REFERENCE TITLE: fingerprint clearance cards; omnibus

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

HB 2086

Introduced by
Representatives Borrelli, Cardenas: Campbell, Cobb, Finchem, Shope, Thorpe

AN ACT

AMENDING TITLE 8, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-463; AMENDING SECTIONS 26-103, 41-619.51, 41-1758, 41-1758.01, 41-1758.02, 41-1758.03, 41-1758.04 AND 41-1758.07, ARIZONA REVISED STATUTES; RELATING TO THE FINGERPRINTING DIVISION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Title 8, chapter 4, article 1, Arizona Revised Statutes, is amended by adding section 8-463, to read:

8-463. Department of child safety employees; fingerprint requirement

A. EACH EMPLOYEE OF THE DEPARTMENT WHO HAS CONTACT WITH CHILDREN OR WHO IS EMPLOYED IN AN INFORMATION TECHNOLOGY POSITION SHALL HAVE A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.07 OR PROVIDE TO THE DEPARTMENT DOCUMENTATION OF THE PERSON'S APPLICATION FOR A FINGERPRINT CLEARANCE CARD. THE EMPLOYEE SHALL CERTIFY ON FORMS THAT ARE PROVIDED BY THE DEPARTMENT AND THAT ARE NOTARIZED THAT THE EMPLOYEE IS NOT AWAITING TRIAL ON OR HAS NEVER BEEN CONVICTED OF OR ADMITTED IN OPEN COURT OR PURSUANT TO A PLEA AGREEMENT TO COMMITTING ANY OF THE CRIMINAL OFFENSES LISTED IN SECTION 41-1758.07, SUBSECTIONS B AND C IN THIS STATE OR SIMILAR OFFENSES IN ANOTHER STATE OR JURISDICTION.

B. THE DEPARTMENT MAY NOT DISCLOSE INFORMATION OBTAINED PURSUANT TO THIS SECTION EXCEPT TO MEMBERS OF THE DEPARTMENT'S STAFF SOLELY FOR EMPLOYMENT PURPOSES.

Sec. 2. Section 26-103, Arizona Revised Statutes, is amended to read:

26-103. Department of emergency and military affairs employees; fingerprints; exemptions; definition

A. ~~Except as provided in subsection B of this section,~~ Employees shall submit the form prescribed in subsection ~~C~~ D of this section to the department and, ~~shall have a valid fingerprint clearance card issued pursuant to title 41, chapter 12, article 3.1 or shall apply for a fingerprint clearance card within seven working days of employment~~ EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS AND THE DEPARTMENT OF PUBLIC SAFETY FOR THE PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF INVESTIGATION.

B. THE DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS MAY NOT DISCLOSE INFORMATION OBTAINED PURSUANT TO SUBSECTION A OF THIS SECTION EXCEPT TO MEMBERS OF THE DEPARTMENT'S STAFF SOLELY FOR EMPLOYMENT PURPOSES.

~~B.~~ C. A member of the national guard OR AN EMPLOYEE who ~~has received~~ HOLDS A CURRENT security clearance pursuant to national guard laws and regulations~~, except for a general officer who is an employee of the department,~~ is exempt from the fingerprinting requirements of subsection A of this section.

~~C.~~ D. An employee shall certify on a form that is provided by the department of emergency and military affairs and notarized that the employee is not awaiting trial on or has never been convicted of or admitted in open court or pursuant to a plea agreement committing any of the offenses listed

in section 41-1758.03, subsections B and C in this state or a similar offense in another state or jurisdiction.

~~D.~~ E. The department of emergency and military affairs shall not allow a person to be employed on any national guard reservation or facility in any capacity if the person has ~~been denied a fingerprint clearance card pursuant to title 41, chapter 12, article 3.1 or has not received an interim approval from the board of fingerprinting pursuant to section 41-619.55, subsection I~~ NOT SUBMITTED A FULL SET OF FINGERPRINTS TO THE DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS AND THE DEPARTMENT OF PUBLIC SAFETY WITHIN THE FIRST THREE DAYS OF EMPLOYMENT FOR THE PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544.

