

REFERENCE TITLE: **service providers; fingerprint card**

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

SB 1537

Introduced by
Senator Brophy McGee

AN ACT

AMENDING SECTION 41-619.51, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 46, SECTION 3 AND CHAPTER 296, SECTION 12; REPEALING SECTION 41-619.51, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 287, SECTION 3; AMENDING SECTION 41-1758, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 46, SECTION 4 AND CHAPTER 296, SECTION 13; REPEALING SECTION 41-1758, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 287, SECTION 4; AMENDING SECTION 41-1758.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 46, SECTION 5 AND CHAPTER 296, SECTION 14; REPEALING SECTION 41-1758.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 287, SECTION 5; AMENDING SECTION 46-141, 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. Section 41-619.51, Arizona Revised Statutes, as amended
3 by Laws 2018, chapter 46, section 3 and chapter 296, section 12, is
4 amended to read:

5 41-619.51. 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 child safety, the department of education, the
9 department of health services, the department of juvenile corrections, the
10 department of emergency and military affairs, the department of public
11 safety, the department of transportation, the state real estate
12 department, the department of financial institutions, the Arizona game and
13 fish department, THE ARIZONA DEPARTMENT OF AGRICULTURE, the board of
14 examiners of nursing care institution administrators and assisted living
15 facility managers, the state board of dental examiners, the Arizona state
16 board of pharmacy or the board of physical therapy or the state board of
17 technical registration.

18 2. "Board" means the board of fingerprinting.

19 3. "Central registry exception" means notification to the
20 department of economic security, the department of child safety or the
21 department of health services, as appropriate, pursuant to section
22 41-619.57 that the person is not disqualified because of a central
23 registry check conducted pursuant to section 8-804.

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

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

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

- 32 (a) SECTION 3-314.
- 33 ~~(a)~~ (b) Section 8-105.
- 34 ~~(b)~~ (c) Section 8-322.
- 35 ~~(c)~~ (d) Section 8-463.
- 36 ~~(d)~~ (e) Section 8-509.
- 37 ~~(e)~~ (f) Section 8-802.
- 38 ~~(f)~~ (g) Section 8-804.
- 39 ~~(g)~~ (h) Section 15-183.
- 40 ~~(h)~~ (i) Section 15-503.
- 41 ~~(i)~~ (j) Section 15-512.
- 42 ~~(j)~~ (k) Section 15-534.
- 43 ~~(k)~~ (l) Section 15-763.01.
- 44 ~~(l)~~ (m) Section 15-782.02.
- 45 ~~(m)~~ (n) Section 15-1330.

- 1 ~~(m)~~ (o) Section 15-1881.
- 2 ~~(n)~~ (p) Section 17-215.
- 3 ~~(o)~~ (q) Section 28-3228.
- 4 ~~(p)~~ (r) Section 28-3413.
- 5 ~~(q)~~ (s) Section 32-122.02.
- 6 ~~(r)~~ (t) Section 32-122.05.
- 7 ~~(s)~~ (u) Section 32-122.06.
- 8 ~~(t)~~ (v) Section 32-1232.
- 9 ~~(u)~~ (w) Section 32-1276.01.
- 10 ~~(v)~~ (x) Section 32-1284.
- 11 ~~(w)~~ (y) Section 32-1297.01.
- 12 ~~(x)~~ (z) Section 32-1904.
- 13 ~~(y)~~ (aa) Section 32-1941.
- 14 ~~(z)~~ (bb) Section 32-2022.
- 15 ~~(aa)~~ (cc) Section 32-2108.01.
- 16 ~~(bb)~~ (dd) Section 32-2123.
- 17 ~~(cc)~~ (ee) Section 32-2371.
- 18 ~~(dd)~~ (ff) Section 32-3620.
- 19 ~~(ee)~~ (gg) Section 32-3668.
- 20 ~~(ff)~~ (hh) Section 32-3669.
- 21 ~~(gg)~~ (ii) Section 36-207.
- 22 ~~(hh)~~ (jj) Section 36-411.
- 23 ~~(ii)~~ (kk) Section 36-425.03.
- 24 ~~(jj)~~ (ll) Section 36-446.04.
- 25 ~~(kk)~~ (mm) Section 36-594.01.
- 26 ~~(ll)~~ (nn) Section 36-594.02.
- 27 ~~(mm)~~ (oo) Section 36-882.
- 28 ~~(nn)~~ (pp) Section 36-883.02.
- 29 ~~(oo)~~ (qq) Section 36-897.01.
- 30 ~~(pp)~~ (rr) Section 36-897.03.
- 31 ~~(qq)~~ (ss) Section 36-3008.
- 32 ~~(rr)~~ (tt) Section 41-619.53.
- 33 ~~(ss)~~ (uu) Section 41-1964.
- 34 ~~(tt)~~ (vv) Section 41-1967.01.
- 35 ~~(uu)~~ (ww) Section 41-1968.
- 36 ~~(vv)~~ (xx) Section 41-1969.
- 37 ~~(ww)~~ (yy) Section 41-2814.
- 38 ~~(xx)~~ (zz) Section 46-141, subsection A **OR B**.
- 39 ~~(yy)~~ (aaa) Section 46-321.

