
- 19 8. Establish and enforce the necessary physical and system safeguards
20 to ensure that the criminal justice information maintained and disseminated
21 by the central state repository or through the Arizona criminal justice
22 information system is appropriately protected from unauthorized inquiry,
23 modification, destruction or dissemination as required by this section.
- 24 9. Aid and encourage coordination and cooperation among criminal
25 justice agencies through the statewide and interstate exchange of criminal
26 justice information.
- 27 10. Provide training and proficiency testing on the use of criminal
28 justice information to agencies receiving information from the central state
29 repository or through the Arizona criminal justice information system.
- 30 11. Operate and maintain the Arizona automated fingerprint
31 identification system established ~~pursuant to~~ BY section 41-2411.
- 32 12. Provide criminal history record information to the fingerprinting
33 division for the purpose of screening applicants for fingerprint clearance
34 cards.
- 35 13. BEGINNING JANUARY 1, 2012, PROVIDE AUTHORIZED INVESTIGATIVE
36 PROVIDERS, WITHOUT COST, THE ARREST RECORDS OF INDIVIDUALS, INCLUDING THE
37 INDIVIDUAL'S NAME, ADDRESS, DATE OF BIRTH AND SOCIAL SECURITY NUMBER, FOR
38 INDIVIDUALS WHO ARE ARRESTED IN THIS STATE. THE DEPARTMENT SHALL PROVIDE THE
39 RECORDS ELECTRONICALLY, ON A DAILY BASIS AND THROUGH A SECURED, PASSWORD
40 PROTECTED COMPUTERIZED DATA DOWNLOAD SYSTEM OR ANOTHER SYSTEM THAT
41 ACCOMPLISHES EFFECTIVE AND EFFICIENT ELECTRONIC TRANSFER OF INFORMATION. THE
42 RECORDS SHALL BE ACCESSIBLE TO THE AUTHORIZED INVESTIGATIVE PROVIDER IN A
43 FORMAT THAT IS SEARCHABLE AND SORTABLE. THE AUTHORIZED INVESTIGATIVE
44 PROVIDER SHALL PROTECT ANY INFORMATION AND SHALL USE INFORMATION ONLY FOR THE
45 PURPOSE OF THE ARIZONA BACKGROUND CLEARANCE CARD INVESTIGATION.

1 B. The director may establish guidelines for the submission and
2 retention of criminal justice information as deemed useful for the study or
3 prevention of crime and for the administration of criminal justice.

4 C. The chief officers of criminal justice agencies of this state or
5 its political subdivisions shall provide to the central state repository
6 fingerprints and information concerning personal identification data,
7 descriptions, crimes for which persons are arrested, process control numbers
8 and dispositions and such other information as may be pertinent to all
9 persons who have been charged with, arrested for, convicted of or summoned to
10 court as criminal defendants for felony offenses or offenses involving
11 domestic violence as defined in section 13-3601 or violations of title 13,
12 chapter 14 or title 28, chapter 4 that have occurred in this state.

13 D. The chief officers of law enforcement agencies of this state or its
14 political subdivisions shall provide to the department such information as
15 necessary to operate the statewide uniform crime reporting program and to
16 cooperate with the federal government uniform crime reporting program.

17 E. The chief officers of criminal justice agencies of this state or
18 its political subdivisions shall comply with the training and proficiency
19 testing guidelines as required by the department to comply with the federal
20 national crime information center mandates.

21 F. The chief officers of criminal justice agencies of this state or
22 its political subdivisions also shall provide to the department information
23 concerning crimes that manifest evidence of prejudice based on race, color,
24 religion, national origin, sexual orientation, gender or disability.

25 G. The director shall authorize the exchange of criminal justice
26 information between the central state repository, or through the Arizona
27 criminal justice information system, whether directly or through any
28 intermediary, only as follows:

29 1. With criminal justice agencies of the federal government, Indian
30 tribes, this state or its political subdivisions and other states, on request
31 by the chief officers of such agencies or their designated representatives,
32 specifically for the purposes of the administration of criminal justice and
33 for evaluating the fitness of current and prospective criminal justice
34 employees.

35 2. With any noncriminal justice agency **OR AN AUTHORIZED INVESTIGATIVE**
36 **PROVIDER** pursuant to a statute, ordinance or executive order that
37 specifically authorizes the noncriminal justice agency **OR AUTHORIZED**
38 **INVESTIGATIVE PROVIDER** to receive criminal history record information for the
39 purpose of evaluating the fitness of current or prospective licensees,
40 employees, contract employees or volunteers, on submission of the subject's
41 fingerprints and the prescribed fee. Each statute, ordinance, or executive
42 order that authorizes noncriminal justice agencies to receive criminal
43 history record information for these purposes shall identify the specific
44 categories of licensees, employees, contract employees or volunteers, and

1 shall require that fingerprints of the specified individuals be submitted in
2 conjunction with such requests for criminal history record information.

3 3. With the board of ~~fingerprinting~~ ARIZONA BACKGROUND CLEARANCE CARDS
4 for the purpose of conducting good cause exceptions pursuant to section
5 41-619.55.

6 4. With any individual for any lawful purpose on submission of the
7 subject of record's fingerprints and the prescribed fee.

8 5. With the governor, if the governor elects to become actively
9 involved in the investigation of criminal activity or the administration of
10 criminal justice in accordance with the governor's constitutional duty to
11 ensure that the laws are faithfully executed or as needed to carry out the
12 other responsibilities of the governor's office.

13 6. With regional computer centers that maintain authorized
14 computer-to-computer interfaces with the department, that are criminal
15 justice agencies or under the management control of a criminal justice agency
16 and that are established by a statute, ordinance or executive order to
17 provide automated data processing services to criminal justice agencies
18 specifically for the purposes of the administration of criminal justice or
19 evaluating the fitness of regional computer center employees who have access
20 to the Arizona criminal justice information system and the national crime
21 information center system.

22 7. With an individual who asserts a belief that criminal history
23 record information relating to the individual is maintained by an agency or
24 in an information system in this state that is subject to this section. On
25 submission of fingerprints, the individual may review this information for
26 the purpose of determining its accuracy and completeness by making
27 application to the agency operating the system. Rules adopted under this
28 section shall include provisions for administrative review and necessary
29 correction of any inaccurate or incomplete information. The review and
30 challenge process authorized by this paragraph is limited to criminal history
31 record information.

32 8. With individuals and agencies pursuant to a specific agreement with
33 a criminal justice agency to provide services required for the administration
34 of criminal justice pursuant to that agreement if the agreement specifically
35 authorizes access to data, limits the use of data to purposes for which given
36 and ensures the security and confidentiality of the data consistent with this
37 section.

38 9. With individuals and agencies for the express purpose of research,
39 evaluative or statistical activities pursuant to an agreement with a criminal
40 justice agency if the agreement specifically authorizes access to data,
41 limits the use of data to research, evaluative or statistical purposes and
42 ensures the confidentiality and security of the data consistent with this
43 section.

44 10. With the auditor general for audit purposes.

1 11. With central state repositories of other states for noncriminal
2 justice purposes for dissemination in accordance with the laws of those
3 states.

4 ~~12. On submission of the fingerprint card, with the department of
5 economic security to provide criminal history record information on
6 prospective adoptive parents for the purpose of conducting the preadoption
7 certification investigation under title 8, chapter 1, article 1 if the
8 department of economic security is conducting the investigation, or with an
9 agency or a person appointed by the court, if the agency or person is
10 conducting the investigation. Information received under this paragraph
11 shall only be used for the purposes of the preadoption certification
12 investigation.~~

13 ~~13. With the department of economic security and the superior court for
14 the purpose of evaluating the fitness of custodians or prospective custodians
15 of juveniles, including parents, relatives and prospective guardians.
16 Information received under this paragraph shall only be used for the purposes
17 of that evaluation. The information shall be provided on submission of
18 either:~~

19 ~~(a) The fingerprint card.~~

20 ~~(b) The name, date of birth and social security number of the person.~~

21 14. 12. On submission of a fingerprint card, provide criminal history
22 record information to the superior court for the purpose of evaluating the
23 fitness of investigators appointed under section 14-5303 or 14-5407, or
24 guardians appointed under section 14-5206.

25 ~~15. 13. With the supreme court to provide criminal history record
26 information on prospective fiduciaries pursuant to section 14-5651.~~

27 ~~16. With the department of juvenile corrections to provide criminal
28 history record information pursuant to section 41-2814.~~

29 ~~17. 14. On submission of the fingerprint card, provide criminal
30 history record information to the Arizona peace officer standards and
31 training board or a board certified law enforcement academy to evaluate the
32 fitness of prospective cadets.~~

33 ~~18. 15. With the internet sex offender web site database established
34 pursuant to section 13-3827.~~

35 ~~19. 16. With licensees of the United States nuclear regulatory
36 commission for the purpose of determining whether an individual should be
37 granted unescorted access to the protected area of a commercial nuclear
38 generating station on submission of the subject of record's fingerprints and
39 the prescribed fee.~~

40 ~~20. With the state board of education for the purpose of evaluating the
41 fitness of a certificated teacher or administrator or an applicant for a
42 teaching or an administrative certificate provided that the state board of
43 education or its employees or agents have reasonable suspicion that the
44 certificated person engaged in conduct that would be a criminal violation of
45 the laws of this state or was involved in immoral or unprofessional conduct~~

1 ~~or that the applicant engaged in conduct that would warrant disciplinary~~
2 ~~action if the applicant were certificated at the time of the alleged conduct.~~
3 ~~The information shall be provided on the submission of either:~~

4 ~~(a) The fingerprint card.~~

5 ~~(b) The name, date of birth and social security number of the person.~~

6 ~~21. With each school district and charter school in this state. The~~
7 ~~state board of education and the state board for charter schools shall~~
8 ~~provide the department of public safety with a current list of e-mail~~
9 ~~addresses for each school district and charter school in this state and shall~~
10 ~~periodically provide the department of public safety with updated e-mail~~
11 ~~addresses. If the department of public safety is notified that a person who~~
12 ~~is required to have a fingerprint clearance card to be employed by or to~~
13 ~~engage in volunteer activities at a school district or charter school has~~
14 ~~been arrested for or convicted of an offense listed in section 41-1758.03,~~
15 ~~subsection B or has been arrested for or convicted of an offense that amounts~~
16 ~~to unprofessional conduct under section 15-550, the department of public~~
17 ~~safety shall notify each school district and charter school in this state~~
18 ~~that the person's fingerprint clearance card has been suspended or revoked.~~

19 ~~22. With the child protective services division of the department of~~
20 ~~economic security as provided by law, which currently is the Adam Walsh child~~
21 ~~protection and safety act of 2006 (42 United States Code section 16961), for~~
22 ~~the purposes of investigating or responding to reports of child abuse,~~
23 ~~neglect or exploitation. Information received pursuant to this paragraph~~
24 ~~from the national crime information center, the interstate identification~~
25 ~~index and the Arizona criminal justice information system network shall only~~
26 ~~be used for the purposes of investigating or responding as prescribed in this~~
27 ~~paragraph. The information shall be provided on submission to the department~~
28 ~~of public safety of either:~~

29 ~~(a) The fingerprints of the person being investigated.~~

30 ~~(b) The name, date of birth and social security number of the person.~~

31 H. The director shall adopt rules necessary to execute this section.

32 I. The director, in the manner prescribed by law, shall remove and
33 destroy records that the director determines are no longer of value in the
34 detection or prevention of crime.

35 J. The director shall establish a fee in an amount necessary to cover
36 the cost of federal noncriminal justice fingerprint processing for criminal
37 history record information checks that are authorized by law for noncriminal
38 justice employment, licensing or other lawful purposes. An additional fee
39 may be charged by the department for state noncriminal justice fingerprint
40 processing. Fees submitted to the department for state noncriminal justice
41 fingerprint processing are not refundable.

42 K. The director shall establish a fee in an amount necessary to cover
43 the cost of processing copies of department reports, eight by ten inch black
44 and white photographs or eight by ten inch color photographs of traffic
45 accident scenes.

1 L. ~~Except as provided in subsection 0 of this section,~~ Each agency
2 authorized by this section may charge a fee, in addition to any other fees
3 prescribed by law, in an amount necessary to cover the cost of state and
4 federal noncriminal justice fingerprint processing for criminal history
5 record information checks that are authorized by law for noncriminal justice
6 employment, licensing or other lawful purposes.

7 M. A fingerprint account within the records processing fund is
8 established for the purpose of separately accounting for the collection and
9 payment of fees for noncriminal justice fingerprint processing by the
10 department. Monies collected for this purpose shall be credited to the
11 account, and payments by the department to the United States for federal
12 noncriminal justice fingerprint processing shall be charged against the
13 account. Monies in the account not required for payment to the United States
14 shall be used by the department in support of the department's noncriminal
15 justice fingerprint processing duties. At the end of each fiscal year, any
16 balance in the account not required for payment to the United States or to
17 support the department's noncriminal justice fingerprint processing duties
18 reverts to the state general fund.

19 N. A records processing fund is established for the purpose of
20 separately accounting for the collection and payment of fees for department
21 reports and photographs of traffic accident scenes processed by the
22 department. Monies collected for this purpose shall be credited to the fund
23 and shall be used by the department in support of functions related to
24 providing copies of department reports and photographs. At the end of each
25 fiscal year, any balance in the fund not required for support of the
26 functions related to providing copies of department reports and photographs
27 reverts to the state general fund.