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

Sec. 3. Section 41-619.51, Arizona Revised Statutes, is amended to read:

41-619.51. Definitions

In this article, unless the context otherwise requires:

1. "Agency" means the supreme court, the department of economic security, the department of child safety, the department of education, the department of health services, the department of juvenile corrections, the department of emergency and military affairs, the department of transportation, the state real estate department, the state board of appraisal, THE ARIZONA GAME AND FISH DEPARTMENT or the board of examiners of nursing care institution administrators and assisted living facility managers.

2. "Board" means the board of fingerprinting.

3. "Central registry exception" means notification to the department of economic security or the department of health services, as appropriate, pursuant to section 41-619.57 that the person is not disqualified because of a central registry check conducted pursuant to section 8-804.

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

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

6. "Person" means a person who is required to be fingerprinted pursuant to this article or who is subject to a central registry check and any of the following:

(a) Section 8-105.

(b) Section 8-322.

(c) SECTION 8-463.

~~(c)~~ (d) Section 8-509.

~~(d)~~ (e) Section 8-802.
~~(e)~~ (f) Section 8-804.
~~(f) Section 8-804.01.~~
(g) Section 15-183.
(h) SECTION 15-503.
(i) SECTION 15-512.
~~(h)~~ (j) Section 15-534.
(k) SECTION 15-763.01.
~~(i)~~ (l) Section 15-782.02.
~~(j)~~ (m) Section 15-1330.
~~(k)~~ (n) Section 15-1881.
~~(l)~~ (o) Section 17-215.
~~(m)~~ (p) Section 26-103.
~~(n)~~ (q) Section 28-3413.
~~(o)~~ (r) Section 32-2108.01.
~~(p)~~ (s) Section 32-2123.
~~(q)~~ (t) Section 32-2371.
~~(r)~~ (u) Section 32-2372.
~~(s)~~ (v) Section 32-3620.
~~(t)~~ (w) Section 32-3668.
~~(u)~~ (x) Section 32-3669.
~~(v)~~ (y) Section 36-207.
~~(w)~~ (z) Section 36-411.
~~(x)~~ (aa) Section 36-425.03.
~~(y)~~ (bb) Section 36-446.04.
~~(z)~~ (cc) Section 36-594.01.
~~(aa)~~ (dd) Section 36-594.02.
~~(bb)~~ (ee) Section 36-882.
~~(cc)~~ (ff) Section 36-883.02.
~~(dd)~~ (gg) Section 36-897.01.
~~(ee)~~ (hh) Section 36-897.03.
~~(ff)~~ (ii) Section 36-3008.
~~(gg)~~ (jj) Section 41-619.53.
~~(hh)~~ (kk) Section 41-1964.
~~(ii)~~ (ll) Section 41-1967.01.
~~(jj)~~ (mm) Section 41-1968.
~~(kk)~~ (nn) Section 41-1969.
~~(ll)~~ (oo) Section 41-2814.
~~(mm)~~ (pp) Section 46-141, subsection A.
~~(nn)~~ (qq) Section 46-321.

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

41-1758. Definitions

In this article, unless the context otherwise requires:

1. "Agency" means the supreme court, the department of economic security, the department of child safety, the department of education, the

department of health services, the department of juvenile corrections, the department of emergency and military affairs, the department of transportation, the state real estate department, the state board of appraisal, the board of fingerprinting, THE ARIZONA GAME AND FISH DEPARTMENT or the board of examiners of nursing care institution administrators and assisted living facility managers.

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

3. "Electronic or internet-based fingerprinting services" means a secure system for digitizing applicant fingerprints and transmitting the applicant data and fingerprints of a person or entity submitting fingerprints to the department of public safety for any authorized purpose under this title. For the purposes of this paragraph, "secure system" means a system that complies with the information technology security policy approved by the department of public safety.

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

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

(a) Section 8-105.

(b) Section 8-322.

(c) SECTION 8-463.

~~(c)~~ (d) Section 8-509.

~~(d)~~ (e) Section 8-802.

~~(e)~~ (f) Section 15-183.

~~(f)~~ (g) Section 15-503.

~~(g)~~ (h) Section 15-512.

~~(h)~~ (i) Section 15-534.

(j) SECTION 15-763.01.

~~(i)~~ (k) Section 15-782.02.

~~(j)~~ (l) Section 15-1330.

~~(k)~~ (m) Section 15-1881.

~~(l)~~ (n) Section 17-215.

~~(m)~~ (o) Section 26-103.

~~(n)~~ (p) Section 28-3413.

~~(o)~~ (q) Section 32-2108.01.

