

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

# HOUSE BILL 2021

AN ACT

AMENDING TITLE 15, CHAPTER 14, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-1881; AMENDING SECTIONS 41-619.51, 41-619.55, 41-1758, 41-1758.01 AND 41-1758.03, ARIZONA REVISED STATUTES; RELATING TO FINGERPRINTING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 15, chapter 14, article 8, Arizona Revised Statutes,  
3 is amended by adding section 15-1881, to read:

4 15-1881. Postsecondary health sciences programs; definitions

5 A. A PROGRAM IN A PUBLIC OR PRIVATE POSTSECONDARY INSTITUTION THAT  
6 REQUIRES CLINICAL TRAINING IN HOSPITALS OR OTHER HEALTH CARE FACILITIES AS  
7 PART OF ITS EDUCATIONAL PROGRAM MAY REQUIRE AS A CONDITION OF ACCEPTANCE AS A  
8 HEALTH SCIENCES STUDENT OR AS A CONDITION OF EMPLOYMENT AS A CLINICAL  
9 ASSISTANT THE PERSON TO OBTAIN A VALID FINGERPRINT CLEARANCE CARD ISSUED  
10 PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1 OR MAY REQUIRE THAT THE CARD BE  
11 OBTAINED BEFORE PLACEMENT IN CLINICAL TRAINING ROTATIONS. THE PROGRAM MAY  
12 RESCIND THE ADMISSION, REMOVE THE PERSON FROM THE EDUCATIONAL OR TRAINING  
13 PROGRAM OR TERMINATE THE EMPLOYMENT OF ANY PERSON WHO FAILS TO OBTAIN A VALID  
14 FINGERPRINT CLEARANCE CARD.

15 B. A PERSON WHO IS REQUIRED TO POSSESS A FINGERPRINT CLEARANCE CARD  
16 PURSUANT TO SUBSECTION A OF THIS SECTION AND WHO DOES NOT POSSESS A  
17 FINGERPRINT CLEARANCE CARD BEFORE ENROLLMENT OR EMPLOYMENT AT THE PUBLIC OR  
18 PRIVATE POSTSECONDARY INSTITUTION SHALL VERIFY TO THE PUBLIC OR PRIVATE  
19 POSTSECONDARY INSTITUTION, BY COMPLETING A SIGNED NOTARIZED FORM PROVIDED BY  
20 THE PUBLIC OR PRIVATE POSTSECONDARY INSTITUTION, THAT THE PERSON IS NOT  
21 AWAITING TRIAL ON OR HAS NEVER BEEN CONVICTED OF OR ADMITTED IN OPEN COURT  
22 PURSUANT TO A PLEA AGREEMENT TO COMMITTING ANY OFFENSE LISTED IN SECTION  
23 41-1758.03, SUBSECTION B OR C IN THIS STATE OR A SIMILAR OFFENSE COMMITTED IN  
24 ANOTHER STATE OR JURISDICTION, PENDING RECEIPT OF THE FINGERPRINT CLEARANCE  
25 CARD.

26 C. INFORMATION CONTAINED IN A FORM SUBMITTED PURSUANT TO SUBSECTION B  
27 OF THIS SECTION IS CONFIDENTIAL.

28 D. A PERSON WHO IS REQUIRED TO OBTAIN A FINGERPRINT CLEARANCE CARD  
29 PURSUANT TO THIS SECTION MAY BE CHARGED ALL COSTS AND FEES ASSOCIATED WITH  
30 OBTAINING OR RENEWING THE CARD AS PRESCRIBED BY SECTIONS 41-619.53 AND  
31 41-1750.

32 E. FOR THE PURPOSES OF THIS SECTION:

33 1. "CLINICAL ASSISTANT" MEANS A PARTICIPANT IN A GRADUATE MEDICAL OR  
34 PHARMACY EDUCATION PROGRAM AT A PUBLIC OR PRIVATE POSTSECONDARY INSTITUTION.

35 2. "HEALTH SCIENCES STUDENT" MEANS A PERSON WHO HAS APPLIED TO OR IS  
36 ENROLLED IN A PUBLIC OR PRIVATE POSTSECONDARY INSTITUTION PROGRAM OF STUDY IN  
37 MEDICINE, NURSING, PHARMACY, PHYSICAL THERAPY, ATHLETIC TRAINING, DENTAL  
38 HYGIENE, COMMUNICATION SCIENCES AND DISORDERS, SPEECH AND HEARING SCIENCES OR  
39 GENERAL HEALTH SCIENCES.