28 ~~0. The department of economic security may pay from appropriated~~
29 ~~monies the cost of federal fingerprint processing or federal criminal history~~
30 ~~record information checks that are authorized by law for employees and~~
31 ~~volunteers of the department, guardians pursuant to section 46-134,~~
32 ~~subsection A, paragraph 15, the licensing of foster parents or the~~
33 ~~certification of adoptive parents.~~

34 ~~P.~~ 0. The director shall adopt rules that provide for:

- 35 1. The collection and disposition of fees pursuant to this section.
36 2. The refusal of service to those agencies that are delinquent in
37 paying these fees.

38 ~~Q.~~ P. The director shall ensure that the following limitations are
39 observed regarding dissemination of criminal justice information obtained
40 from the central state repository or through the Arizona criminal justice
41 information system:

- 42 1. Any criminal justice agency that obtains criminal justice
43 information from the central state repository or through the Arizona criminal
44 justice information system assumes responsibility for the security of the
45 information and shall not secondarily disseminate this information to any

1 individual or agency not authorized to receive this information directly from
2 the central state repository or originating agency.

3 2. Dissemination to an authorized agency or individual may be
4 accomplished by a criminal justice agency only if the dissemination is for
5 criminal justice purposes in connection with the prescribed duties of the
6 agency and not in violation of this section.

7 3. Criminal history record information disseminated to noncriminal
8 justice agencies or to individuals shall be used only for the purposes for
9 which it was given. Secondary dissemination is prohibited unless otherwise
10 authorized by law.

11 4. The existence or nonexistence of criminal history record
12 information shall not be confirmed to any individual or agency not authorized
13 to receive the information itself.

14 5. Criminal history record information to be released for noncriminal
15 justice purposes to agencies of other states shall only be released to the
16 central state repositories of those states for dissemination in accordance
17 with the laws of those states.

18 6. Criminal history record information shall be released to
19 noncriminal justice agencies of the federal government pursuant to the terms
20 of the federal security clearance information act (P.L. 99-169).

21 ~~R.~~ Q. This section and the rules adopted under this section apply to
22 all agencies and individuals collecting, storing or disseminating criminal
23 justice information processed by manual or automated operations if the
24 collection, storage or dissemination is funded in whole or in part with
25 monies made available by the law enforcement assistance administration after
26 July 1, 1973, pursuant to title I of the crime control act of 1973, and to
27 all agencies that interact with or receive criminal justice information from
28 or through the central state repository and through the Arizona criminal
29 justice information system.

30 ~~S.~~ R. This section does not apply to criminal history record
31 information contained in:

32 1. Posters, arrest warrants, announcements or lists for identifying or
33 apprehending fugitives or wanted persons.

34 2. Original records of entry such as police blotters maintained by
35 criminal justice agencies, compiled chronologically and required by law or
36 long-standing custom to be made public if these records are organized on a
37 chronological basis.

38 3. Transcripts or records of judicial proceedings if released by a
39 court or legislative or administrative proceedings.

40 4. Announcements of executive clemency or pardon.

41 5. Computer databases, other than the Arizona criminal justice
42 information system, that are specifically designed for community notification
43 of an offender's presence in the community pursuant to section 13-3825 or for
44 public informational purposes authorized by section 13-3827.

1 ~~F.~~ S. Nothing in this section prevents a criminal justice agency from
2 disclosing to the public criminal history record information that is
3 reasonably contemporaneous to the event for which an individual is currently
4 within the criminal justice system, including information noted on traffic
5 accident reports concerning citations, blood alcohol tests or arrests made in
6 connection with the traffic accident being investigated.

7 ~~H.~~ T. In order to ensure that complete and accurate criminal history
8 record information is maintained and disseminated by the central state
9 repository:

10 1. The arresting authority shall take legible ten-print fingerprints
11 of all persons who are arrested for offenses listed in subsection C of this
12 section including persons who are arrested and released pursuant to section
13 13-3903, subsection C. The arresting authority may transfer an arrestee to a
14 booking agency for ten-print fingerprinting. The arresting authority or
15 booking agency shall obtain a process control number and provide to the
16 person fingerprinted a document that indicates proof of the fingerprinting
17 and that informs the person that the document must be presented to the court.

18 2. The mandatory fingerprint compliance form shall contain the
19 following information:

20 (a) Whether ten-print fingerprints have been obtained from the person.

21 (b) Whether a process control number was obtained.

22 (c) The offense or offenses for which the process control number was
23 obtained.

24 (d) Any report number of the arresting authority.

25 (e) Instructions on reporting for ten-print fingerprinting, including
26 available times and locations for reporting for ten-print fingerprinting.

27 (f) Instructions that direct the person to provide the form to the
28 court at the person's next court appearance.

29 3. Within ten days after a person is fingerprinted, the arresting
30 authority or agency that took the fingerprints shall forward the fingerprints
31 to the department in the manner or form required by the department.

32 4. On the issuance of a summons for a defendant who is charged with an
33 offense listed in subsection C of this section, the summons shall direct the
34 defendant to provide ten-print fingerprints to the appropriate law
35 enforcement agency.

36 5. At the initial appearance or on the arraignment of a summoned
37 defendant who is charged with an offense listed in subsection C of this
38 section, if the person does not present a completed mandatory fingerprint
39 compliance form to the court or if the court has not received the process
40 control number, the court shall order that within twenty calendar days the
41 defendant be ten-print fingerprinted at a designated time and place by the
42 appropriate law enforcement agency.

43 6. If the defendant fails to present a completed mandatory fingerprint
44 compliance form or if the court has not received the process control number,
45 the court, on its own motion, may remand the defendant into custody for

1 ten-print fingerprinting. If otherwise eligible for release, the defendant
2 shall be released from custody after being ten-print fingerprinted.

3 7. In every criminal case in which the defendant is incarcerated or
4 fingerprinted as a result of the charge, an originating law enforcement
5 agency or prosecutor, within forty days of the disposition, shall advise the
6 central state repository of all dispositions concerning the termination of
7 criminal proceedings against an individual arrested for an offense specified
8 in subsection C of this section. This information shall be submitted on a
9 form or in a manner required by the department.

10 8. Dispositions resulting from formal proceedings in a court having
11 jurisdiction in a criminal action against an individual who is arrested for
12 an offense specified in subsection C of this section or section 8-341,
13 subsection V shall be reported to the central state repository within forty
14 days of the date of the disposition. This information shall be submitted on
15 a form or in a manner specified by rules approved by the supreme court.

16 9. The state department of corrections or the department of juvenile
17 corrections, within forty days, shall advise the central state repository
18 that it has assumed supervision of a person convicted of an offense specified
19 in subsection C of this section or section 8-341, subsection V. The state
20 department of corrections or the department of juvenile corrections shall
21 also report dispositions that occur thereafter to the central state
22 repository within forty days of the date of the dispositions. This
23 information shall be submitted on a form or in a manner required by the
24 department of public safety.

25 10. Each criminal justice agency shall query the central state
26 repository before dissemination of any criminal history record information to
27 ensure the completeness of the information. Inquiries shall be made before
28 any dissemination except in those cases in which time is of the essence and
29 the repository is technically incapable of responding within the necessary
30 time period. If time is of the essence, the inquiry shall still be made and
31 the response shall be provided as soon as possible.

32 ~~W.~~ U. The director shall adopt rules specifying that any agency that
33 collects, stores or disseminates criminal justice information that is subject
34 to this section shall establish effective security measures to protect the
35 information from unauthorized access, disclosure, modification or
36 dissemination. The rules shall include reasonable safeguards to protect the
37 affected information systems from fire, flood, wind, theft, sabotage or other
38 natural or man-made hazards or disasters.

39 ~~W.~~ V. The department shall make available to agencies that contribute
40 to, or receive criminal justice information from, the central state
41 repository or through the Arizona criminal justice information system a
42 continuing training program in the proper methods for collecting, storing and
43 disseminating information in compliance with this section.

1 ~~X~~ W. Nothing in this section creates a cause of action or a right to
2 bring an action including an action based on discrimination due to sexual
3 orientation.

4 ~~Y~~ X. For the purposes of this section:

5 1. "Administration of criminal justice" means performance of the
6 detection, apprehension, detention, pretrial release, posttrial release,
7 prosecution, adjudication, correctional supervision or rehabilitation of
8 criminal offenders. Administration of criminal justice includes enforcement
9 of criminal traffic offenses and civil traffic violations, including parking
10 violations, when performed by a criminal justice agency. Administration of
11 criminal justice also includes criminal identification activities and the
12 collection, storage and dissemination of criminal history record information.

13 2. "Administrative records" means records that contain adequate and
14 proper documentation of the organization, functions, policies, decisions,
15 procedures and essential transactions of the agency and that are designed to
16 furnish information to protect the rights of this state and of persons
17 directly affected by the agency's activities.

18 3. "Arizona criminal justice information system" or "system" means the
19 statewide information system managed by the director for the collection,
20 processing, preservation, dissemination and exchange of criminal justice
21 information and includes the electronic equipment, facilities, procedures and
22 agreements necessary to exchange this information.

23 4. "Central state repository" means the central location within the
24 department for the collection, storage and dissemination of Arizona criminal
25 history records and related criminal justice information.

26 5. "Criminal history record information" and "criminal history record"
27 means information that is collected by criminal justice agencies on
28 individuals and that consists of identifiable descriptions and notations of
29 arrests, detentions, indictments and other formal criminal charges, and any
30 disposition arising from those actions, sentencing, formal correctional
31 supervisory action and release. Criminal history record information and
32 criminal history record do not include identification information to the
33 extent that the information does not indicate involvement of the individual
34 in the criminal justice system or information relating to juveniles unless
35 they have been adjudicated as adults.

36 6. "Criminal justice agency" means either:

37 (a) A court at any governmental level with criminal or equivalent
38 jurisdiction, including courts of any foreign sovereignty duly recognized by
39 the federal government.

40 (b) A government agency or subunit of a government agency that is
41 specifically authorized to perform as its principal function the
42 administration of criminal justice pursuant to a statute, ordinance or
43 executive order and that allocates more than fifty per cent of its annual
44 budget to the administration of criminal justice. This subdivision includes

1 agencies of any foreign sovereignty duly recognized by the federal
2 government.

3 7. "Criminal justice information" means information that is collected
4 by criminal justice agencies and that is needed for the performance of their
5 legally authorized and required functions, such as criminal history record
6 information, citation information, stolen property information, traffic
7 accident reports, wanted persons information and system network log searches.
8 Criminal justice information does not include the administrative records of a
9 criminal justice agency.

10 8. "Disposition" means information disclosing that a decision has been
11 made not to bring criminal charges or that criminal proceedings have been
12 concluded or information relating to sentencing, correctional supervision,
13 release from correctional supervision, the outcome of an appellate review of
14 criminal proceedings or executive clemency.

15 9. "Dissemination" means the written, oral or electronic communication
16 or transfer of criminal justice information to individuals and agencies other
17 than the criminal justice agency that maintains the information.
18 Dissemination includes the act of confirming the existence or nonexistence of
19 criminal justice information.

20 10. "Management control":

21 (a) Means the authority to set and enforce:

22 (i) Priorities regarding development and operation of criminal justice
23 information systems and programs.

24 (ii) Standards for the selection, supervision and termination of
25 personnel involved in the development of criminal justice information systems
26 and programs and in the collection, maintenance, analysis and dissemination
27 of criminal justice information.

28 (iii) Policies governing the operation of computers, circuits and
29 telecommunications terminals used to process criminal justice information to
30 the extent that the equipment is used to process, store or transmit criminal
31 justice information.

32 (b) Includes the supervision of equipment, systems design, programming
33 and operating procedures necessary for the development and implementation of
34 automated criminal justice information systems.

35 11. "Process control number" means the Arizona automated fingerprint
36 identification system number that attaches to each arrest event at the time
37 of fingerprinting and that is assigned to the arrest fingerprint card,
38 disposition form and other pertinent documents.

39 12. "Secondary dissemination" means the dissemination of criminal
40 justice information from an individual or agency that originally obtained the
41 information from the central state repository or through the Arizona criminal
42 justice information system to another individual or agency.

43 13. "Sexual orientation" means consensual homosexuality or
44 heterosexuality.

1 14. "Subject of record" means the person who is the primary subject of
2 a criminal justice record.

3 Sec. 40. Section 41-1758, Arizona Revised Statutes, is amended to
4 read:

5 41-1758. Definitions

6 In this article, unless the context otherwise requires:

7 1. "Agency" means the supreme court, the department of economic
8 security, the department of education, the department of health services, the
9 department of juvenile corrections, the department of emergency and military
10 affairs, the state real estate department, the board of ~~fingerprinting~~
11 ~~ARIZONA BACKGROUND CLEARANCE CARDS~~ or the board of examiners of nursing care
12 institution administrators and assisted living facility managers.

13 ~~2. "Division" means the fingerprinting division in the department of~~
14 ~~public safety.~~

15 2. "AUTHORIZED INVESTIGATIVE PROVIDER" MEANS AN ARIZONA CRIMINAL
16 BACKGROUND INVESTIGATION COMPANY THAT IS LICENSED TO CONDUCT CRIMINAL HISTORY
17 RECORDS INVESTIGATIONS BY THE DEPARTMENT OF ADMINISTRATION PURSUANT TO
18 SECTION 41-1758.08.

19 3. "Good cause exception" means the issuance of ~~a fingerprint~~ AN
20 ~~ARIZONA BACKGROUND~~ clearance card to an employee pursuant to section
21 41-619.55.

