

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 73

HOUSE BILL 2514

AN ACT

AMENDING SECTION 41-1758.03, ARIZONA REVISED STATUTES; RELATING TO
FINGERPRINT CLEARANCE CARDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-1758.03, Arizona Revised Statutes, is amended to
3 read:

4 41-1758.03. Fingerprint clearance cards; issuance; immunity

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

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

- 17 1. Sexual abuse of a vulnerable adult.
- 18 2. Incest.
- 19 3. First or second degree murder.
- 20 4. Sexual assault.
- 21 5. Sexual exploitation of a minor.
- 22 6. Sexual exploitation of a vulnerable adult.
- 23 7. Commercial sexual exploitation of a minor.
- 24 8. Commercial sexual exploitation of a vulnerable adult.
- 25 9. Child prostitution as prescribed in section 13-3212.
- 26 10. Child abuse.
- 27 11. Abuse of a vulnerable adult.
- 28 12. Sexual conduct with a minor.
- 29 13. Molestation of a child.
- 30 14. Molestation of a vulnerable adult.
- 31 15. A dangerous crime against children as defined in section 13-705.
- 32 16. Exploitation of minors involving drug offenses.
- 33 17. Taking a child for the purpose of prostitution as prescribed in
34 section 13-3206.
- 35 18. Neglect or abuse of a vulnerable adult.
- 36 19. Sex trafficking.
- 37 20. Sexual abuse.
- 38 21. Production, publication, sale, possession and presentation of
39 obscene items as prescribed in section 13-3502.
- 40 22. Furnishing harmful items to minors as prescribed in section
41 13-3506.
- 42 23. Furnishing harmful items to minors by internet activity as
43 prescribed in section 13-3506.01.
- 44 24. Obscene or indecent telephone communications to minors for
45 commercial purposes as prescribed in section 13-3512.
- 46 25. Luring a minor for sexual exploitation.

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

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

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

4 54. Robbery.

5 55. Aggravated assault.

6 56. Felony offenses involving contributing to the delinquency of a
7 minor.

8 57. Negligent homicide.

9 58. Criminal damage.

10 59. Misappropriation of charter school monies as prescribed in section
11 13-1818.

12 60. Taking identity of another person or entity.

13 61. Aggravated taking identity of another person or entity.

14 62. Trafficking in the identity of another person or entity.

15 63. Cruelty to animals.

16 64. Prostitution.

17 65. Sale or distribution of material harmful to minors through vending
18 machines as prescribed in section 13-3513.

19 66. Welfare fraud.

20 D. A person who is awaiting trial on or who has been convicted of
21 committing or attempting to commit a misdemeanor or felony violation of
22 section 28-1381, 28-1382 or 28-1383 in this state or the same or similar
23 offense in another state or jurisdiction within five years from the date of
24 applying for a fingerprint clearance card is precluded from driving any
25 vehicle to transport employees or clients of the employing agency as part of
26 the person's employment. The division shall place a notation on the
27 fingerprint clearance card that indicates this driving restriction. This
28 subsection does not preclude a person from driving a vehicle alone as part of
29 the person's employment. **THIS SUBSECTION DOES NOT APPLY TO A PERSON WHO IS**
30 **LICENSED PURSUANT TO TITLE 32, CHAPTER 20, EXCEPT IF THE PERSON IS EMPLOYED**
31 **BY AN AGENCY AS DEFINED IN SECTION 41-1758.**

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

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

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

43 1. An agency granted a good cause exception before August 16, 1999 and
44 no new precluding offense is identified. The fingerprint clearance card
45 shall specify only the program that granted the good cause exception. On the
46 request of the applicant, the agency that granted the prior good cause

1 exception shall notify the division in writing of the date on which the prior
2 good cause exception was granted and the date of the conviction and the name
3 of the offense for which the good cause exception was granted.

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

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

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

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

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

23 L. If a person's criminal history record contains an offense listed in
24 subsection B or C of this section and the final disposition is not recorded
25 on the record, the division shall conduct research to obtain the disposition
26 within thirty business days after receipt of the record. If the division
27 cannot determine, within thirty business days after receipt of the person's
28 state and federal criminal history record information, whether the person is
29 awaiting trial on or has been convicted of committing or attempting,
30 soliciting, facilitating or conspiring to commit any of the offenses listed
31 in subsection B or C of this section in this state or ~~a~~ THE same or A
32 similar offense in another state or jurisdiction, the division shall not
33 issue a fingerprint clearance card to the person. If the division is unable
34 to make the determination required by this section and does not issue a
35 fingerprint clearance card to a person, the person may request a good cause
36 exception pursuant to section 41-619.55.

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

45 N. If, after conducting a state and federal criminal history records
46 check on a person who requests a fingerprint clearance card pursuant to

1 section 15-1881, the division determines that it is not authorized to issue a
2 fingerprint clearance card to the person, the division shall not notify the
3 agency. The division shall notify the person who requested the card that the
4 division is not authorized to issue a fingerprint clearance card. The notice
5 shall include the criminal history information on which the denial was
6 based. This criminal history information is subject to dissemination
7 restrictions pursuant to section 41-1750 and Public Law 92-544.

8 0. The division is not liable for damages resulting from:

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

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

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

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

APPROVED BY THE GOVERNOR MARCH 24, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 24, 2016.