40 Sec. 2. Section 41-619.51, Arizona Revised Statutes, is amended to  
41 read:

42 41-619.51. Definitions

43 In this article, unless the context otherwise requires:



1 THE BOARD OR ITS HEARING OFFICER SHALL CONDUCT AN EXPEDITED REVIEW WITHIN  
2 TWENTY DAYS AFTER RECEIVING AN APPLICATION FOR A GOOD CAUSE EXCEPTION.

3 B. WITHIN FORTY-FIVE DAYS AFTER CONDUCTING AN EXPEDITED REVIEW, the  
4 board or its hearing officer shall hold a good cause exception hearing if the  
5 board or its hearing officer determines that the applicant does not qualify  
6 for a good cause exception under an expedited review but is qualified to  
7 apply for a good cause exception and the applicant submits an application for  
8 A good cause EXCEPTION within the time limits prescribed by rule.

9 C. When determining whether a person is eligible to receive a good  
10 cause exception under an expedited review, the board or its hearing officer  
11 shall consider whether the person has shown to the board's or its hearing  
12 officer's satisfaction that the person is not awaiting trial on or has not  
13 been convicted of committing any of the offenses listed in section  
14 41-1758.03, subsection B or that the person is successfully rehabilitated and  
15 is not a recidivist. Before granting a good cause exception under an  
16 expedited review, the board or its hearing officer shall consider all of the  
17 criteria listed in subsection E of this section.

18 D. The following persons shall be present during good cause exception  
19 hearings:

20 1. The board or its hearing officer.

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

23 E. The board or its hearing officer may grant a good cause exception  
24 at a hearing if the person shows to the board's or its hearing officer's  
25 satisfaction that the person is not awaiting trial on or has not been  
26 convicted of committing any of the offenses listed in section 41-1758.03,  
27 subsection B or that the person is successfully rehabilitated and is not a  
28 recidivist. THE BOARD OR ITS HEARING OFFICER SHALL GRANT OR DENY A GOOD  
29 CAUSE EXCEPTION WITHIN EIGHTY DAYS AFTER THE GOOD CAUSE EXCEPTION HEARING.  
30 Before granting a good cause exception at a hearing the board or its hearing  
31 officer shall consider all of the following in accordance with board rule:

32 1. The extent of the person's criminal record.

33 2. The length of time that has elapsed since the offense was  
34 committed.

35 3. The nature of the offense.

36 4. Any applicable mitigating circumstances.

37 5. The degree to which the person participated in the offense.

38 6. The extent of the person's rehabilitation, including:

39 (a) Completion of probation, parole or community supervision.

40 (b) Whether the person paid restitution or other compensation for the  
41 offense.

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

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

1 F. If the board or its hearing officer grants a good cause exception  
2 to a person, the board shall request in writing that the department of public  
3 safety issue a fingerprint clearance card to the person.

4 G. The board's staff, under the direction of the executive director of  
5 the board, shall review reports it receives of the arrest, charging or  
6 conviction of a person for offenses listed in section 41-1758.03 who  
7 previously received a fingerprint clearance card. **EXCEPT AS PROVIDED BY**  
8 **SUBSECTION J OF THIS SECTION**, the executive director shall report any arrest,  
9 charge or conviction of a prohibited crime to the state agencies listed on  
10 the applicant's fingerprint clearance card application.

11 H. The board may request in writing that the department of public  
12 safety revoke a person's fingerprint clearance card pursuant to section  
13 41-1758.04 if the person received a fingerprint clearance card and the person  
14 is subsequently convicted of an offense listed in section 41-1758.03,  
15 subsection B or C.

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

19 **J. IF THE BOARD'S STAFF, UNDER THE DIRECTION OF THE EXECUTIVE**  
20 **DIRECTOR, RECEIVES A REPORT OF AN ARREST, CHARGING OR CONVICTION OF A**  
21 **PROHIBITED CRIME FOR A PERSON WHO PREVIOUSLY RECEIVED A FINGERPRINT CLEARANCE**  
22 **CARD PURSUANT TO SECTION 15-1881, THE EXECUTIVE DIRECTOR SHALL NOT REPORT**  
23 **THIS INFORMATION TO THE STATE AGENCY THAT IS LISTED ON THE APPLICANT'S**  
24 **FINGERPRINT CLEARANCE CARD APPLICATION BUT SHALL NOTIFY THE PERSON ISSUED THE**  
25 **FINGERPRINT CLEARANCE CARD OF THE REPORT.**

26 ~~J.~~ K. The board is exempt from title 41, chapter 6, article 10.

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

28 41-1758. Definitions

29 In this article, unless the context otherwise requires:

30 1. "Agency" means the supreme court, the department of economic  
31 security, the department of education, the department of health services or  
32 the department of juvenile corrections.