22 4. "Person" means a person who is required to ~~be fingerprinted~~ HAVE AN
23 ~~ARIZONA BACKGROUND CLEARANCE CARD~~ pursuant to any of the following:

- 24 (a) Section 8-105.
- 25 (b) Section 8-322.
- 26 (c) Section 8-509.
- 27 (d) Section 8-802.
- 28 (e) Section 15-183.
- 29 (f) Section 15-503.
- 30 (g) Section 15-512.
- 31 (h) Section 15-534.
- 32 (i) Section 15-1330.
- 33 (j) Section 15-1881.
- 34 (k) Section 26-103.
- 35 (l) Section 32-2108.01.
- 36 (m) Section 32-2123.
- 37 (n) Section 36-411.
- 38 (o) Section 36-425.03.
- 39 (p) Section 36-446.04.
- 40 (q) Section 36-594.01.
- 41 (r) Section 36-594.02.
- 42 (s) Section 36-882.
- 43 (t) Section 36-883.02.
- 44 (u) Section 36-897.01.
- 45 (v) Section 36-897.03.

- 1 (w) Section 36-3008.
- 2 (x) Section 41-619.52.
- 3 (y) Section 41-619.53.
- 4 (z) Section 41-1964.
- 5 (aa) Section 41-1967.01.
- 6 (bb) Section 41-1968.
- 7 (cc) Section 41-1969.
- 8 (dd) Section 41-2814.
- 9 (ee) Section 46-141, subsection A.
- 10 (ff) Section 46-321.

11 5. "Vulnerable adult" has the same meaning prescribed in section
12 13-3623.

13 Sec. 41. Section 41-1758.01, Arizona Revised Statutes, is amended to
14 read:

15 41-1758.01. Authorized investigative providers; duties
16 ~~The fingerprinting division is established in the department of public~~
17 ~~safety and~~ AN AUTHORIZED INVESTIGATIVE PROVIDER shall:

18 1. Conduct ~~fingerprint background checks for~~ A STATE AND FEDERAL
19 CRIMINAL BACKGROUND INVESTIGATION ON persons and applicants who are UNITED
20 STATES CITIZENS OR WHO HAVE A LEGAL RIGHT TO LIVE AND WORK IN THIS STATE AND
21 WHO ARE seeking licenses from state agencies, employment with licensees,
22 contract providers and state agencies or employment or educational
23 opportunities with agencies that require ~~fingerprint background checks~~ A
24 CRIMINAL BACKGROUND INVESTIGATION pursuant to sections 8-105, 8-322, 8-509,
25 8-802, 15-183, 15-503, 15-512, 15-534, 15-1330, 15-1881, 26-103, 32-2108.01,
26 32-2123, 36-411, 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-882,
27 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-619.52, 41-619.53, 41-1964,
28 41-1967.01, 41-1968, 41-1969 and 41-2814, section 46-141, subsection A and
29 section 46-321.

30 2. Issue ~~fingerprint~~ ARIZONA BACKGROUND clearance cards. On issuance,
31 ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance card ~~becomes~~ REMAINS the
32 personal property of the ~~cardholder and~~ AUTHORIZED INVESTIGATIVE PROVIDER BUT
33 the cardholder shall retain possession of the ~~fingerprint~~ ARIZONA BACKGROUND
34 clearance card. IF THE ARIZONA INVESTIGATIVE PROVIDER, THE DEPARTMENT OF
35 PUBLIC SAFETY OR THE BOARD OF ARIZONA BACKGROUND CLEARANCE CARDS SUSPENDS OR
36 TERMINATES A FINGERPRINT CLEARANCE CARD OR AN ARIZONA BACKGROUND CLEARANCE
37 CARD, THE CARDHOLDER SHALL RETURN THE CARD TO THE ISSUING PROVIDER.

38 3. EACH APPLICANT SHALL SUBMIT AN APPLICATION DIRECTLY TO AN
39 AUTHORIZED INVESTIGATIVE PROVIDER FOR A STATE AND FEDERAL CRIMINAL RECORDS
40 INVESTIGATION PURSUANT TO SECTION 41-1758.08. On submission of an
41 application for ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance card, ~~collect~~
42 ~~the fees established by the board of fingerprinting pursuant to section~~
43 ~~41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the monies~~
44 ~~collected in the board of fingerprinting fund~~ THE APPLICANT SHALL PAY THE FEE
45 FOR THE INVESTIGATION ESTABLISHED BY THE PROVIDER AND THE FEE PURSUANT TO

1 SECTION 41-619.53 DIRECTLY TO THE AUTHORIZED INVESTIGATIVE PROVIDER. THE
2 AUTHORIZED INVESTIGATIVE PROVIDER SHALL PUBLISH ITS INVESTIGATION FEE ON ITS
3 WEBSITE.

4 4. Inform in writing each person who submits ~~fingerprints~~ AN
5 APPLICATION for ~~a fingerprint~~ AN ARIZONA background ~~check~~ CLEARANCE CARD of
6 the person's right to petition the board of ~~fingerprinting~~ ARIZONA BACKGROUND
7 CLEARANCE CARDS for a good cause exception pursuant to sections 41-1758.03
8 and 41-1758.07.

9 5. Administer and enforce this article.

10 Sec. 42. Section 41-1758.02, Arizona Revised Statutes, is amended to
11 read:

12 41-1758.02. Criminal background investigation for an Arizona
13 background clearance card; registration

14 A. The person, ~~provider or agency~~ shall submit ~~a full set of~~
15 ~~fingerprints to the division~~ AN APPLICATION FOR AN ARIZONA BACKGROUND
16 CLEARANCE CARD WITH THE INFORMATION SET FORTH IN SECTION 41-1758.08 TO AN
17 AUTHORIZED INVESTIGATIVE PROVIDER for the purpose of obtaining a state and
18 federal criminal history records ~~check~~ INVESTIGATION pursuant to ~~section~~
19 ~~41-1750 and Public Law 92-544~~ THIS ARTICLE. ~~If the person can present a~~
20 ~~valid fingerprint clearance card or credible documentation that the person's~~
21 ~~application for a fingerprint clearance card is pending, the person, provider~~
22 ~~or agency is not required to submit another application for a fingerprint~~
23 ~~clearance card. The division may exchange this fingerprint data with the~~
24 ~~federal bureau of investigation.~~

25 B. ~~The person shall submit a new set of fingerprints to the division~~
26 ~~for a fingerprint background check every six years~~ AN ARIZONA BACKGROUND
27 CLEARANCE CARD IS VALID FOR TWO YEARS FROM THE DATE OF ISSUANCE. The
28 ~~division~~ AUTHORIZED INVESTIGATIVE PROVIDER shall conduct a new state and
29 federal criminal history records ~~check~~ INVESTIGATION on EACH application for
30 a new OR A RENEWAL card. All ~~class one or class two~~ fingerprint clearance
31 cards that were issued before ~~October 1, 2003~~ JANUARY 1, 2012 pursuant to
32 this article shall remain valid ONLY until their normal expiration dates ~~at~~
33 ~~which time~~ OR THROUGH DECEMBER 31, 2013, WHICHEVER IS LATER, AT WHICH TIME
34 THEY AUTOMATICALLY EXPIRE AND the cardholder shall apply for ~~a new~~
35 ~~fingerprint~~ AN ARIZONA BACKGROUND clearance card.

36 C. In order to obtain ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance
37 card, a person shall submit a completed application for ~~a fingerprint~~ AN
38 ARIZONA BACKGROUND clearance card provided by the ~~division~~ AUTHORIZED
39 INVESTIGATIVE PROVIDER.

40 D. The person, ~~provider or agency~~ shall submit the application AND ALL
41 INFORMATION AND DOCUMENTATION required by ~~subsection C of this~~ section ~~along~~
42 ~~with the fingerprints~~ 41-1758.08 to the ~~division~~ AUTHORIZED INVESTIGATIVE
43 PROVIDER for a STATE AND FEDERAL criminal history records ~~check~~
44 INVESTIGATION.

- 1 24. Obscene or indecent telephone communications to minors for
2 commercial purposes as prescribed in section 13-3512.
- 3 25. Luring a minor for sexual exploitation.
- 4 26. Enticement of persons for purposes of prostitution.
- 5 27. Procurement by false pretenses of person for purposes of
6 prostitution.
- 7 28. Procuring or placing persons in a house of prostitution.
- 8 29. Receiving earnings of a prostitute.
- 9 30. Causing one's spouse to become a prostitute.
- 10 31. Detention of persons in a house of prostitution for debt.
- 11 32. Keeping or residing in a house of prostitution or employment in
12 prostitution.
- 13 33. Pandering.
- 14 34. Transporting persons for the purpose of prostitution, polygamy and
15 concubinage.
- 16 35. Portraying adult as a minor as prescribed in section 13-3555.
- 17 36. Admitting minors to public displays of sexual conduct as prescribed
18 in section 13-3558.
- 19 37. Unlawful sale or purchase of children.
- 20 38. Child bigamy.
- 21 C. A person who is awaiting trial on or who has been convicted of
22 committing or attempting, soliciting, facilitating or conspiring to commit
23 one or more of the following offenses in this state or the same or similar
24 offenses in another state or jurisdiction is precluded from receiving
25 ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance card, except that the person
26 may petition the board of ~~fingerprinting~~ ARIZONA BACKGROUND CLEARANCE CARDS
27 for a good cause exception pursuant to section 41-619.55:
 - 28 1. Manslaughter.
 - 29 2. Endangerment.
 - 30 3. Threatening or intimidating.
 - 31 4. Assault.
 - 32 5. Unlawfully administering intoxicating liquors, narcotic drugs or
33 dangerous drugs.
 - 34 6. Assault by vicious animals.
 - 35 7. Drive by shooting.
 - 36 8. Assaults on officers or fire fighters.
 - 37 9. Discharging a firearm at a structure.
 - 38 10. Indecent exposure.
 - 39 11. Public sexual indecency.
 - 40 12. Aggravated criminal damage.
 - 41 13. Theft.
 - 42 14. Theft by extortion.
 - 43 15. Shoplifting.
 - 44 16. Forgery.
 - 45 17. Criminal possession of a forgery device.

- 1 18. Obtaining a signature by deception.
- 2 19. Criminal impersonation.
- 3 20. Theft of a credit card or obtaining a credit card by fraudulent
- 4 means.
- 5 21. Receipt of anything of value obtained by fraudulent use of a credit
- 6 card.
- 7 22. Forgery of a credit card.
- 8 23. Fraudulent use of a credit card.
- 9 24. Possession of any machinery, plate or other contrivance or
- 10 incomplete credit card.
- 11 25. False statement as to financial condition or identity to obtain a
- 12 credit card.
- 13 26. Fraud by persons authorized to provide goods or services.
- 14 27. Credit card transaction record theft.
- 15 28. Misconduct involving weapons.
- 16 29. Misconduct involving explosives.
- 17 30. Depositing explosives.
- 18 31. Misconduct involving simulated explosive devices.
- 19 32. Concealed weapon violation.
- 20 33. Possession and sale of peyote.
- 21 34. Possession and sale of a vapor-releasing substance containing a
- 22 toxic substance.
- 23 35. Sale of precursor chemicals.
- 24 36. Possession, use or sale of marijuana, dangerous drugs or narcotic
- 25 drugs.
- 26 37. Manufacture or distribution of an imitation controlled substance.
- 27 38. Manufacture or distribution of an imitation prescription-only drug.
- 28 39. Manufacture or distribution of an imitation over-the-counter drug.
- 29 40. Possession or possession with intent to use an imitation controlled
- 30 substance.
- 31 41. Possession or possession with intent to use an imitation
- 32 prescription-only drug.
- 33 42. Possession or possession with intent to use an imitation
- 34 over-the-counter drug.
- 35 43. Manufacture of certain substances and drugs by certain means.
- 36 44. Adding poison or other harmful substance to food, drink or
- 37 medicine.
- 38 45. A criminal offense involving criminal trespass and burglary under
- 39 title 13, chapter 15.
- 40 46. A criminal offense under title 13, chapter 23.
- 41 47. Child neglect.
- 42 48. Misdemeanor offenses involving contributing to the delinquency of a
- 43 minor.
- 44 49. Offenses involving domestic violence.
- 45 50. Arson.