40 Sec. 2. Repeal
41 Section **41-619.51**, Arizona Revised Statutes, as amended by Laws
42 2018, chapter 287, section 3, is repealed.

1 Sec. 3. Section 41-1758, Arizona Revised Statutes, as amended by
2 Laws 2018, chapter 46, section 4 and chapter 296, section 13, is amended
3 to read:

4 41-1758. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Agency" means the supreme court, the department of economic
7 security, the department of child safety, the department of education, the
8 department of health services, the department of juvenile corrections, the
9 department of emergency and military affairs, the department of public
10 safety, the department of transportation, the state real estate
11 department, the department of financial institutions, the board of
12 fingerprinting, the Arizona game and fish department, **THE ARIZONA**
13 **DEPARTMENT OF AGRICULTURE**, the board of examiners of nursing care
14 institution administrators and assisted living facility managers, the
15 state board of dental examiners, the Arizona state board of pharmacy or
16 the board of physical therapy or the state board of technical
17 registration.

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

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

27 4. "Good cause exception" means the issuance of a fingerprint
28 clearance card to an applicant pursuant to section 41-619.55.

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

31 (a) **SECTION 3-314.**

- 32 ~~(a)~~ (b) Section 8-105.
- 33 ~~(b)~~ (c) Section 8-322.
- 34 ~~(c)~~ (d) Section 8-463.
- 35 ~~(d)~~ (e) Section 8-509.
- 36 ~~(e)~~ (f) Section 8-802.
- 37 ~~(f)~~ (g) Section 15-183.
- 38 ~~(g)~~ (h) Section 15-503.
- 39 ~~(h)~~ (i) Section 15-512.
- 40 ~~(i)~~ (j) Section 15-534.
- 41 ~~(j)~~ (k) Section 15-763.01.
- 42 ~~(k)~~ (l) Section 15-782.02.
- 43 ~~(l)~~ (m) Section 15-1330.
- 44 ~~(m)~~ (n) Section 15-1881.
- 45 ~~(n)~~ (o) Section 17-215.

- 1 ~~(p)~~ (p) Section 28-3228.
- 2 ~~(q)~~ (q) Section 28-3413.
- 3 ~~(r)~~ (r) Section 32-122.02.
- 4 ~~(s)~~ (s) Section 32-122.05.
- 5 ~~(t)~~ (t) Section 32-122.06.
- 6 ~~(u)~~ (u) Section 32-1232.
- 7 ~~(v)~~ (v) Section 32-1276.01.
- 8 ~~(w)~~ (w) Section 32-1284.
- 9 ~~(x)~~ (x) Section 32-1297.01.
- 10 ~~(y)~~ (y) Section 32-1904.
- 11 ~~(z)~~ (z) Section 32-1941.
- 12 ~~(aa)~~ (aa) Section 32-2022.
- 13 ~~(bb)~~ (bb) Section 32-2108.01.
- 14 ~~(cc)~~ (cc) Section 32-2123.
- 15 ~~(dd)~~ (dd) Section 32-2371.
- 16 ~~(ee)~~ (ee) Section 32-3620.
- 17 ~~(ff)~~ (ff) Section 32-3668.
- 18 ~~(gg)~~ (gg) Section 32-3669.
- 19 ~~(hh)~~ (hh) Section 36-207.
- 20 ~~(ii)~~ (ii) Section 36-411.
- 21 ~~(jj)~~ (jj) Section 36-425.03.
- 22 ~~(kk)~~ (kk) Section 36-446.04.
- 23 ~~(ll)~~ (ll) Section 36-594.01.
- 24 ~~(mm)~~ (mm) Section 36-594.02.
- 25 ~~(nn)~~ (nn) Section 36-882.
- 26 ~~(oo)~~ (oo) Section 36-883.02.
- 27 ~~(pp)~~ (pp) Section 36-897.01.
- 28 ~~(qq)~~ (qq) Section 36-897.03.
- 29 ~~(rr)~~ (rr) Section 36-3008.
- 30 ~~(ss)~~ (ss) Section 41-619.52.
- 31 ~~(tt)~~ (tt) Section 41-619.53.
- 32 ~~(uu)~~ (uu) Section 41-1964.
- 33 ~~(vv)~~ (vv) Section 41-1967.01.
- 34 ~~(ww)~~ (ww) Section 41-1968.
- 35 ~~(xx)~~ (xx) Section 41-1969.
- 36 ~~(yy)~~ (yy) Section 41-2814.
- 37 ~~(zz)~~ (zz) Section 46-141, subsection A **OR B**.
- 38 ~~(aaa)~~ (aaa) Section 46-321.