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

35 ~~3. "Facility or program" means state facilities or programs that~~  
36 ~~provide direct services to adults with developmental disabilities or to~~  
37 ~~juveniles.~~

38 ~~4.~~ 3. "Good cause exception" means the issuance of a fingerprint  
39 clearance card to an employee pursuant to section 41-619.55.

40 ~~5.~~ 4. "Person" means a person who is required to be fingerprinted  
41 pursuant to any of the following:

42 (a) Section 8-105.

43 (b) Section 8-322.

44 (c) Section 8-509.

45 (d) Section 8-802.

- 1 (e) Section 15-183.
- 2 (f) Section 15-534.
- 3 (g) Section 15-1330.
- 4 (h) SECTION 15-1881.
- 5 ~~(h)~~ (i) Section 36-411.
- 6 ~~(i)~~ (j) Section 36-425.03.
- 7 ~~(j)~~ (k) Section 36-594.01.
- 8 ~~(k)~~ (l) Section 36-594.02.
- 9 ~~(l)~~ (m) Section 36-882.
- 10 ~~(m)~~ (n) Section 36-883.02.
- 11 ~~(n)~~ (o) Section 36-897.01.
- 12 ~~(o)~~ (p) Section 36-897.03.
- 13 ~~(p)~~ (q) Section 36-3008.
- 14 ~~(q)~~ (r) Section 41-1964.
- 15 ~~(r)~~ (s) Section 41-1967.01.
- 16 ~~(s)~~ (t) Section 41-1968.
- 17 ~~(t)~~ (u) Section 41-1969.
- 18 ~~(u)~~ (v) Section 41-2814.
- 19 ~~(v)~~ (w) Section 46-141, subsection A.
- 20 ~~(w)~~ (x) Section 46-321.
- 21 ~~6-~~ 5. "Vulnerable adult" has the same meaning prescribed in section
- 22 13-3623.
- 23 Sec. 5. Section 41-1758.01, Arizona Revised Statutes, is amended to
- 24 read:
- 25 41-1758.01. Fingerprinting division; duties
- 26 The fingerprinting division is established in the department of public
- 27 safety and shall:
- 28 1. Conduct fingerprint background checks for persons and applicants
- 29 who are seeking employment with licensees, contract providers and state
- 30 agencies **OR SEEKING EMPLOYMENT OR EDUCATIONAL OPPORTUNITIES WITH AGENCIES**
- 31 that require fingerprint background checks pursuant to sections 8-105, 8-322,
- 32 8-509, 8-802, 15-183, 15-534, 15-1330, 15-1881, 36-411, 36-425.03, 36-594.01,
- 33 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-1964,
- 34 41-1967.01, 41-1968, 41-1969 and 41-2814, section 46-141, subsection A and
- 35 section 46-321.
- 36 2. Issue fingerprint clearance cards. On issuance, a fingerprint
- 37 clearance card becomes the personal property of the cardholder and the
- 38 cardholder shall retain possession of the fingerprint clearance card.
- 39 3. On submission of an application for a fingerprint clearance card,
- 40 collect the fees established by the board of fingerprinting pursuant to
- 41 section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the
- 42 monies collected in the board of fingerprinting fund.

1           4. Inform in writing each person who submits fingerprints for a  
2 fingerprint background check of the person's right to petition the board of  
3 fingerprinting for a good cause exception pursuant to section 41-1758.03.

4           5. Administer and enforce this article.

5           Sec. 6. Section 41-1758.03, Arizona Revised Statutes, is amended to  
6 read:

7           41-1758.03. Fingerprint clearance cards; issuance; immunity

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

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

- 20           1. Sexual abuse of a minor.
- 21           2. Sexual abuse of a vulnerable adult.
- 22           3. Incest.
- 23           4. First or second degree murder.
- 24           5. Sexual assault.
- 25           6. Sexual exploitation of a minor.
- 26           7. Sexual exploitation of a vulnerable adult.
- 27           8. Commercial sexual exploitation of a minor.
- 28           9. Commercial sexual exploitation of a vulnerable adult.
- 29           10. Child prostitution as prescribed in section 13-3212.
- 30           11. Child abuse.
- 31           12. Abuse of a vulnerable adult.
- 32           13. Sexual conduct with a minor.
- 33           14. Molestation of a child.
- 34           15. Molestation of a vulnerable adult.
- 35           16. A dangerous crime against children as defined in section 13-604.01.
- 36           17. Exploitation of minors involving drug offenses.
- 37           18. Taking a child for the purposes of prostitution as prescribed in  
38 section 13-3206.
- 39           19. Neglect or abuse of a vulnerable adult.