- 1 51. Kidnapping.
- 2 52. Felony offenses involving sale, distribution or transportation of,
- 3 offer to sell, transport or distribute or conspiracy to sell, transport or
- 4 distribute marijuana, dangerous drugs or narcotic drugs.
- 5 53. Robbery.
- 6 54. Aggravated assault.
- 7 55. Felony offenses involving contributing to the delinquency of a
- 8 minor.
- 9 56. Negligent homicide.
- 10 57. Criminal damage.
- 11 58. Misappropriation of charter school monies as prescribed in section
- 12 13-1818.
- 13 59. Taking identity of another person or entity.
- 14 60. Aggravated taking identity of another person or entity.
- 15 61. Trafficking in the identity of another person or entity.
- 16 62. Cruelty to animals.
- 17 63. Prostitution.
- 18 64. Sale or distribution of material harmful to minors through vending
- 19 machines as prescribed in section 13-3513.
- 20 65. Welfare fraud.
- 21 D. A person who is awaiting trial on or who has been convicted of
- 22 committing or attempting to commit a violation of section 28-1381, 28-1382 or
- 23 28-1383 in this state or the same or similar offense in another state or
- 24 jurisdiction within five years from the date of applying for ~~a-fingerprint~~ AN
- 25 ARIZONA BACKGROUND clearance card is precluded from driving any vehicle to
- 26 transport employees or clients of the employing agency as part of the
- 27 person's employment. The ~~division~~ AUTHORIZED INVESTIGATIVE PROVIDER shall
- 28 place a notation on the ~~fingerprint~~ ARIZONA BACKGROUND clearance card that
- 29 indicates this driving restriction. This subsection does not preclude a
- 30 person from driving a vehicle alone as part of the person's employment.
- 31 E. Notwithstanding subsection C of this section, on receiving written
- 32 notice from the board of ~~fingerprinting~~ ARIZONA BACKGROUND CLEARANCE CARDS
- 33 that a good cause exception was granted pursuant to section 41-619.55, the
- 34 ~~division~~ AUTHORIZED INVESTIGATIVE PROVIDER shall issue ~~a-fingerprint~~ AN
- 35 ARIZONA BACKGROUND clearance card to the person.
- 36 F. If the ~~division~~ AUTHORIZED INVESTIGATIVE PROVIDER denies a person's
- 37 application for ~~a-fingerprint~~ AN ARIZONA BACKGROUND clearance card pursuant
- 38 to subsection C of this section and a good cause exception is requested
- 39 pursuant to section 41-619.55, the ~~division~~ AUTHORIZED INVESTIGATIVE PROVIDER
- 40 shall release, on request by the board of ~~fingerprinting~~ ARIZONA BACKGROUND
- 41 CLEARANCE CARDS, the person's criminal history record to the board of
- 42 ~~fingerprinting~~ ARIZONA BACKGROUND CLEARANCE CARDS.
- 43 G. A person shall be granted ~~a-fingerprint~~ AN ARIZONA BACKGROUND
- 44 clearance card if either of the following applies:

1 1. An agency granted a good cause exception before August 16, 1999 and
2 no new precluding offense is identified. The ~~fingerprint~~ ARIZONA BACKGROUND
3 clearance card shall specify only the program that granted the good cause
4 exception. On the request of the applicant, the agency that granted the
5 prior good cause exception shall notify the ~~division~~ AUTHORIZED INVESTIGATIVE
6 PROVIDER in writing of the date on which the prior good cause exception was
7 granted and the date of the conviction and the name of the offense for which
8 the good cause exception was granted.

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

11 ~~H. The licensee or contract provider shall assume the costs of~~
12 ~~fingerprint checks and may charge these costs to persons required to be~~
13 ~~fingerprinted.~~

14 ~~I.~~ H. A person who is under eighteen years of age or who is at least
15 ninety-nine years of age is exempt from the ~~fingerprint~~ ARIZONA BACKGROUND
16 clearance card requirements of this section. At all times the person shall
17 be under the direct visual supervision of personnel who have valid
18 ~~fingerprint~~ ARIZONA BACKGROUND clearance cards.

19 ~~J.~~ I. The ~~division~~ AUTHORIZED INVESTIGATIVE PROVIDER may conduct
20 periodic state criminal history records checks for the purpose of updating
21 the clearance status of current ~~fingerprint~~ ARIZONA BACKGROUND clearance card
22 holders and may notify the board of ~~fingerprinting~~ ARIZONA BACKGROUND
23 CLEARANCE CARDS and the agency employing the person of the results of the
24 records ~~check~~ INVESTIGATION.

25 ~~K.~~ J. The ~~division~~ DEPARTMENT OF PUBLIC SAFETY shall revoke a
26 person's ~~fingerprint~~ ARIZONA BACKGROUND clearance card on receipt of a
27 written request for revocation from the board of ~~fingerprinting~~ ARIZONA
28 BACKGROUND CLEARANCE CARDS pursuant to section 41-619.55. THE AUTHORIZED
29 INVESTIGATIVE PROVIDER THAT ISSUED THE CARD SHALL REVOKE A PERSON'S ARIZONA
30 BACKGROUND CLEARANCE CARD ON RECEIPT OF A WRITTEN REQUEST FOR REVOCATION FROM
31 THE BOARD OF ARIZONA BACKGROUND CLEARANCE CARDS PURSUANT TO SECTION
32 41-619.55.

33 ~~L.~~ K. The ~~division~~ AUTHORIZED INVESTIGATIVE PROVIDER shall not issue
34 ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance card to a person if the
35 ~~division~~ AUTHORIZED INVESTIGATIVE PROVIDER cannot determine, within thirty
36 business days after receipt of the person's state and federal criminal
37 history record information, whether the person is awaiting trial on or has
38 been convicted of committing any of the offenses listed in subsection B or C
39 of this section. If the ~~division~~ AUTHORIZED INVESTIGATIVE PROVIDER is unable
40 to make the determination required by this section and does not issue
41 ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance card to a person, the person
42 may request a good cause exception pursuant to section 41-619.55.

43 ~~M.~~ L. Except as provided in subsection ~~N~~ M of this section, if after
44 conducting a state and federal criminal history records ~~check~~ INVESTIGATION
45 the ~~division~~ AUTHORIZED INVESTIGATIVE PROVIDER determines that it is not

1 authorized to issue ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance card to a
2 person, the ~~division~~ AUTHORIZED INVESTIGATIVE PROVIDER shall notify the
3 APPLICANT AND agency that licenses or employs the person that the ~~division~~
4 AUTHORIZED INVESTIGATIVE PROVIDER is not authorized to issue ~~a fingerprint~~ AN
5 ARIZONA BACKGROUND clearance card. This notice shall include the criminal
6 history information on which the denial was based. ~~This criminal history~~
7 ~~information is subject to dissemination restrictions pursuant to section~~
8 ~~41-1750 and Public Law 92-544.~~

9 ~~N.~~ M. If, after conducting a state and federal criminal history
10 records ~~check~~ INVESTIGATION on a person who requests ~~a fingerprint~~ AN ARIZONA
11 BACKGROUND clearance card pursuant to section 15-1881, the ~~division~~
12 AUTHORIZED INVESTIGATIVE PROVIDER determines that it is not authorized to
13 issue ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance card to the person, the
14 ~~division~~ AUTHORIZED INVESTIGATIVE PROVIDER shall not notify the agency. The
15 ~~division~~ AUTHORIZED INVESTIGATIVE PROVIDER shall notify ONLY the person who
16 requested the card that the ~~division~~ AUTHORIZED INVESTIGATIVE PROVIDER is not
17 authorized to issue ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance card.

18 ~~O.~~ N. The ~~division~~ AUTHORIZED INVESTIGATIVE PROVIDER is not liable
19 for damages resulting from:

20 1. The issuance of ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance card
21 to a person who is later found to have been ineligible to receive
22 ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance card at the time the card was
23 issued.

24 2. The denial of ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance card to
25 a person who is later found to have been eligible to receive ~~a fingerprint~~ AN
26 ARIZONA BACKGROUND clearance card at the time issuance of the card was
27 denied.

28 ~~P.~~ O. The issuance of ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance
29 card does not entitle a person to employment.

30 ~~Q.~~ P. Notwithstanding any law to the contrary, a person may apply for
31 and receive a level I ~~fingerprint~~ ARIZONA BACKGROUND clearance card pursuant
32 to section 41-1758.07 to satisfy a requirement that the person have a valid
33 ~~fingerprint~~ ARIZONA BACKGROUND clearance card issued pursuant to this
34 section.

35 Sec. 44. Section 41-1758.04, Arizona Revised Statutes, is amended to
36 read:

37 41-1758.04. Denial, suspension or revocation of fingerprint
38 clearance card or an Arizona background clearance
39 card

40 A. ~~The division~~ AN AUTHORIZED INVESTIGATIVE PROVIDER shall deny the
41 issuance of ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance card to any person
42 who is awaiting trial on or who has been convicted of an offense listed in
43 section 41-1758.03, subsection B or C or section 41-1758.07, subsection B
44 or C.

1 B. THROUGH DECEMBER 31, 2013, FOR ANY PERSON WHO HOLDS A FINGERPRINT
2 CLEARANCE CARD the ~~division~~ DEPARTMENT OF PUBLIC SAFETY shall revoke the
3 fingerprint clearance card of a person ~~who has received a fingerprint~~
4 ~~clearance card and~~ who is subsequently convicted of an offense listed in
5 section 41-1758.03, subsection B or section 41-1758.07, subsection B OR C.
6 THE AUTHORIZED INVESTIGATIVE PROVIDER THAT ISSUES AN ARIZONA BACKGROUND
7 CLEARANCE CARD SHALL REVOKE THE CLEARANCE CARD OF A PERSON WHO IS
8 SUBSEQUENTLY CONVICTED OF AN OFFENSE LISTED IN SECTION 41-1758.03, SUBSECTION
9 B OR SECTION 41-1758.07, SUBSECTION B OR C.

10 C. THROUGH DECEMBER 31, 2013, FOR ANY PERSON WHO HOLDS A FINGERPRINT
11 CLEARANCE CARD the ~~division~~ DEPARTMENT OF PUBLIC SAFETY shall suspend the
12 fingerprint clearance card of a person who becomes subject to registration as
13 a sex offender or a person who is arrested for an offense listed in section
14 41-1758.03, subsection B or C or section 41-1758.07, subsection B or C. THE
15 AUTHORIZED INVESTIGATIVE PROVIDER THAT ISSUES AN ARIZONA BACKGROUND CLEARANCE
16 CARD SHALL REVOKE THE CLEARANCE CARD OF A PERSON WHO IS SUBJECT TO
17 REGISTRATION AS A SEX OFFENDER OR A PERSON WHO IS ARRESTED FOR AN OFFENSE
18 LISTED IN SECTION 41-1758.03, SUBSECTION B OR C OR SECTION 41-1758.07,
19 SUBSECTION B OR C.

20 D. A person who has been arrested for an offense listed in section
21 41-1758.03, subsection C or section 41-1758.07, subsection C and whose
22 fingerprint clearance card OR ARIZONA BACKGROUND CLEARANCE CARD has been
23 suspended pursuant to this section may request a good cause exception hearing
24 pursuant to section 41-619.55.

25 Sec. 45. Section 41-1758.05, Arizona Revised Statutes, is amended to
26 read:

27 41-1758.05. Violation: classification

28 A person who knowingly falsifies a material fact or who makes or uses a
29 ~~false~~ fingerprint clearance card OR AN ARIZONA BACKGROUND CLEARANCE CARD
30 knowing the ~~false fingerprint~~ APPLICATION FOR THE CLEARANCE CARD OR THE
31 clearance card contains a false, fictitious or fraudulent statement is guilty
32 of a class 3 misdemeanor.

33 Sec. 46. Section 41-1758.06, Arizona Revised Statutes, is amended to
34 read:

35 41-1758.06. Arizona background clearance card fund; exemption
36 from lapsing

37 A. The ~~fingerprint~~ ARIZONA BACKGROUND clearance card fund is
38 established consisting of fees collected from applicants ~~or contract~~
39 ~~providers~~ BY AN AUTHORIZED INVESTIGATIVE PROVIDER for ~~a fingerprint~~ AN
40 ARIZONA BACKGROUND clearance card. THE AUTHORIZED INVESTIGATIVE PROVIDER
41 SHALL TRANSMIT ALL FEES COLLECTED FROM APPLICANTS TO THE DEPARTMENT FOR
42 DEPOSIT IN THE FUND. The department shall administer the fund as a
43 continuing appropriation.

44 B. Monies deposited in the fund are exempt from the provisions of
45 section 35-190 relating to lapsing of appropriations.