~~(p)~~ (r) Section 32-2123.

~~(q)~~ (s) Section 32-2371.

~~(r)~~ (t) Section 32-2372.

~~(s)~~ (u) Section 32-3620.

~~(t)~~ (v) Section 32-3668.

~~(u)~~ (w) Section 32-3669.

~~(v)~~ (x) Section 36-207.

~~(w)~~ (y) Section 36-411.

~~(x)~~ (z) Section 36-425.03.

~~(y)~~ (aa) Section 36-446.04.
~~(z)~~ (bb) Section 36-594.01.
~~(aa)~~ (cc) Section 36-594.02.
~~(bb)~~ (dd) Section 36-882.
~~(cc)~~ (ee) Section 36-883.02.
~~(dd)~~ (ff) Section 36-897.01.
~~(ee)~~ (gg) Section 36-897.03.
~~(ff)~~ (hh) Section 36-3008.
~~(gg)~~ (ii) Section 41-619.52.
~~(hh)~~ (jj) Section 41-619.53.
~~(ii)~~ (kk) Section 41-1964.
~~(jj)~~ (ll) Section 41-1967.01.
~~(kk)~~ (mm) Section 41-1968.
~~(ll)~~ (nn) Section 41-1969.
~~(mm)~~ (oo) Section 41-2814.
~~(nn)~~ (pp) Section 46-141, subsection A.
~~(oo)~~ (qq) Section 46-321.

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

Sec. 5. Section 41-1758.01, Arizona Revised Statutes, is amended to read:

41-1758.01. Fingerprinting division; powers and duties

A. The fingerprinting division is established in the department of public safety and shall:

1. Conduct fingerprint background checks for persons and applicants who are seeking licenses from state agencies, employment with licensees, contract providers and state agencies or employment or educational opportunities with agencies that require fingerprint background checks pursuant to sections 8-105, 8-322, 8-463, 8-509, 8-802, 15-183, 15-503, 15-512, 15-534, 15-782.02, 15-763.01, 15-1330, 15-1881, 17-215, 26-103, 28-3413, 32-2108.01, 32-2123, 32-2371, 32-2372, 32-3620, 32-3668, 32-3669, 36-207, 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, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 and 41-2814, section 46-141, subsection A and section 46-321.

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

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

4. Inform in writing each person who submits fingerprints for a fingerprint background check of the ~~person's~~ right to petition the board of

fingerprinting for a good cause exception pursuant to ~~sections~~ SECTION 41-1758.03, ~~and~~ 41-1758.04 OR 41-1758.07.

5. IF AFTER CONDUCTING A STATE AND FEDERAL CRIMINAL HISTORY RECORDS CHECK THE DIVISION DETERMINES THAT IT IS NOT AUTHORIZED TO ISSUE A FINGERPRINT CLEARANCE CARD TO A PERSON, INFORM THE PERSON IN WRITING THAT THE DIVISION IS NOT AUTHORIZED TO ISSUE A FINGERPRINT CLEARANCE CARD. THE NOTICE SHALL INCLUDE THE CRIMINAL HISTORY INFORMATION ON WHICH THE DENIAL WAS BASED. THIS CRIMINAL HISTORY INFORMATION IS SUBJECT TO DISSEMINATION RESTRICTIONS PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544.

6. NOTIFY THE PERSON IN WRITING IF THE DIVISION SUSPENDS, REVOKES OR PLACES A DRIVING RESTRICTION NOTATION ON A FINGERPRINT CLEARANCE CARD PURSUANT TO SECTION 41-1758.04. THE NOTICE SHALL INCLUDE THE CRIMINAL HISTORY INFORMATION ON WHICH THE SUSPENSION, REVOCATION OR PLACEMENT OF THE DRIVING RESTRICTION NOTATION WAS BASED. THIS CRIMINAL HISTORY INFORMATION IS SUBJECT TO DISSEMINATION RESTRICTIONS PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544.

~~5.~~ 7. Administer and enforce this article.

B. The fingerprinting division may contract for electronic or internet-based fingerprinting services through an entity or entities for the acquisition and transmission of applicant fingerprint and data submissions to the department, including identity verified fingerprints pursuant to section 15-106. The entity or entities contracted by the department of public safety may charge the applicant a fee for services provided pursuant to this article. The entity or entities contracted by the department of public safety shall comply with:

1. All information privacy and security measures and submission standards established by the department of public safety.