39 6. "Vulnerable adult" has the same meaning prescribed in section
40 13-3623.

41 Sec. 4. Repeal

42 Section **41-1758**, Arizona Revised Statutes, as amended by Laws 2018,
43 chapter 287, section 4, is repealed.

1 Sec. 5. Section 41-1758.01, Arizona Revised Statutes, as amended by
2 Laws 2018, chapter 46, section 5 and chapter 296, section 14, is amended
3 to read:

4 41-1758.01. Fingerprinting division: powers and duties

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

7 1. Conduct fingerprint background checks for persons and applicants
8 who are seeking licenses from state agencies, employment with licensees,
9 contract providers and state agencies or employment or educational
10 opportunities with agencies that require fingerprint background checks
11 pursuant to sections 3-314, 8-105, 8-322, 8-463, 8-509, 8-802, 15-183,
12 15-503, 15-512, 15-534, 15-763.01, 15-782.02, 15-1330, 15-1881, 17-215,
13 28-3228, 28-3413, 32-122.02, 32-122.05, 32-122.06, 32-1232, 32-1276.01,
14 32-1284, 32-1297.01, 32-1904, 32-1941, 32-2022, 32-2108.01, 32-2123,
15 32-2371, 32-3620, 32-3668, 32-3669, 36-207, 36-411, 36-425.03, 36-446.04,
16 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008,
17 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 and 41-2814,
18 section 46-141, subsection A OR B and section 46-321.

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

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

26 4. Inform in writing each person who submits fingerprints for a
27 fingerprint background check of the right to petition the board of
28 fingerprinting for a good cause exception pursuant to section 41-1758.03,
29 41-1758.04 or 41-1758.07.

30 5. If after conducting a state and federal criminal history records
31 check the division determines that it is not authorized to issue a
32 fingerprint clearance card to a person, inform the person in writing that
33 the division is not authorized to issue a fingerprint clearance card. The
34 notice shall include the criminal history information on which the denial
35 was based. This criminal history information is subject to dissemination
36 restrictions pursuant to section 41-1750 and Public Law 92-544.

37 6. Notify the person in writing if the division suspends, revokes
38 or places a driving restriction notation on a fingerprint clearance card
39 pursuant to section 41-1758.04. The notice shall include the criminal
40 history information on which the suspension, revocation or placement of
41 the driving restriction notation was based. This criminal history
42 information is subject to dissemination restrictions pursuant to section
43 41-1750 and Public Law 92-544.

44 7. Administer and enforce this article.

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

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

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

13 Sec. 6. Repeal

14 Section 41-1758.01, Arizona Revised Statutes, as amended by Laws
15 2018, chapter 287, section 5, is repealed.

16 Sec. 7. Section 46-141, Arizona Revised Statutes, is amended to
17 read:

18 46-141. Criminal record information checks; fingerprinting
19 employees and applicants; definition

20 A. Each license granted by the department of economic security ~~or~~
21 ~~the department of child safety~~ and each contract entered into between the
22 department of economic security ~~or the department of child safety~~ and any
23 contract provider for the provision of services to juveniles or vulnerable
24 adults shall provide that, as a condition of employment, personnel who are
25 employed by the licensee or contractor, whether paid or not, and who are
26 required or allowed to provide services directly to juveniles or
27 vulnerable adults shall have a valid fingerprint clearance card issued
28 pursuant to section 41-1758.07 or shall apply for a fingerprint clearance
29 card within seven working days of employment.

30 B. EACH PERSON, WHETHER PAID OR NOT, SHALL HAVE AS A CONDITION OF
31 EMPLOYMENT A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION
32 41-1758.07 OR SHALL APPLY FOR A FINGERPRINT CLEARANCE CARD WITHIN SEVEN
33 WORKING DAYS AFTER BEING EMPLOYED, IF THE PERSON IS ANY OF THE FOLLOWING:

34 1. LICENSED BY THE DEPARTMENT OF CHILD SAFETY OR EMPLOYED BY THE
35 LICENSEE.