- 1 23. Furnishing harmful items to minors as prescribed in section
2 13-3506.
- 3 24. Furnishing harmful items to minors by internet activity as
4 prescribed in section 13-3506.01.
- 5 25. Obscene or indecent telephone communications to minors for
6 commercial purposes as prescribed in section 13-3512.
- 7 26. Luring a minor for sexual exploitation.
- 8 27. Enticement of persons for purposes of prostitution.
- 9 28. Procurement by false pretenses of person for purposes of
10 prostitution.
- 11 29. Procuring or placing persons in a house of prostitution.
- 12 30. Receiving earnings of a prostitute.
- 13 31. Causing one's spouse to become a prostitute.
- 14 32. Detention of persons in a house of prostitution for debt.
- 15 33. Keeping or residing in a house of prostitution or employment in
16 prostitution.
- 17 34. Pandering.
- 18 35. Transporting persons for the purpose of prostitution, polygamy and
19 concubinage.
- 20 36. Portraying adult as a minor as prescribed in section 13-3555.
- 21 37. Admitting minors to public displays of sexual conduct as prescribed
22 in section 13-3558.
- 23 38. Any felony offense involving contributing to the delinquency of a
24 minor.
- 25 39. Unlawful sale or purchase of children.
- 26 40. Child bigamy.
- 27 41. Any felony offense involving domestic violence as defined in
28 section 13-3601 except for a felony offense only involving criminal damage in
29 an amount of more than two hundred fifty dollars but less than one thousand
30 dollars if the offense was committed before ~~the effective date of this~~
31 ~~section~~ JUNE 29, 2009.
- 32 42. Any felony offense in violation of title 13, chapter 12 if
33 committed within five years before the date of applying for a level I
34 ~~fingerprint~~ ARIZONA BACKGROUND clearance card.
- 35 43. Felony drug or alcohol related offenses if committed within five
36 years before the date of applying for a level I ~~fingerprint~~ ARIZONA
37 BACKGROUND clearance card.
- 38 44. Felony indecent exposure.
- 39 45. Felony public sexual indecency.
- 40 46. Terrorism.
- 41 47. Any offense involving a violent crime as defined in section
42 13-901.03.
- 43 C. A person who is awaiting trial on or who has been convicted of
44 committing or attempting, soliciting, facilitating or conspiring to commit
45 one or more of the following offenses in this state or the same or similar

1 offenses in another state or jurisdiction is precluded from receiving a level
2 I fingerprint ARIZONA BACKGROUND clearance card, except that the person may
3 petition the board of fingerprinting ARIZONA BACKGROUND CLEARANCE CARDS for a
4 good cause exception pursuant to section 41-619.55:

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

- 1 31. Misdemeanor possession, misdemeanor use or misdemeanor sale of
2 marijuana, dangerous drugs or narcotic drugs.
- 3 32. Felony possession, felony use or felony sale of marijuana,
4 dangerous drugs or narcotic drugs if committed more than five years before
5 the date of applying for a level I ~~fingerpr~~int ARIZONA BACKGROUND clearance
6 card.
- 7 33. Misdemeanor manufacture or misdemeanor distribution of an imitation
8 controlled substance.
- 9 34. Felony manufacture or felony distribution of an imitation
10 controlled substance if committed more than five years before the date of
11 applying for a level I ~~fingerpr~~int ARIZONA BACKGROUND clearance card.
- 12 35. Misdemeanor manufacture or misdemeanor distribution of an imitation
13 prescription-only drug.
- 14 36. Felony manufacture or felony distribution of an imitation
15 prescription-only drug if committed more than five years before the date of
16 applying for a level I ~~fingerpr~~int ARIZONA BACKGROUND clearance card.
- 17 37. Misdemeanor manufacture or misdemeanor distribution of an imitation
18 over-the-counter drug.
- 19 38. Felony manufacture or felony distribution of an imitation
20 over-the-counter drug if committed more than five years before the date of
21 applying for a level I ~~fingerpr~~int ARIZONA BACKGROUND clearance card.
- 22 39. Misdemeanor possession or misdemeanor possession with intent to use
23 an imitation controlled substance.
- 24 40. Felony possession or felony possession with intent to use an
25 imitation controlled substance if committed more than five years before the
26 date of applying for a level I ~~fingerpr~~int ARIZONA BACKGROUND clearance card.
- 27 41. Misdemeanor possession or misdemeanor possession with intent to use
28 an imitation prescription-only drug.
- 29 42. Felony possession or felony possession with intent to use an
30 imitation prescription-only drug if committed more than five years before the
31 date of applying for a level I ~~fingerpr~~int ARIZONA BACKGROUND clearance card.
- 32 43. Misdemeanor possession or misdemeanor possession with intent to use
33 an imitation over-the-counter drug.
- 34 44. Felony possession or felony possession with intent to use an
35 imitation over-the-counter drug if committed more than five years before the
36 date of applying for a level I ~~fingerpr~~int ARIZONA BACKGROUND clearance card.
- 37 45. Misdemeanor manufacture of certain substances and drugs by certain
38 means.
- 39 46. Felony manufacture of certain substances and drugs by certain means
40 if committed more than five years before the date of applying for a level I
41 ~~fingerpr~~int ARIZONA BACKGROUND clearance card.
- 42 47. Adding poison or other harmful substance to food, drink or
43 medicine.
- 44 48. A criminal offense involving criminal trespass and burglary under
45 title 13, chapter 15.

- 1 49. A criminal offense under title 13, chapter 23, except terrorism.
- 2 50. Misdemeanor offenses involving child neglect.
- 3 51. Misdemeanor offenses involving contributing to the delinquency of a
4 minor.
- 5 52. Misdemeanor offenses involving domestic violence as defined in
6 section 13-3601.
- 7 53. Felony offenses involving domestic violence if the offense only
8 involved criminal damage in an amount of more than two hundred fifty dollars
9 but less than one thousand dollars and the offense was committed before ~~the~~
10 ~~effective date of this section~~ JUNE 29, 2009.
- 11 54. Arson.
- 12 55. Felony offenses involving sale, distribution or transportation of,
13 offer to sell, transport or distribute or conspiracy to sell, transport or
14 distribute marijuana, dangerous drugs or narcotic drugs if committed more
15 than five years before the date of applying for a level I ~~fingerprint~~ ARIZONA
16 BACKGROUND clearance card.
- 17 56. Criminal damage.
- 18 57. Misappropriation of charter school monies as prescribed in section
19 13-1818.
- 20 58. Taking identity of another person or entity.
- 21 59. Aggravated taking identity of another person or entity.
- 22 60. Trafficking in the identity of another person or entity.
- 23 61. Cruelty to animals.
- 24 62. Prostitution, as prescribed in section 13-3214.
- 25 63. Sale or distribution of material harmful to minors through vending
26 machines as prescribed in section 13-3513.
- 27 64. Welfare fraud.
- 28 65. Any felony offense in violation of title 13, chapter 12 if
29 committed more than five years before the date of applying for a level I
30 ~~fingerprint~~ ARIZONA BACKGROUND clearance card.
- 31 66. Kidnapping.
- 32 67. Robbery, aggravated robbery or armed robbery.
- 33 D. A person who is awaiting trial on or who has been convicted of
34 committing or attempting to commit a misdemeanor violation of section
35 28-1381, 28-1382 or 28-1383 in this state or the same or A similar offense in
36 another state or jurisdiction within five years from the date of applying for
37 a level I ~~fingerprint~~ ARIZONA BACKGROUND clearance card is precluded from
38 driving any vehicle to transport employees or clients of the employing agency
39 as part of the person's employment. The ~~division~~ AUTHORIZED INVESTIGATIVE
40 PROVIDER shall place a notation on the level I ~~fingerprint~~ ARIZONA BACKGROUND
41 clearance card that indicates this driving restriction. This subsection does
42 not preclude a person from driving a vehicle alone as part of the person's
43 employment.

1 E. Notwithstanding subsection C of this section, on receiving written
2 notice from the board of ~~fingerprinting~~ ARIZONA BACKGROUND CLEARANCE CARDS
3 that a good cause exception was granted pursuant to section 41-619.55, the
4 ~~fingerprinting division~~ AUTHORIZED INVESTIGATIVE PROVIDER shall issue a level
5 I ~~fingerprint~~ ARIZONA BACKGROUND clearance card to the applicant.

6 F. If the ~~fingerprinting division~~ AUTHORIZED INVESTIGATIVE PROVIDER
7 denies a person's application for a level I ~~fingerprint~~ ARIZONA BACKGROUND
8 clearance card pursuant to subsection C of this section and a good cause
9 exception is requested pursuant to section 41-619.55, the ~~fingerprinting~~
10 ~~division~~ AUTHORIZED INVESTIGATIVE PROVIDER shall release, on request by the
11 board of ~~fingerprinting~~ ARIZONA BACKGROUND CLEARANCE CARDS, the person's
12 criminal history record to the board of ~~fingerprinting~~ ARIZONA BACKGROUND
13 CLEARANCE CARDS.

14 G. A person shall be granted a level I ~~fingerprint~~ ARIZONA BACKGROUND
15 clearance card pursuant to this section if either of the following applies:

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

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

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

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

35 ~~J.~~ I. The fingerprinting division AND AN AUTHORIZED INVESTIGATIVE
36 PROVIDER may conduct periodic state AND FEDERAL criminal history records
37 ~~checks~~ INVESTIGATIONS for the purpose of updating the clearance status of
38 current level I fingerprint clearance cardholders AND LEVEL I ARIZONA
39 BACKGROUND CLEARANCE CARDHOLDERS pursuant to this section and may notify the
40 board of ~~fingerprinting~~ ARIZONA BACKGROUND CLEARANCE CARDS and the agency of
41 the results of the records ~~check~~ INVESTIGATION.

42 ~~K.~~ J. The fingerprinting division OR THE AUTHORIZED INVESTIGATIVE
43 PROVIDER, AS APPLICABLE, shall revoke a person's level I fingerprint
44 clearance card OR LEVEL I ARIZONA BACKGROUND CLEARANCE CARD on receipt of a

1 written request for revocation from the board of ~~fingerprinting~~ ARIZONA
2 BACKGROUND CLEARANCE CARDS pursuant to section 41-619.55.

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

13 ~~M.~~ L. If after conducting a state and federal criminal history
14 records ~~check~~ INVESTIGATION the ~~fingerprinting division~~ AUTHORIZED
15 INVESTIGATIVE PROVIDER determines that it is not authorized to issue a level
16 I ~~fingerprint~~ ARIZONA BACKGROUND clearance card to an applicant, the ~~division~~
17 AUTHORIZED INVESTIGATIVE PROVIDER shall notify the APPLICANT AND THE agency
18 that the ~~fingerprinting division~~ AUTHORIZED INVESTIGATIVE PROVIDER is not
19 authorized to issue a level I ~~fingerprint~~ ARIZONA BACKGROUND clearance card.
20 This notice shall include the criminal history information on which the
21 denial was based. ~~This criminal history information is subject to~~
22 ~~dissemination restrictions pursuant to section 41-1750 and Public Law 92-544.~~

23 ~~N.~~ M. The ~~fingerprinting division~~ AUTHORIZED INVESTIGATIVE PROVIDER
24 is not liable for damages resulting from:

25 1. The issuance of a level I ~~fingerprint~~ ARIZONA BACKGROUND clearance
26 card to an applicant who is later found to have been ineligible to receive a
27 level I ~~fingerprint~~ ARIZONA BACKGROUND clearance card at the time the card
28 was issued.

29 2. The denial of a level I ~~fingerprint~~ ARIZONA BACKGROUND clearance
30 card to an applicant who is later found to have been eligible to receive a
31 level I ~~fingerprint~~ ARIZONA BACKGROUND clearance card at the time issuance of
32 the card was denied.

33 ~~O.~~ N. Notwithstanding any law to the contrary, an individual may
34 apply for and receive a level I ~~fingerprint~~ ARIZONA BACKGROUND clearance card
35 pursuant to this section to satisfy a requirement that the person have a
36 valid ~~fingerprint~~ ARIZONA BACKGROUND clearance card issued pursuant to
37 section 41-1758.03.

38 ~~P.~~ O. Notwithstanding any law to the contrary, except as prescribed
39 pursuant to subsection ~~O~~ P of this section, an individual who receives a
40 level I ~~fingerprint~~ ARIZONA BACKGROUND clearance card pursuant to this
41 section also satisfies a requirement that the individual have a valid
42 ~~fingerprint~~ ARIZONA BACKGROUND clearance card issued pursuant to section
43 41-1758.03.

44 ~~Q.~~ P. Unless a cardholder commits an offense listed in subsection B
45 or C of this section after ~~the effective date of this section, a fingerprint~~

1 JUNE 29, 2009, AN ARIZONA BACKGROUND clearance card issued pursuant to
2 section 41-1758.03 before ~~the effective date of this section~~ JUNE 29, 2009
3 and its renewals are valid for all requirements for a level I ~~fingerpr~~
4 ARIZONA BACKGROUND clearance card except those relating to the requirements
5 of section 8-105 or 8-509. ~~A fingerprint~~ AN ARIZONA BACKGROUND clearance
6 card issued before ~~the effective date of this section~~ JUNE 29, 2009 to meet
7 the requirements of section 8-105 or 8-509, and its renewals are valid after
8 ~~the effective date of this section~~ JUNE 29, 2009 to meet all requirements for
9 a level I ~~fingerpr~~ ARIZONA BACKGROUND clearance card, including the
10 requirements of section 8-105 or 8-509 if the cardholder has been certified
11 by the court to adopt or has been issued a foster home license before ~~the~~
12 ~~effective date of this section~~ JUNE 29, 2009.

13 ~~R.~~ Q. The issuance of a level I ~~fingerpr~~ ARIZONA BACKGROUND
14 clearance card does not entitle a person to employment.

15 R. ALL FINGERPRINT CLEARANCE CARDS ISSUED BY THE DEPARTMENT OF PUBLIC
16 SAFETY EXPIRE ON DECEMBER 31, 2013.

17 S. For the purposes of this section:

18 1. "Person" means a person who is ~~fingerpr~~ REQUIRED TO SUBMIT TO
19 A STATE AND FEDERAL CRIMINAL RECORDS INVESTIGATION AND OBTAIN AN ARIZONA
20 BACKGROUND CLEARANCE CARD pursuant to:

21 (a) Section 8-105, 8-509, 8-802, 36-594.01, 36-594.02, 36-882,
22 36-883.02, 36-897.01, 36-897.03, 41-619.52, 41-619.53, 41-1964, 41-1967.01,
23 41-1968, 41-1969 or 46-141.

24 (b) Subsection ~~Q~~ N of this section.

25 2. "Renewal" means the issuance of ~~a fingerprint~~ AN ARIZONA BACKGROUND
26 clearance card to an existing ~~fingerpr~~ ARIZONA BACKGROUND clearance
27 cardholder who applies before the person's existing ~~fingerpr~~ ARIZONA
28 BACKGROUND clearance card expires.