2. The information technology security policy approved by the department of public safety.

Sec. 6. Section 41-1758.02, Arizona Revised Statutes, is amended to read:

41-1758.02. Fingerprint checks; registration

A. The person, provider or agency shall submit a full set of fingerprints to the division for the purpose of obtaining a state and federal criminal history records check pursuant to section 41-1750 and Public Law 92-544. If the person can present a valid fingerprint clearance card or credible documentation that the person's application for a fingerprint clearance card is pending, the person, provider or agency is not required to submit another application for a fingerprint clearance card. The division may exchange this fingerprint data with the federal bureau of investigation.

B. EXCEPT AS PROVIDED IN SECTION 15-106, PARAGRAPH 9, the person shall submit a new set of fingerprints to the division for a fingerprint background check every six years. The division shall conduct a new state and federal criminal history records check on application for a new card. ~~All class one or class two fingerprint clearance cards that were issued before October 1,~~

~~2003 pursuant to this article shall remain valid until their normal expiration dates at which time the cardholder shall apply for a new fingerprint clearance card.~~

C. In order to ~~obtain~~ APPLY FOR a fingerprint clearance card, a person shall submit a completed application for a fingerprint clearance card provided by the division.

D. The person, provider or agency shall submit the application required by subsection C of this section along with the fingerprints AND APPLICABLE FEE to the division for a criminal history records check.

Sec. 7. Section 41-1758.03, Arizona Revised Statutes, is amended to read:

41-1758.03. Fingerprint clearance cards; issuance; immunity

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

B. A person who is subject to registration as a sex offender in this state or any other jurisdiction or who is awaiting trial on or who has been convicted of committing or attempting, soliciting, facilitating or conspiring to commit one or more of the following offenses in this state or the same or similar offenses in another state or jurisdiction is precluded from receiving a fingerprint clearance card PURSUANT TO THIS SECTION:

1. Sexual abuse of a vulnerable adult.
2. Incest.
3. First or second degree murder.
4. Sexual assault.
5. Sexual exploitation of a minor.
6. Sexual exploitation of a vulnerable adult.
7. Commercial sexual exploitation of a minor.
8. Commercial sexual exploitation of a vulnerable adult.
9. Child prostitution as prescribed in section 13-3212.
10. Child abuse.
11. Abuse of a vulnerable adult.
12. Sexual conduct with a minor.
13. Molestation of a child.
14. Molestation of a vulnerable adult.
15. A dangerous crime against children as defined in section 13-705.
16. Exploitation of minors involving drug offenses.
17. Taking a child for the purpose of prostitution as prescribed in section 13-3206.
18. Neglect or abuse of a vulnerable adult.
19. Sex trafficking.
20. Sexual abuse.

21. Production, publication, sale, possession and presentation of obscene items as prescribed in section 13-3502.
22. Furnishing harmful items to minors as prescribed in section 13-3506.
23. Furnishing harmful items to minors by internet activity as prescribed in section 13-3506.01.
24. Obscene or indecent telephone communications to minors for commercial purposes as prescribed in section 13-3512.
25. Luring a minor for sexual exploitation.
26. Enticement of persons for purposes of prostitution.
27. Procurement by false pretenses of person for purposes of prostitution.
28. Procuring or placing persons in a house of prostitution.
29. Receiving earnings of a prostitute.
30. Causing one's spouse to become a prostitute.
31. Detention of persons in a house of prostitution for debt.
32. Keeping or residing in a house of prostitution or employment in prostitution.
33. Pandering.
34. Transporting persons for the purpose of prostitution, polygamy and concubinage.
35. Portraying adult as a minor as prescribed in section 13-3555.
36. Admitting minors to public displays of sexual conduct as prescribed in section 13-3558.
37. Unlawful sale or purchase of children.
38. Child bigamy.
39. Trafficking of persons for forced labor or services.

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

1. Manslaughter.
2. Endangerment.
3. Threatening or intimidating.
4. Assault.
5. Unlawfully administering intoxicating liquors, narcotic drugs or dangerous drugs.
6. Assault by vicious animals.
7. Drive by shooting.
8. Assaults on officers or fire fighters.
9. Discharging a firearm at a structure.
10. Indecent exposure.
11. Public sexual indecency.