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

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



1           39. Keeping or residing in a house of prostitution or employment in  
2 prostitution.

3           40. Pandering.

4           41. Transporting persons for the purpose of prostitution or other  
5 immoral purposes.

6           42. Possession and sale of peyote.

7           43. Possession and sale of a vapor-releasing substance containing a  
8 toxic substance.

9           44. Sale of precursor chemicals.

10          45. Possession, use or sale of marijuana, dangerous drugs or narcotic  
11 drugs.

12          46. Manufacture or distribution of an imitation controlled substance.

13          47. Manufacture or distribution of an imitation prescription-only drug.

14          48. Manufacture or distribution of an imitation over-the-counter drug.

15          49. Possession or possession with intent to use an imitation controlled  
16 substance.

17          50. Possession or possession with intent to use an imitation  
18 prescription-only drug.

19          51. Possession or possession with intent to use an imitation  
20 over-the-counter drug.

21          52. Manufacture of certain substances and drugs by certain means.

22          53. Adding poison or other harmful substance to food, drink or  
23 medicine.

24          54. A criminal offense involving criminal trespass and burglary under  
25 title 13, chapter 15.

26          55. A criminal offense involving organized crime and fraud under title  
27 13, chapter 23.

28          56. Child neglect.

29          57. Misdemeanor offenses involving contributing to the delinquency of a  
30 minor.

31          58. Offenses involving domestic violence.

32          59. Arson.

33          60. Kidnapping.

34          61. Felony offenses involving sale, distribution or transportation of,  
35 offer to sell, transport or distribute or conspiracy to sell, transport or  
36 distribute marijuana, dangerous drugs or narcotic drugs.

37          62. Robbery.

38          63. Aggravated assault.

39          64. Felony offenses involving contributing to the delinquency of a  
40 minor.

41          D. A person who is awaiting trial on or who has been convicted of  
42 committing or attempting or conspiring to commit a violation of section  
43 28-1381, 28-1382 or 28-1383 in this state or the same or similar offense in  
44 another state or jurisdiction within five years from the date of applying for  
45 a fingerprint clearance card is precluded from driving any vehicle to

1 transport employees or clients of the employing agency as part of the  
2 person's employment. The division shall place a notation on the fingerprint  
3 clearance card that indicates this driving restriction. This subsection does  
4 not preclude a person from driving a vehicle alone as part of the person's  
5 employment.

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

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

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

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

24 2. The board granted a good cause exception and no new precluding  
25 offense is identified. The fingerprint clearance card shall specify the  
26 programs for which the board granted the good cause exception.

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

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

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

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

42 L. The division shall not issue a fingerprint clearance card to a  
43 person if the division cannot determine, within thirty business days after  
44 receipt of the person's state and federal criminal history record  
45 information, whether the person is awaiting trial on or has been convicted of

1 committing any of the offenses listed in subsection B or C of this section.  
2 If the division is unable to make the determination required by this section  
3 and does not issue a fingerprint clearance card to a person, the person may  
4 request a good cause exception pursuant to section 41-619.55.

5 M. EXCEPT AS PROVIDED IN SUBSECTION N OF THIS SECTION, if after  
6 conducting a state and federal criminal history record check the division  
7 determines that it is not authorized to issue a fingerprint clearance card to  
8 a person, the division shall notify the agency that licenses or employs the  
9 person that the division is not authorized to issue a fingerprint clearance  
10 card. This notice shall include the criminal history information on which  
11 the denial was based. This criminal history information is subject to  
12 dissemination restrictions pursuant to section 41-1750 and Public Law 92-544.

13 N. IF, AFTER CONDUCTING A STATE AND FEDERAL CRIMINAL HISTORY RECORD  
14 CHECK ON A PERSON WHO REQUESTS A FINGERPRINT CLEARANCE CARD PURSUANT TO  
15 SECTION 15-1881, THE DIVISION DETERMINES THAT IT IS NOT AUTHORIZED TO ISSUE A  
16 FINGERPRINT CLEARANCE CARD TO THE PERSON, THE DIVISION SHALL NOT NOTIFY THE  
17 AGENCY. THE DIVISION SHALL NOTIFY THE PERSON WHO REQUESTED THE CARD THAT THE  
18 DIVISION IS NOT AUTHORIZED TO ISSUE A FINGERPRINT CLEARANCE CARD.

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

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

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

26 ~~O.~~ P. The issuance of a fingerprint clearance card does not entitle a  
27 person to employment.