29 Sec. 48. Title 41, chapter 12, article 3.1, Arizona Revised Statutes,
30 is amended by adding section 41-1758.08, to read:

31 41-1758.08. Arizona authorized investigative provider;
32 licensure; duties; identity verification

33 A. THE DEPARTMENT OF ADMINISTRATION SHALL LICENSE AND MONITOR AN
34 AUTHORIZED INVESTIGATIVE PROVIDER FOR THE PURPOSE OF CONDUCTING STATE AND
35 FEDERAL CRIMINAL HISTORY RECORDS INVESTIGATIONS AND ISSUING ARIZONA
36 BACKGROUND CLEARANCE CARDS TO APPLICANTS. TO BE LICENSED AS AN AUTHORIZED
37 INVESTIGATIVE PROVIDER, THE AUTHORIZED INVESTIGATIVE PROVIDER SHALL:

- 38 1. PAY AN APPLICATION FEE OF TWO THOUSAND FIVE HUNDRED DOLLARS.
- 39 2. PAY AN ANNUAL LICENSE MAINTENANCE FEE OF FIVE HUNDRED DOLLARS.
- 40 3. BE A CORPORATION OR LIMITED LIABILITY COMPANY THAT IS INCORPORATED
41 IN THIS STATE OR THAT HAS ITS PRINCIPLE OFFICE LOCATED IN THIS STATE.
- 42 4. REQUIRE THAT EACH MAJORITY SHAREHOLDER OR MANAGING MEMBER BE A
43 LICENSED ARIZONA PRIVATE INVESTIGATOR FOR NOT LESS THAN FIVE YEARS PRECEDING
44 THE DATE OF APPLICATION AND BE A RESIDENT OF THIS STATE.

1 5. REQUIRE THAT ALL EMPLOYEES OR PERSONS WHO ARE ASSIGNED, RESPONSIBLE
2 FOR, IN CHARGE OF OR ACCOUNTABLE FOR INVESTIGATIVE DUTIES ON ANY APPLICANT
3 FILE ARE LICENSED AS A PRIVATE INVESTIGATOR PURSUANT TO TITLE 32, CHAPTER 24.

4 6. REQUIRE THAT ANY PERSON WHO IS EMPLOYED BY THE AUTHORIZED
5 INVESTIGATIVE PROVIDER PASS THE SAME CRIMINAL HISTORY RECORDS BACKGROUND
6 INVESTIGATION PRESCRIBED IN SECTIONS 41-1758.03 AND 41-1758.07.

7 B. A LICENSED AUTHORIZED INVESTIGATIVE PROVIDER SHALL:

8 1. CONDUCT A NEW AND LIVE INVESTIGATION ON EACH APPLICATION BY
9 RESEARCHING CURRENT STATE AND FEDERAL COURT DATABASES, OR PHYSICALLY
10 RESEARCHING STATE AND FEDERAL COURT FILES IF COURT DATABASES ARE NOT
11 AVAILABLE, FOR DISPOSITION RECORDS IN THE JURISDICTION WHERE THE APPLICANT
12 RESIDED FOR THE TWENTY YEARS PRECEDING THE APPLICATION DATE. THE AUTHORIZED
13 INVESTIGATIVE PROVIDER MAY EXPAND AND ENHANCE ITS INVESTIGATION BY USING
14 OTHER INFORMATION RECEIVED FROM A NON-COURT DATABASE OR THROUGH INSTANT
15 SEARCH METHODOLOGIES FOR IDENTIFICATION VERIFICATION.

16 2. INCLUDE THE FOLLOWING INFORMATION ON EACH ISSUED ARIZONA BACKGROUND
17 CLEARANCE CARD:

18 (a) THE CARDHOLDER'S FULL NAME, AGE AND DEPARTMENT OR AGENCY OF
19 EMPLOYMENT.

20 (b) A CURRENT PHOTOGRAPH OF THE CARDHOLDER IN PASSPORT STYLE.

21 (c) THE CARD'S DATE OF ISSUE AND DATE OF EXPIRATION.

22 (d) A UNIQUE AND PERSONAL VERIFICATION NUMBER FOR THE PURPOSE OF
23 IMMEDIATE VERIFICATION AND AUTHENTICATION OF THE CARD AND THE CARDHOLDER.

24 (e) THE AUTHORIZED INVESTIGATIVE PROVIDER'S NAME, ADDRESS, TELEPHONE
25 NUMBER AND WEBSITE ADDRESS.

26 (f) AT LEAST ONE SECURITY FEATURE ON THE CARD.

27 3. PROVIDE THAT EACH ARIZONA BACKGROUND CLEARANCE CARD IS VERIFIABLE
28 BY INTERNET ACCESS THROUGH THE AUTHORIZED INVESTIGATIVE PROVIDER'S WEBSITE,
29 FREE OF CHARGE TO THE PUBLIC. THE ONLINE VERIFICATION SITE SHALL INCLUDE:

30 (a) THE APPLICANT'S PHOTO AND AGE AND THE CARD'S DATE OF ISSUE AND
31 EXPIRATION.

32 (b) A FEATURE ALLOWING THE PERSON ACCESSING THE INFORMATION TO VIEW
33 AND PRINT A CERTIFICATION OF THE APPLICANT'S ARIZONA BACKGROUND CLEARANCE
34 CARD STATUS.

35 4. NOTIFY A CARDHOLDER IN WRITING SIXTY DAYS BEFORE THE EXPIRATION OF
36 THE CARD OF THE CARD'S EXPIRATION DATE.

37 5. NOT SELL OR GIVE ANY INFORMATION OBTAINED BY A PROVIDER FROM AN
38 APPLICANT AND THE DEPARTMENT OF PUBLIC SAFETY TO ANY OTHER ENTITY OR PERSON
39 AS PROVIDED BY THIS ARTICLE.

40 6. SUBMIT AS PART OF ITS APPLICATION TO THE DEPARTMENT OF
41 ADMINISTRATION HOW THE PROVIDER WILL DEVELOP, DOCUMENT AND IMPLEMENT A
42 COMPANY-WIDE INFORMATION SECURITY PROGRAM TO PROVIDE INFORMATION SECURITY FOR
43 THE PERSONAL INFORMATION OF ALL ARIZONA BACKGROUND CLEARANCE CARD APPLICANTS,
44 INFORMATION RECEIVED FROM THE DEPARTMENT OF PUBLIC SAFETY AND ITS INFORMATION
45 SYSTEMS. A PROVIDER MUST HOST, STORE AND BACKUP ARIZONA BACKGROUND CLEARANCE

1 CARD APPLICANT INFORMATION ONLY IN A FACILITY IT OWNS OR LEASES WHICH MUST BE
2 WITHIN THE UNITED STATES. NO SUCH INFORMATION MAY BE OUTSOURCED IN OR TO A
3 THIRD-PARTY FACILITY TO HOST, STORE OR BACKUP.

4 7. IF THE PROVIDER DETERMINES THAT A PERSON HAS BEEN INDICTED, CHARGED
5 WITH, CONVICTED OF OR PLED GUILTY NO CONTEST TO ANY CRIME LISTED IN SECTION
6 41-1758.03 OR 41-1758.07, THE AUTHORIZED INVESTIGATIVE PROVIDER, OR THE BOARD
7 OF ARIZONA BACKGROUND CLEARANCE CARDS, DENY, SUSPEND OR TERMINATE THE
8 PERSON'S ARIZONA BACKGROUND CLEARANCE CARD AND PROVIDE NOTICE OF THE DENIAL,
9 SUSPENSION OR TERMINATION ON THE AUTHORIZED INVESTIGATIVE PROVIDER'S WEBSITE.
10 IF ALREADY ISSUED, THE ARIZONA BACKGROUND CLEARANCE CARD SHALL BE REINSTATED
11 ONLY BY ORDER OF THE BOARD OF ARIZONA BACKGROUND CLEARANCE CARDS.

12 8. IF AN AGENCY INFORMS THE PROVIDER THAT A CARDHOLDER IS UNDER
13 INVESTIGATION FOR A CRIME THAT IS PRECLUDED PURSUANT TO SECTION 41-1758.03 OR
14 41-1758.07 AND THE PROVIDER VERIFIES THE INFORMATION THROUGH A LAW
15 ENFORCEMENT AGENCY OR COURT, TEMPORARILY SUSPEND THE CARD AND PROVIDE NOTICE
16 OF THE SUSPENSION TO THE AGENCY AND INDIVIDUAL IN WRITING, INCLUDING THAT THE
17 PERSON HAS A RIGHT OF APPEAL TO THE BOARD OF ARIZONA BACKGROUND CLEARANCE
18 CARDS.

19 9. AT THE REQUEST OF THE DEPARTMENT OF ADMINISTRATION, DELIVER A
20 SECURED ELECTRONIC FILE OF ALL OF THE ARIZONA BACKGROUND CLEARANCE CARD
21 INVESTIGATIONS PERFORMED BY THE PROVIDER, INCLUDING NAME, DATE OF BIRTH,
22 ADDRESS, ISSUANCE DATE AND EXPIRATION DATE. THE DEPARTMENT OF ADMINISTRATION
23 SHALL KEEP THE DATA IN A SAFE AND SECURED LOCATION. FAILURE TO PROVIDE THE
24 DATA SUBJECTS THE PROVIDER TO LICENSE REVOCATION AND A FIVE HUNDRED THOUSAND
25 DOLLAR PENALTY ASSESSABLE AGAINST THE COMPANY AND ITS OFFICERS OR PRINCIPLE
26 MEMBERS.

27 C. AN APPLICANT FOR A VALID ARIZONA BACKGROUND CLEARANCE CARD MAY
28 OBTAIN AN APPLICATION FROM AN AUTHORIZED INVESTIGATIVE PROVIDER. THE
29 APPLICANT SHALL COMPLETE THE APPLICATION AND PROVIDE A CURRENT PHOTO, IN
30 PASSPORT STYLE AND FORM, WHICH MAY BE PRINTED ON THE APPLICATION IN THE SPACE
31 PROVIDED OR ATTACHED TO THE APPLICATION. THE APPLICATION SHALL CONTAIN THE
32 APPLICANT'S FULL NAME AND MAIDEN NAME, IF ANY, ADDRESS, BIRTH DATE, SOCIAL
33 SECURITY NUMBER, HEIGHT, WEIGHT, EYE COLOR AND HAIR COLOR. THE APPLICANT
34 SHALL PRESENT AT LEAST ONE FORM OF VALID STATE GOVERNMENT ISSUED PHOTO
35 IDENTIFICATION AND A VALID SOCIAL SECURITY CARD TO A NOTARY PUBLIC FOR REVIEW
36 AND SIGN THE APPLICATION IN FRONT OF THE NOTARY PUBLIC. THE NOTARY PUBLIC
37 SHALL SIGN AN ACKNOWLEDGMENT OF AUTHENTICATION OF THE APPLICANT'S SIGNATURE.
38 THE APPLICANT SHALL SEND OR DELIVER THE COMPLETED NOTARIZED APPLICATION TO AN
39 AUTHORIZED INVESTIGATIVE PROVIDER FOR FINAL IDENTITY VERIFICATION AND
40 INVESTIGATION OF THE APPLICANT'S STATE AND FEDERAL CRIMINAL BACKGROUND. THE
41 AUTHORIZED INVESTIGATIVE PROVIDER SHALL VERIFY THE APPLICANT'S IDENTITY AS
42 PART OF THE CRIMINAL BACKGROUND INVESTIGATION. THE APPLICANT SHALL COOPERATE
43 WITH THE AUTHORIZED INVESTIGATIVE PROVIDER REGARDING INFORMATION NEEDED TO
44 VERIFY THE APPLICANT'S IDENTITY. IF THE APPLICANT PROVIDES MATERIALLY FALSE
45 INFORMATION ON THE APPLICATION, THE AUTHORIZED INVESTIGATIVE PROVIDER SHALL

1 NOT ISSUED AN ARIZONA BACKGROUND CLEARANCE CARD AND SHALL NOTIFY THE
2 APPLICANT OF THE DENIAL. THE APPLICANT MAY APPEAL THE DENIAL TO THE BOARD OF
3 ARIZONA BACKGROUND CLEARANCE CARDS FOR REVIEW. IF THE BOARD OF ARIZONA
4 BACKGROUND CLEARANCE CARDS FINDS THAT THE IDENTITY OF THE INDIVIDUAL IS
5 VERIFIED OR THAT THE INFORMATION PROVIDED ON THE APPLICATION BY THE APPLICANT
6 IS NOT MATERIALLY FALSE, THE AUTHORIZED INVESTIGATIVE PROVIDER SHALL CONTINUE
7 WITH THE INVESTIGATION ON NOTICE FROM THE BOARD.

8 D. IF AN AUTHORIZED INVESTIGATIVE PROVIDER REQUESTS A COPY OF A
9 DISPOSITION RECORD FROM AN ARIZONA COURT FOR THE PURPOSES OF AN
10 INVESTIGATION, THE COURT SHALL RELEASE THE DISPOSITION RECORD TO THE
11 AUTHORIZED INVESTIGATIVE PROVIDER AT A PRICE THAT IS NOT MORE THAN THE
12 COURT'S COST FOR RETRIEVING THE INFORMATION AND SHALL DO SO IN AN EXPEDITIOUS
13 AND TIMELY MANNER. A DISPOSITION RECORD SHALL INCLUDE THE PLEA AGREEMENT,
14 JUDGMENT OR COURT ORDER REGARDING THE CASE DISPOSITION AND HISTORY, IF ANY.