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

46. A CRIMINAL OFFENSE INVOLVING BURGLARY UNDER TITLE 13, CHAPTER 15.
~~46.~~ 47. A criminal offense under title 13, chapter 23.
~~47.~~ 48. Child neglect.
~~48.~~ 49. Misdemeanor offenses involving contributing to the delinquency of a minor.
~~49.~~ 50. Offenses involving domestic violence.
~~50.~~ 51. Arson.
~~51.~~ 52. Kidnapping.
~~52.~~ 53. Felony offenses involving sale, distribution or transportation of, offer to sell, transport or distribute or conspiracy to sell, transport or distribute marijuana, dangerous drugs or narcotic drugs.
~~53.~~ 54. Robbery.
~~54.~~ 55. Aggravated assault.
~~55.~~ 56. Felony offenses involving contributing to the delinquency of a minor.
~~56.~~ 57. Negligent homicide.
~~57.~~ 58. Criminal damage.
~~58.~~ 59. Misappropriation of charter school monies as prescribed in section 13-1818.
~~59.~~ 60. Taking identity of another person or entity.
~~60.~~ 61. Aggravated taking identity of another person or entity.
~~61.~~ 62. Trafficking in the identity of another person or entity.
~~62.~~ 63. Cruelty to animals.
~~63.~~ 64. Prostitution.
~~64.~~ 65. Sale or distribution of material harmful to minors through vending machines as prescribed in section 13-3513.
~~65.~~ 66. Welfare fraud.

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

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

F. If the division denies a person's application for a fingerprint clearance card pursuant to subsection C of this section and a good cause exception is requested pursuant to section 41-619.55, the division shall

release, on request by the board of fingerprinting, the person's criminal history record to the board of fingerprinting.

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

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

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

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

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

J. The division shall conduct periodic state criminal history records checks and may conduct federal criminal history records checks when authorized pursuant to federal law for the purpose of updating the clearance status of current fingerprint clearance card holders and may notify the board of fingerprinting and the agency employing the person of the results of the records check.

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

L. ~~The division shall not issue a fingerprint clearance card to a person~~ IF A PERSON'S CRIMINAL HISTORY RECORD CONTAINS AN OFFENSE LISTED IN SUBSECTION B OR C OF THIS SECTION AND THE FINAL DISPOSITION IS NOT RECORDED ON THE RECORD, THE DIVISION SHALL CONDUCT RESEARCH TO OBTAIN THE DISPOSITION WITHIN THIRTY BUSINESS DAYS AFTER RECEIPT OF THE RECORD. If the division cannot determine, within thirty business days after receipt of the person's state and federal criminal history record information, whether the person is awaiting trial on or has been convicted of committing OR ATTEMPTING, SOLICITING, FACILITATING OR CONSPIRING TO COMMIT any of the offenses listed in subsection B or C of this section IN THIS STATE OR A SAME OR SIMILAR OFFENSE IN ANOTHER STATE OR JURISDICTION, THE DIVISION SHALL NOT ISSUE A FINGERPRINT CLEARANCE CARD TO THE PERSON. If the division is unable to make the determination required by this section and does not issue a fingerprint clearance card to a person, the person may request a good cause exception pursuant to section 41-619.55.

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

N. If, after conducting a state and federal criminal history records check on a person who requests a fingerprint clearance card pursuant to section 15-1881, the division determines that it is not authorized to issue a fingerprint clearance card to the person, the division shall not notify the agency. The division shall notify the person who requested the card that the division is not authorized to issue a fingerprint clearance card. THE NOTICE SHALL INCLUDE THE CRIMINAL HISTORY INFORMATION ON WHICH THE DENIAL WAS BASED. THIS CRIMINAL HISTORY INFORMATION IS SUBJECT TO DISSEMINATION RESTRICTIONS PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544.

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

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

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

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

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

Sec. 8. Section 41-1758.04, Arizona Revised Statutes, is amended to read:

41-1758.04. Denial, suspension, driving restricted or revocation of fingerprint clearance card

A. The division shall deny the issuance of a fingerprint clearance card to any person who is awaiting trial on or who has been convicted of an offense listed in section 41-1758.03, subsection B or C or section 41-1758.07, subsection B or C. THE DIVISION SHALL DENY THE ISSUANCE OF A FINGERPRINT CLEARANCE CARD IF REQUIRED PURSUANT TO SECTION 41-1758.03, SUBSECTION L OR SECTION 41-1758.07, SUBSECTION L.

B. The division shall revoke the fingerprint clearance card of a person who has received a fingerprint clearance card and who is subsequently convicted of an offense listed in section 41-1758.03, subsection B or section 41-1758.07, subsection B.

C. The division shall suspend the fingerprint clearance card of a person who becomes subject to registration as a sex offender or a person who is arrested for an offense listed in section 41-1758.03, subsection B or C or section 41-1758.07, subsection B or C.

D. A person who has been arrested for an offense listed in section 41-1758.03, subsection C or section 41-1758.07, subsection C and whose fingerprint clearance card has been suspended pursuant to this section may request a good cause exception hearing pursuant to section 41-619.55.

E. THE DIVISION SHALL PLACE A DRIVING RESTRICTION NOTATION ON THE FINGERPRINT CLEARANCE CARD OF A PERSON WHO IS SUBSEQUENTLY ARRESTED FOR AN OFFENSE LISTED IN SECTION 41-1758.03, SUBSECTION D OR SECTION 41-1758.07, SUBSECTION D.

F. THE DIVISION SHALL NOTIFY THE AGENCY AND PERSON IN WRITING IF THE DIVISION SUSPENDS, REVOKES OR PLACES A DRIVING RESTRICTION NOTATION ON A PERSON'S FINGERPRINT CLEARANCE CARD PURSUANT TO THIS SECTION. THE NOTICE SHALL INCLUDE THE CRIMINAL HISTORY INFORMATION ON WHICH THE SUSPENSION, REVOCATION OR PLACEMENT OF THE DRIVING RESTRICTION WAS BASED. THIS CRIMINAL HISTORY INFORMATION IS SUBSECT TO DISSEMINATION RESTRICTIONS PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544.

Sec. 9. Section 41-1758.07, Arizona Revised Statutes, is amended to read:

41-1758.07. Level I fingerprint clearance cards; definitions

A. On receiving the state and federal criminal history record of a person who is required to be fingerprinted pursuant to this section, the fingerprinting division in the department of public safety shall compare the record with the list of criminal offenses that preclude the person from receiving a level I fingerprint clearance card. If the person's criminal history record does not contain any of the offenses listed in subsections B and C of this section, the fingerprinting division shall issue the person a level I fingerprint clearance card.

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

1. Sexual abuse of a vulnerable adult.
2. Incest.
3. Homicide, including first or second degree murder, manslaughter and negligent homicide.
4. Sexual assault.
5. Sexual exploitation of a minor.
6. Sexual exploitation of a vulnerable adult.
7. Commercial sexual exploitation of a minor.
8. Commercial sexual exploitation of a vulnerable adult.

9. Child prostitution as prescribed in section 13-3212.
10. Child abuse.
11. Felony child neglect.
12. Abuse of a vulnerable adult.
13. Sexual conduct with a minor.
14. Molestation of a child.
15. Molestation of a vulnerable adult.
16. Dangerous crimes against children as defined in section 13-705.
17. Exploitation of minors involving drug offenses.
18. Taking a child for the purpose of prostitution as prescribed in section 13-3206.
19. Neglect or abuse of a vulnerable adult.
20. Sex trafficking.
21. Sexual abuse.
22. Production, publication, sale, possession and presentation of obscene items as prescribed in section 13-3502.
23. Furnishing harmful items to minors as prescribed in section 13-3506.
24. Furnishing harmful items to minors by internet activity as prescribed in section 13-3506.01.
25. Obscene or indecent telephone communications to minors for commercial purposes as prescribed in section 13-3512.
26. Luring a minor for sexual exploitation.
27. Enticement of persons for purposes of prostitution.
28. Procurement by false pretenses of person for purposes of prostitution.
29. Procuring or placing persons in a house of prostitution.
30. Receiving earnings of a prostitute.
31. Causing one's spouse to become a prostitute.
32. Detention of persons in a house of prostitution for debt.
33. Keeping or residing in a house of prostitution or employment in prostitution.
34. Pandering.
35. Transporting persons for the purpose of prostitution, polygamy and concubinage.
36. Portraying adult as a minor as prescribed in section 13-3555.
37. Admitting minors to public displays of sexual conduct as prescribed in section 13-3558.
38. Any felony offense involving contributing to the delinquency of a minor.
39. Unlawful sale or purchase of children.
40. Child bigamy.
41. Any felony offense involving domestic violence as defined in section 13-3601 except for a felony offense only involving criminal damage in

an amount of more than two hundred fifty dollars but less than one thousand dollars if the offense was committed before June 29, 2009.