15 E. ALL AUTHORIZED INVESTIGATIVE PROVIDERS SHALL COLLECT THE FEES
16 PRESCRIBED IN SECTION 41-619.53 AND TRANSMIT THE FEES TO THE BOARD OF ARIZONA
17 BACKGROUND CLEARANCE CARDS WITHIN THIRTY DAYS OF THE END OF EACH MONTH. IF A
18 PROVIDER FAILS TO TIMELY TRANSMIT THE FEES AND THE AMOUNTS ARE NOT PAID
19 WITHIN TEN DAYS AFTER THE BOARD MAILS NOTICE TO THE PROVIDER OF THE FAILURE
20 TO PAY, THE DEPARTMENT OF ADMINISTRATION MAY REVOKE THE PROVIDER'S LICENSE.
21 WITH TEN DAY'S WRITTEN NOTICE, A REPRESENTATIVE OF THE BOARD OF ARIZONA
22 BACKGROUND CLEARANCE CARDS OR THE DEPARTMENT OF ADMINISTRATION MAY REVIEW OR
23 AUDIT A PROVIDER'S FINANCIAL BOOKS WITH REFERENCE TO ANY INVESTIGATION
24 PERFORMED BY THE PROVIDER FOR AN ARIZONA BACKGROUND CLEARANCE CARD AT THE
25 PROVIDER'S LOCATION.

26 F. THE DEPARTMENT OF ADMINISTRATION SHALL LICENSE AN AUTHORIZED
27 INVESTIGATIVE PROVIDER APPLICANT WHO MEETS ALL OF THE REQUIREMENTS OF THIS
28 SECTION. ON TEN DAYS WRITTEN NOTICE, THE DEPARTMENT OF ADMINISTRATION MAY
29 AUDIT ANY AUTHORIZED PROVIDER'S PROCESSES, INCLUDING THE INVESTIGATION OF
30 STATE AND FEDERAL RECORDS, THE ISSUANCE OF ARIZONA BACKGROUND CLEARANCE CARDS
31 AND FOR COMPLIANCE WITH ALL OF THE REQUIREMENTS IN THIS SECTION. THE
32 DEPARTMENT OF ADMINISTRATION MAY SUSPEND OR TERMINATE THE LICENSE OF AN
33 AUTHORIZED INVESTIGATIVE PROVIDER WHO FAILS TO ABIDE BY THE REQUIREMENTS OF
34 THIS SECTION.

35 Sec. 49. Section 41-1964, Arizona Revised Statutes, is amended to
36 read:

37 41-1964. Day care homes; child care personnel; Arizona
38 background clearance card; definition

39 A. Child care personnel shall have valid fingerprint clearance cards
40 OR VALID ARIZONA BACKGROUND CLEARANCE CARDS issued pursuant to section
41 41-1758.07 or shall apply for ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance
42 card no later than seven working days from the date of certification by the
43 department or within seven working days after residing or working in the home
44 of a child care home provider or being designated as a backup provider.

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

5 1. They are awaiting trial on or have been convicted of or admitted
6 committing any of the criminal offenses listed in section 41-1758.07,
7 subsections B and C in this state or similar offenses in another state or
8 jurisdiction.

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

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

14 C. The department shall make documented, good faith efforts to contact
15 previous employers of certified day care home personnel to obtain information
16 or recommendations that may be relevant to an individual's fitness for work
17 in a certified day care home.

18 D. The notarized forms are confidential.

19 E. The department of economic security shall notify the department of
20 public safety **IF THE PERSON POSSESSES A FINGERPRINT CLEARANCE CARD OR THE**
21 **AUTHORIZED INVESTIGATIVE PROVIDER IF THE PERSON POSSESSES AN ARIZONA**
22 **BACKGROUND CLEARANCE CARD** if the department of economic security receives
23 credible evidence that ~~any child care personnel who possesses a valid~~
24 ~~fingerprint clearance card~~ **THE CARDHOLDER** either:

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

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

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

34 Sec. 50. Section 41-1967, Arizona Revised Statutes, is amended to
35 read:

36 **41-1967. Child care resource and referral system; immunity**

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

40 1. Provide families with:

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

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

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

44 (d) Information about choosing child care.

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

- 1 2. Assist child care providers and programs with:
 - 2 (a) Information on training related to child care issues.
 - 3 (b) Technical assistance that relates to initiating or providing child
4 care services.
 - 5 (c) Parent referrals.
 - 6 (d) Becoming registered as a child care home provider.
- 7 3. Coordinate with the community to:
 - 8 (a) Develop statistics of the demand for and supply of child care.
 - 9 (b) Maintain ongoing relationships with all local groups interested in
10 child care.
- 11 B. The child care resource and referral system shall:
 - 12 1. Identify all available child care providers and programs through
13 coordination with public and private agencies.
 - 14 2. Collect in a uniform method provider information for the referral
15 database that includes:
 - 16 (a) The type of program.
 - 17 (b) The hours of service.
 - 18 (c) The ages of children served.
 - 19 (d) Fees for service.
 - 20 (e) The licensure, certification and registration status of providers.
 - 21 (f) Other significant provider and program information.
 - 22 3. Establish and maintain a referral process that responds to parental
23 need for information. The child care resource and referral system shall make
24 referrals to child care providers and programs that:
 - 25 (a) Promote parental choice and meet the needs of families.
 - 26 (b) Are included in the resource and referral database.
 - 27 4. Collect in a uniform method family information for the referral
28 database that includes the:
 - 29 (a) Number of calls and contacts.
 - 30 (b) Ages of children in need of care.
 - 31 (c) Days and times of care requested.
 - 32 (d) Type of care requested.
 - 33 (e) Special needs and requests made by the family.
 - 34 (f) Reason that the care is needed.
 - 35 5. Provide outreach services that include:
 - 36 (a) Efforts to reach parents and providers in local communities.
 - 37 (b) Involvement in the local communities.
 - 38 (c) Publication of services through all available media sources,
39 agencies and other appropriate channels.
 - 40 (d) Public awareness information to parents and providers about the
41 child care home provider registry and the benefits of using the registry or
42 becoming registered.
 - 43 6. Provide technical assistance to existing and prospective child care
44 providers and programs that include:

1 (a) Information on all aspects of initiating new child care services
2 including child care regulations, zoning, program and budget development and
3 assistance in finding information from other sources.

4 (b) Educational information and resources that assist existing child
5 care providers and programs to better serve the children and parents in their
6 community.

7 (c) Local coordination of existing child care and child related
8 services.

9 7. Establish and maintain a child care home provider registry that
10 includes:

11 (a) Child care home providers that are registered pursuant to section
12 41-1967.01.

13 (b) A complaint tracking system that contains written complaints
14 concerning providers and written provider responses. The complaints and
15 responses are available to the public.

16 (c) A system for notifying a provider that is excluded or removed from
17 the registry that the provider may appeal directly to the entity making the
18 determination resulting in the exclusion or removal.

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

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

24 1. Child care providers licensed or certified by a government agency
25 that is authorized by law to license, certify or approve child care
26 providers.

27 2. Child care home providers that are registered pursuant to section
28 41-1967.01. These providers shall submit and amend when necessary sworn,
29 written statements to the department or its designees, on forms approved by
30 the department, attesting that the provider is not subject to exclusion or
31 removal from the child care resource and referral database under any of the
32 grounds specified in subsection E of this section.

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

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

41 1. The provider fails to obtain a fingerprint clearance card OR AN
42 ARIZONA BACKGROUND CLEARANCE CARD or the provider's fingerprint clearance
43 card OR ARIZONA BACKGROUND CLEARANCE CARD is revoked or suspended.

44 2. The provider has been denied a license to operate a facility for
45 the care of children or had a license or certificate to operate a facility

1 revoked or has been removed for cause from participation in the child and
2 adult food program in this state or in any other state or jurisdiction.

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

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

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

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

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

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

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

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

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

34 Sec. 51. Section 41-1967.01, Arizona Revised Statutes, is amended to
35 read:

36 41-1967.01. Child care home provider; registration; Arizona
37 background clearance card; definition

38 A. A child care home provider who receives compensation to care for
39 four or fewer children and who has not been certified by the department of
40 economic security pursuant to section 46-807 or licensed or certified by the
41 department of health services pursuant to section 36-883 or 36-897.01 shall
42 register with the department of economic security if the child care home
43 provider wishes to be listed with the child care resource and referral
44 system.

1 B. Each applicant for registration shall submit ~~a full set of~~
2 ~~fingerprints to the department of public safety~~ AN APPLICATION FOR AN ARIZONA
3 BACKGROUND CLEARANCE CARD TO AN AUTHORIZED INVESTIGATIVE PROVIDER for the
4 purpose of obtaining a state and federal criminal records ~~check pursuant to~~
5 ~~section 41-1750 and Public Law 92-544. The department of public safety may~~
6 ~~exchange this fingerprint data with the federal bureau of~~ investigation AND
7 AN ARIZONA BACKGROUND CLEARANCE CARD ISSUED PURSUANT TO CHAPTER 12, ARTICLE
8 3.1 OF THIS TITLE.

9 C. Child care providers shall have a valid fingerprint clearance card
10 OR A VALID ARIZONA BACKGROUND CLEARANCE CARD issued pursuant to section
11 41-1758.07 or shall apply for a fingerprint clearance card OR AN ARIZONA
12 BACKGROUND CLEARANCE CARD by the date of registration with the department.

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

15 1. They are awaiting trial on or have been convicted of or admitted
16 committing any of the criminal offenses listed in section 41-1758.07,
17 subsection B or C in this state or similar offenses in another state or
18 jurisdiction.

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

21 3. They have been denied a license to operate a child care facility
22 for cause in this state or another state or had a license or certificate to
23 operate a child care facility revoked.

24 E. The notarized forms are confidential.

25 F. Each applicant for registration shall not have been the subject of
26 an investigation where a report of child abuse or neglect has been
27 substantiated.

28 G. Each applicant shall maintain current training and certification in
29 first aid and infant and child cardiopulmonary resuscitation.

30 H. The applicant shall enclose any pool on the applicant's premises
31 pursuant to section 36-1681, subsections A, B and C.

32 I. The applicant shall separately store firearms and ammunition under
33 lock and key or combination lock.

34 J. The department shall adopt rules to carry out this section.

35 ~~K. The director shall charge a fee for processing the fingerprint~~
36 ~~information required pursuant to this section.~~

37 K. IF AN APPLICANT DOES NOT HAVE A VALID FINGERPRINT CLEARANCE CARD,
38 THE APPLICANT SHALL APPLY DIRECTLY WITH AN AUTHORIZED INVESTIGATIVE PROVIDER
39 TO OBTAIN AN ARIZONA BACKGROUND CLEARANCE CARD.

40 L. Any obligation or liability under this section is governed by the
41 provisions of section 41-1967, subsections F, G and H.

42 M. For the purposes of this section, "child care provider" means a
43 registered child care home provider pursuant to subsection A of this section.

1 STATE AND FEDERAL CRIMINAL RECORDS INVESTIGATION AND THE ISSUANCE OF AN
2 ARIZONA BACKGROUND CLEARANCE CARD TO THAT PERSON. ~~Fingerprint checks~~ A STATE
3 AND FEDERAL CRIMINAL RECORDS INVESTIGATION shall be conducted pursuant to
4 ~~section 41-1750, subsection G, paragraph 1~~ CHAPTER 12, ARTICLE 3.1 OF THIS
5 TITLE.

6 B. Except as provided in subsection A of this section, a paid or
7 unpaid employee of a licensee or contract provider who has direct contact
8 with committed youth shall have a valid fingerprint clearance card OR A VALID
9 ARIZONA BACKGROUND CLEARANCE CARD issued pursuant to chapter 12, article 3.1
10 of this title or shall apply for ~~a fingerprint~~ AN ARIZONA BACKGROUND
11 clearance card within seven days of beginning employment.

12 C. A service contract or license with any contract provider or
13 licensee that involves the employment of persons who have direct contact with
14 committed youth shall provide that the contract or license may be canceled or
15 terminated immediately if a person certifies pursuant to subsection F of this
16 section that the person is awaiting trial on or has been convicted of any of
17 the offenses listed in subsection F of this section in this jurisdiction or
18 acts committed in another jurisdiction that would be offenses in this
19 jurisdiction or if the person does not possess A VALID FINGERPRINT CLEARANCE
20 CARD or is denied issuance of a valid ~~fingerprint~~ ARIZONA BACKGROUND
21 clearance card.

22 D. A contract provider or licensee may avoid cancellation or
23 termination of the contract or license under subsection C of this section if
24 a person who does not possess ~~or~~ A VALID FINGERPRINT CLEARANCE CARD, WHO
25 has been denied issuance of a valid ~~fingerprint~~ ARIZONA BACKGROUND
26 clearance card or who certifies pursuant to subsection F of this section that the person has
27 been convicted of or is awaiting trial on any of the offenses listed in
28 subsection F, paragraphs 1, 2, 3, 6, 7, 9, 15 through 18 and 21 of this
29 section is immediately prohibited from employment or service with the
30 contract provider or licensee in any capacity requiring or allowing direct
31 contact with committed youth.

32 E. A contract provider or licensee may avoid cancellation or
33 termination of the contract or license under subsection C of this section if
34 a person who does not possess ~~or~~ A VALID FINGERPRINT CLEARANCE CARD, WHO
35 has been denied issuance of a valid ~~fingerprint~~ ARIZONA BACKGROUND
36 clearance card or who certifies pursuant to subsection F of this section that the person has
37 been convicted of or is awaiting trial on any of the offenses listed in
38 subsection F, paragraphs 4, 5, 8, 10 through 14, 19, 20, 22 and 23 of this
39 section is immediately prohibited from employment or service with the
40 contract provider or licensee in any capacity requiring or allowing direct
41 contact with committed youth unless the employee is granted a good cause
42 exception pursuant to section 41-619.55.