42. Any felony offense in violation of title 13, chapter 12 if committed within five years before the date of applying for a level I fingerprint clearance card.

43. Felony drug or alcohol related offenses if committed within five years before the date of applying for a level I fingerprint clearance card.

44. Felony indecent exposure.

45. Felony public sexual indecency.

46. Terrorism.

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

48. Trafficking of persons for forced labor or services.

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

1. Any misdemeanor offense in violation of title 13, chapter 12.

2. Misdemeanor indecent exposure.

3. Misdemeanor public sexual indecency.

4. Aggravated criminal damage.

5. Theft.

6. Theft by extortion.

7. Shoplifting.

8. Forgery.

9. Criminal possession of a forgery device.

10. Obtaining a signature by deception.

11. Criminal impersonation.

12. Theft of a credit card or obtaining a credit card by fraudulent means.

13. Receipt of anything of value obtained by fraudulent use of a credit card.

14. Forgery of a credit card.

15. Fraudulent use of a credit card.

16. Possession of any machinery, plate or other contrivance or incomplete credit card.

17. False statement as to financial condition or identity to obtain a credit card.

18. Fraud by persons authorized to provide goods or services.

19. Credit card transaction record theft.

20. Misconduct involving weapons.

21. Misconduct involving explosives.

22. Depositing explosives.

23. Misconduct involving simulated explosive devices.
24. Concealed weapon violation.
25. Misdemeanor possession and misdemeanor sale of peyote.
26. Felony possession and felony sale of peyote if committed more than five years before the date of applying for a level I fingerprint clearance card.
27. Misdemeanor possession and misdemeanor sale of a vapor-releasing substance containing a toxic substance.
28. Felony possession and felony sale of a vapor-releasing substance containing a toxic substance if committed more than five years before the date of applying for a level I fingerprint clearance card.
29. Misdemeanor sale of precursor chemicals.
30. Felony sale of precursor chemicals if committed more than five years before the date of applying for a level I fingerprint clearance card.
31. Misdemeanor possession, misdemeanor use or misdemeanor sale of marijuana, dangerous drugs or narcotic drugs.
32. Felony possession, felony use or felony sale of marijuana, dangerous drugs or narcotic drugs if committed more than five years before the date of applying for a level I fingerprint clearance card.
33. Misdemeanor manufacture or misdemeanor distribution of an imitation controlled substance.
34. Felony manufacture or felony distribution of an imitation controlled substance if committed more than five years before the date of applying for a level I fingerprint clearance card.
35. Misdemeanor manufacture or misdemeanor distribution of an imitation prescription-only drug.
36. Felony manufacture or felony distribution of an imitation prescription-only drug if committed more than five years before the date of applying for a level I fingerprint clearance card.
37. Misdemeanor manufacture or misdemeanor distribution of an imitation over-the-counter drug.
38. Felony manufacture or felony distribution of an imitation over-the-counter drug if committed more than five years before the date of applying for a level I fingerprint clearance card.
39. Misdemeanor possession or misdemeanor possession with intent to use an imitation controlled substance.
40. Felony possession or felony possession with intent to use an imitation controlled substance if committed more than five years before the date of applying for a level I fingerprint clearance card.
41. Misdemeanor possession or misdemeanor possession with intent to use an imitation prescription-only drug.
42. Felony possession or felony possession with intent to use an imitation prescription-only drug if committed more than five years before the date of applying for a level I fingerprint clearance card.

43. Misdemeanor possession or misdemeanor possession with intent to use an imitation over-the-counter drug.

44. Felony possession or felony possession with intent to use an imitation over-the-counter drug if committed more than five years before the date of applying for a level I fingerprint clearance card.

45. Misdemeanor manufacture of certain substances and drugs by certain means.

46. Felony manufacture of certain substances and drugs by certain means if committed more than five years before the date of applying for a level I fingerprint clearance card.

47. Adding poison or other harmful substance to food, drink or medicine.

48. A criminal offense involving criminal trespass ~~and burglary~~ under title 13, chapter 15.

49. A CRIMINAL OFFENSE INVOLVING BURGLARY UNDER TITLE 13, CHAPTER 15.

~~49.~~ 50. A criminal offense under title 13, chapter 23, except terrorism.

~~50.~~ 51. Misdemeanor offenses involving child neglect.

~~51.~~ 52. Misdemeanor offenses involving contributing to the delinquency of a minor.

~~52.~~ 53. Misdemeanor offenses involving domestic violence as defined in section 13-3601.

~~53.~~ 54. Felony offenses involving domestic violence if the offense only involved criminal damage in an amount of more than two hundred fifty dollars but less than one thousand dollars and the offense was committed before June 29, 2009.

~~54.~~ 55. Arson.

~~55.~~ 56. Felony offenses involving sale, distribution or transportation of, offer to sell, transport or distribute or conspiracy to sell, transport or distribute marijuana, dangerous drugs or narcotic drugs if committed more than five years before the date of applying for a level I fingerprint clearance card.

~~56.~~ 57. Criminal damage.

~~57.~~ 58. Misappropriation of charter school monies as prescribed in section 13-1818.

~~58.~~ 59. Taking identity of another person or entity.

~~59.~~ 60. Aggravated taking identity of another person or entity.

~~60.~~ 61. Trafficking in the identity of another person or entity.

~~61.~~ 62. Cruelty to animals.

~~62.~~ 63. Prostitution, as prescribed in section 13-3214.

~~63.~~ 64. Sale or distribution of material harmful to minors through vending machines as prescribed in section 13-3513.

~~64.~~ 65. Welfare fraud.

~~65.~~ 66. Any felony offense in violation of title 13, chapter 12 if committed more than five years before the date of applying for a level I fingerprint clearance card.

~~66.~~ 67. Kidnapping.

~~67.~~ 68. Robbery, aggravated robbery or armed robbery.

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

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

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

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

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

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

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

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

J. The fingerprinting division shall conduct periodic state criminal history records checks and may conduct federal criminal history records checks when authorized pursuant to federal law for the purpose of updating the clearance status of current level I fingerprint clearance cardholders pursuant to this section and may notify the board of fingerprinting and the agency of the results of the records check.

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

L. ~~The fingerprinting division shall not issue a level I fingerprint clearance card to an applicant~~ IF A PERSON'S CRIMINAL HISTORY RECORD CONTAINS AN OFFENSE LISTED IN SUBSECTION B OR C OF THIS SECTION AND THE FINAL DISPOSITION IS NOT RECORDED ON THE RECORD, THE DIVISION SHALL CONDUCT RESEARCH TO OBTAIN THE DISPOSITION WITHIN THIRTY BUSINESS DAYS AFTER RECEIPT OF THE RECORD. If the division cannot determine, within thirty business days after receipt of the person's state and federal criminal history record information, whether the person is awaiting trial on or has been convicted of committing OR ATTEMPTING, SOLICITING, FACILITATING OR CONSPIRING TO COMMIT any of the offenses listed in subsection B or C of this section IN THIS STATE OR THE SAME OR SIMILAR OFFENSE IN ANOTHER STATE OR JURISDICTION, THE DIVISION SHALL NOT ISSUE A LEVEL I FINGERPRINT CLEARANCE CARD TO THE PERSON. If the division is unable to make the determination required by this section and does not issue a level I fingerprint clearance card to a person, the person may request a good cause exception pursuant to section 41-619.55.

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

N. The fingerprinting division is not liable for damages resulting from:

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

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

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

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

Q. Unless a cardholder commits an offense listed in subsection B or C of this section after June 29, 2009, a fingerprint clearance card issued pursuant to section 41-1758.03 before June 29, 2009 and its renewals are valid for all requirements for a level I fingerprint clearance card except those relating to the requirements of section 8-105 or 8-509. A fingerprint clearance card issued before June 29, 2009 to meet the requirements of section 8-105 or 8-509 and its renewals are valid after June 29, 2009 to meet all requirements for a level I fingerprint clearance card, including the requirements of section 8-105 or 8-509, if the cardholder has been certified by the court to adopt or has been issued a foster home license before June 29, 2009.

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

S. For the purposes of this section:

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

(a) Section 8-105, 8-463, 8-509, 8-802, 17-215, 36-207, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 or 46-141.

(b) Subsection O of this section.

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