43 F. Personnel who are employed by the department and contract personnel
44 who have direct contact with committed youth shall certify on forms provided
45 by the department OR AN AUTHORIZED INVESTIGATIVE PROVIDER and notarized

1 whether they are awaiting trial on or have ever been convicted of or
2 committed any of the following criminal offenses in this state or similar
3 offenses in another state or jurisdiction:

- 4 1. Sexual abuse of a minor.
- 5 2. Incest.
- 6 3. First or second degree murder.
- 7 4. Kidnapping.
- 8 5. Arson.
- 9 6. Sexual assault.
- 10 7. Sexual exploitation of a minor.
- 11 8. Felony offenses involving contributing to the delinquency of a
12 minor.
- 13 9. Commercial sexual exploitation of a minor.
- 14 10. Felony offenses involving sale, distribution or transportation of,
15 offer to sell, transport or distribute or conspiracy to sell, transport or
16 distribute marijuana, dangerous drugs or narcotic drugs.
- 17 11. Felony offenses involving the possession or use of marijuana,
18 dangerous drugs or narcotic drugs.
- 19 12. Burglary.
- 20 13. Aggravated or armed robbery.
- 21 14. Robbery.
- 22 15. A dangerous crime against children as defined in section 13-705.
- 23 16. Child abuse.
- 24 17. Sexual conduct with a minor.
- 25 18. Molestation of a child.
- 26 19. Manslaughter.
- 27 20. Assault or aggravated assault.
- 28 21. Exploitation of minors involving drug offenses.
- 29 22. A violation of section 28-1381, 28-1382 or 28-1383.
- 30 23. Offenses involving domestic violence.

31 G. The department shall make documented, good faith efforts to contact
32 previous employers of personnel to obtain information or recommendations that
33 may be relevant to an individual's fitness for employment.

34 H. Hospital employees, licensed medical personnel, staff and
35 volunteers who provide services to juveniles in a health care facility
36 located outside the secure care facility and who are under the direct visual
37 supervision as is medically reasonable of the department's employees or the
38 department's contracted security employees are exempt from the requirements
39 of this section.

40 I. The department of juvenile corrections shall notify the department
41 of public safety **IF THE PERSON POSSESSES A FINGERPRINT CLEARANCE CARD OR THE**
42 **AUTHORIZED INVESTIGATIVE PROVIDER IF THE PERSON POSSESSES AN ARIZONA**
43 **BACKGROUND CLEARANCE CARD** if the department of juvenile corrections receives
44 credible evidence that a ~~person who possesses a valid fingerprint clearance~~
45 ~~card~~ **CARDHOLDER** either:

1 1. Is arrested for or charged with an offense listed in section
2 41-1758.03, subsection B.

3 2. Falsified information on the form required by subsection F of this
4 section.

5 J. A person who makes a false statement, representation or
6 certification in an application for employment with the department is guilty
7 of a class 3 misdemeanor.

8 K. For the purposes of this section, "employee" means paid and unpaid
9 personnel who have direct contact with committed youth.

10 Sec. 55. Section 41-3013.12, Arizona Revised Statutes, is amended to
11 read:

12 41-3013.12. Board of Arizona background clearance cards;
13 termination July 1, 2013

14 A. The board of ~~fingerprinting~~ ARIZONA BACKGROUND CLEARANCE CARDS
15 terminates on July 1, 2013.

16 B. Title 41, chapter 3, article 12 is repealed on January 1, 2014.

17 Sec. 56. Section 46-141, Arizona Revised Statutes, is amended to read:

18 46-141. Criminal record information investigations; Arizona
19 background clearance card for employees and
20 applicants

21 A. Each license granted by the department of economic security and
22 each contract entered into between the department of economic security and
23 any contract provider for the provision of services to juveniles shall
24 provide that, as a condition of employment, personnel who are employed by the
25 licensee or contractor, whether paid or not, and who are required or allowed
26 to provide services directly to juveniles shall have a valid fingerprint
27 clearance card ~~OR A VALID ARIZONA BACKGROUND CLEARANCE CARD~~ issued pursuant
28 to section 41-1758.07 or shall apply for ~~a fingerprint~~ AN ARIZONA BACKGROUND
29 clearance card within seven working days of employment.

30 B. ~~ALL APPLICANTS SHALL APPLY FOR AND PAY FOR AN ARIZONA BACKGROUND~~
31 ~~CLEARANCE CARD DIRECTLY TO AN AUTHORIZED INVESTIGATIVE PROVIDER.~~ The
32 licensee or contractor ~~shall~~ MAY assume the costs of ~~fingerprint checks and~~
33 ~~may charge these costs to its fingerprinted personnel~~ THE INVESTIGATION FOR
34 AN ARIZONA BACKGROUND CLEARANCE CARD. The department may allow all or part
35 of the costs of ~~fingerprint checks~~ THE STATE AND FEDERAL CRIMINAL RECORDS
36 INVESTIGATION to be included as an allowable cost in a contract.

37 C. A service contract or license with any contract provider or
38 licensee that involves the employment of persons who have contact with
39 juveniles shall provide that the contract or license may be canceled or
40 terminated immediately if a person certifies pursuant to subsections F and G
41 of this section that the person is awaiting trial on or has been convicted of
42 any of the offenses listed in subsections F and G of this section in this
43 state or similar offenses in another state or jurisdiction or if the person
44 does not possess A VALID FINGERPRINT CLEARANCE CARD OR A VALID ARIZONA

1 BACKGROUND CLEARANCE CARD or is denied issuance of a valid fingerprint
2 ARIZONA BACKGROUND clearance card.

3 D. A contract provider or licensee may avoid cancellation or
4 termination of the contract or license under subsection C of this section if
5 a person who does not possess ~~or~~ A VALID FINGERPRINT CLEARANCE CARD OR A
6 VALID ARIZONA BACKGROUND CLEARANCE CARD, WHO has been denied issuance of a
7 valid fingerprint ARIZONA BACKGROUND clearance card or who certifies pursuant
8 to subsections F and G of this section that the person has been convicted of
9 or is awaiting trial on any of the offenses listed in section 41-1758.07,
10 subsection B is immediately prohibited from employment or service with the
11 contract provider or licensee in any capacity requiring or allowing contact
12 with juveniles.

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

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

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

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

43 I. A person who applies to the department of economic security for a
44 license or certificate or for paid or unpaid employment, including contract
45 services, and who will provide direct services to juveniles or vulnerable

1 adults shall submit ~~a full set of fingerprints to the department~~ AN
 2 APPLICATION FOR AN ARIZONA BACKGROUND CLEARANCE CARD TO AN AUTHORIZED
 3 INVESTIGATIVE PROVIDER for the purpose of obtaining a state and federal
 4 criminal records ~~check pursuant to section 41-1750 and Public Law 92-544.~~
 5 ~~The department of public safety may exchange this fingerprint data with the~~
 6 ~~federal bureau of investigation. This subsection does not apply to those~~
 7 ~~persons who are subject to section 8-105, 8-509, 8-802 or 41-1968~~
 8 INVESTIGATION PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1.

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

17 K. ONLY volunteers who provide services to juveniles under the direct
 18 visual supervision of the contractor's or licensee's employees are exempt
 19 from the ~~fingerprinting~~ ARIZONA BACKGROUND CLEARANCE CARD requirements of
 20 this section.

21 L. The department of economic security shall notify the department of
 22 public safety IF THE PERSON POSSESSES A FINGERPRINT CLEARANCE CARD OR THE
 23 AUTHORIZED INVESTIGATIVE PROVIDER IF THE PERSON POSSESSES AN ARIZONA
 24 BACKGROUND CLEARANCE CARD if the department of economic security receives
 25 credible evidence that a person who possesses a valid fingerprint clearance
 26 card OR A VALID ARIZONA BACKGROUND CLEARANCE CARD pursuant to subsection A of
 27 this section either:

28 1. Is arrested for or charged with an offense listed in section
 29 41-1758.07, subsection B or C.

30 2. Falsified information on the form required by subsection F of this
 31 section.

32 Sec. 57. Section 46-321, Arizona Revised Statutes, is amended to read:
 33 46-321. Arizona background clearance card; affidavit

34 A. Sponsors, except military bases and federally recognized Indian
 35 tribes, receiving federal child care food program monies from the department
 36 of education shall register with the department of education in order to
 37 receive those monies, unless they are public schools, child care facilities
 38 licensed by the department of health services or child care homes certified
 39 by the department of economic security.

40 B. Sponsors, except military bases and federally recognized Indian
 41 tribes, receiving federal child care food program monies as provided in
 42 subsection A of this section shall require all child care providers to submit
 43 the form prescribed in subsection F of this section to the department of
 44 education and to have valid fingerprint clearance cards OR VALID ARIZONA
 45 BACKGROUND CLEARANCE CARDS issued pursuant to title 41, chapter 12, article

1 3.1 or to apply for ~~a fingerprint~~ AN ARIZONA BACKGROUND clearance card within
2 seven working days of employment before they receive any of those monies.

3 C. Sponsors that are federally recognized Indian tribes or military
4 bases may submit and the department shall accept certifications that state
5 that any child care personnel who is employed or who will be employed during
6 the contract term has not been convicted of, has not admitted to or is not
7 awaiting trial on any of the offenses listed in subsection F of this section
8 or is not the parent or guardian of a child adjudicated to be a dependent
9 child as defined in section 8-201 or the parent or guardian of a child
10 adjudicated a dependent child under similar provisions in another state or
11 jurisdiction.

12 D. Sponsors that are federally recognized Indian tribes or military
13 bases may submit and the department shall accept certifications that state
14 that good faith efforts have been made to contact previous employers of
15 tribal and military child care personnel.

16 E. The department of education shall charge sponsors receiving federal
17 child care food program monies as provided in subsection A of this section
18 for the costs of their ~~fingerprint checks~~ INVESTIGATIONS. ALL APPLICANTS
19 SHALL APPLY AND PAY FOR AN ARIZONA BACKGROUND CLEARANCE CARD DIRECTLY TO AN
20 AUTHORIZED INVESTIGATIVE PROVIDER.

21 F. Sponsors receiving federal child care food program monies as
22 provided in subsection A of this section shall require all child care
23 personnel to certify on forms that are provided by the department of
24 education and notarized that:

25 1. They are not awaiting trial on and have never been convicted of or
26 admitted committing any of the following criminal offenses in this state or
27 similar offenses in another state or jurisdiction:

- 28 (a) Sexual abuse of a minor.
- 29 (b) Incest.
- 30 (c) First or second degree murder.
- 31 (d) Kidnapping.
- 32 (e) Arson.
- 33 (f) Sexual assault.
- 34 (g) Sexual exploitation of a minor.
- 35 (h) Felony offenses involving contributing to the delinquency of a
36 minor.
- 37 (i) Commercial sexual exploitation of a minor.
- 38 (j) Felony offenses involving sale, distribution or transportation of,
39 offer to sell, transport or distribute or conspiracy to sell, transport or
40 distribute marijuana, dangerous drugs or narcotic drugs.
- 41 (k) Felony offenses involving the possession or use of marijuana,
42 dangerous drugs or narcotic drugs.
- 43 (l) Burglary.
- 44 (m) Aggravated or armed robbery.
- 45 (n) Robbery.

- 1 (o) A dangerous crime against children as defined in section 13-705.
- 2 (p) Child abuse.
- 3 (q) Sexual conduct with a minor.
- 4 (r) Molestation of a child.
- 5 (s) Manslaughter.
- 6 (t) Assault or aggravated assault.
- 7 (u) Exploitation of minors involving drug offenses.
- 8 (v) A violation of section 28-1381, 28-1382 or 28-1383.
- 9 (w) Offenses involving domestic violence.

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

12 3. They have not been denied a license to operate a facility for the
13 care of children for cause in this state or another state or had a license or
14 certificate to operate such a facility revoked.

15 G. Sponsors shall make documented, good faith efforts to contact
16 previous employers of child care personnel who receive federal child care
17 food program monies as provided in subsection A of this section to obtain
18 information or recommendations that may be relevant to an individual's
19 fitness for child care.

20 H. The notarized forms are confidential.

21 I. The state board of education shall notify the department of public
22 safety **IF THE PERSON POSSESSES A FINGERPRINT CLEARANCE CARD OR THE AUTHORIZED**
23 **INVESTIGATIVE PROVIDER IF THE PERSON POSSESSES AN ARIZONA BACKGROUND**
24 **CLEARANCE CARD** if the state board of education receives credible evidence
25 that any child care provider who ~~possesses a valid fingerprint clearance card~~
26 **IS A CARDHOLDER** either:

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

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

31 Sec. 58. Requirements for enactment: two-thirds vote

32 Pursuant to article IX, section 22, Constitution of Arizona, this act
33 is effective only on the affirmative vote of at least two-thirds of the
34 members of each house of the legislature and is effective immediately on the
35 signature of the governor or, if the governor vetoes this act, on the
36 subsequent affirmative vote of at least three-fourths of the members of each
37 house of the legislature.

38 Sec. 59. Conforming legislation

39 The legislative council staff shall prepare proposed legislation
40 conforming the Arizona Revised Statutes to the provisions of this act for
41 consideration in the fiftieth legislature, second regular session.