36 2. A DEPARTMENT OF CHILD SAFETY CONTRACTOR FOR THE PROVISION OF
37 SERVICES DIRECTLY TO JUVENILES OR VULNERABLE ADULTS.

38 3. AN ADULT WORKING IN A GROUP HOME, RESIDENTIAL TREATMENT CENTER,
39 SHELTER OR OTHER CONGREGATE CARE SETTING.

40 ~~B.~~ C. The licensee or contractor shall assume the costs of
41 fingerprint checks and may charge these costs to its fingerprinted
42 personnel. The department of economic security or the department of child
43 safety may allow all or part of the costs of fingerprint checks to be
44 included as an allowable cost in a contract.

1 ~~E~~. D. A service contract or license with any contract provider or
2 licensee that involves the employment of persons who have contact with
3 juveniles or vulnerable adults shall provide that the contract or license
4 may be canceled or terminated immediately if a person certifies pursuant
5 to subsections ~~F~~ G and ~~G~~ H of this section that the person is awaiting
6 trial on or has been convicted of any of the offenses listed in
7 subsections ~~F~~ G and ~~G~~ H of this section in this state or similar
8 offenses in another state or jurisdiction or if the person does not
9 possess or is denied issuance of a valid fingerprint clearance card.

10 ~~D~~. E. A contract provider or licensee may avoid cancellation or
11 termination of the contract or license under subsection ~~E~~ D of this
12 section if a person who does not possess or has been denied issuance of a
13 valid fingerprint clearance card or who certifies pursuant to subsections
14 ~~F~~ G and ~~G~~ H of this section that the person has been convicted of or is
15 awaiting trial on any of the offenses listed in section 41-1758.07,
16 subsection B is immediately prohibited from employment or service with the
17 contract provider or licensee in any capacity requiring or allowing
18 contact with juveniles or vulnerable adults AND IS NOT ALLOWED TO WORK IN
19 A GROUP HOME, RESIDENTIAL TREATMENT CENTER, SHELTER OR OTHER CONGREGATE
20 CARE SETTING.

21 ~~E~~. F. A contract provider or licensee may avoid cancellation or
22 termination of the contract or license under subsection ~~E~~ D of this
23 section if a person who does not possess or has been denied issuance of a
24 valid fingerprint clearance card or who certifies pursuant to subsections
25 ~~F~~ G and ~~G~~ H of this section that the person has been convicted of or is
26 awaiting trial on any of the offenses listed in section 41-1758.07,
27 subsection C is immediately prohibited from employment or service with the
28 contract provider or licensee in any capacity requiring contact with
29 juveniles or vulnerable adults AND IS NOT ALLOWED TO WORK IN A GROUP HOME,
30 RESIDENTIAL TREATMENT CENTER, SHELTER OR OTHER CONGREGATE CARE SETTING
31 unless the person is granted a good cause exception pursuant to section
32 41-619.55.

33 ~~F~~. G. Personnel who are employed by any contract provider or
34 licensee, whether paid or not, and who are required or allowed to provide
35 services directly to juveniles or vulnerable adults OR WHO ARE ALLOWED TO
36 WORK IN A GROUP HOME, RESIDENTIAL TREATMENT CENTER, SHELTER OR OTHER
37 CONGREGATE CARE SETTING shall certify on forms provided by the department
38 of economic security or the department of child safety and notarized
39 whether they are awaiting trial on or have ever been convicted of any of
40 the criminal offenses listed in section 41-1758.07, subsections B and C in
41 this state or similar offenses in another state or jurisdiction.

42 ~~G~~. H. Personnel who are employed by any contract provider or
43 licensee, whether paid or not, and who are required or allowed to provide
44 services directly to juveniles OR WHO ARE ALLOWED TO WORK IN A GROUP HOME,
45 RESIDENTIAL TREATMENT CENTER, SHELTER OR OTHER CONGREGATE CARE SETTING

1 shall certify on forms provided by the department of economic security or
2 the department of child safety and notarized whether they have ever
3 committed any act of sexual abuse of a child, including sexual
4 exploitation and commercial sexual exploitation, or any act of child
5 abuse.

6 ~~H.~~ I. Federally recognized Indian tribes or military bases may
7 submit and the department of economic security and the department of child
8 safety shall accept certifications that state that personnel who are
9 employed or who will be employed during the contract term have not been
10 convicted of, have not admitted committing or are not awaiting trial on
11 any offense under subsection ~~F~~ G of this section.

12 ~~I.~~ J. A person who applies to the department of economic security
13 or the department of child safety for a license or certificate or for paid
14 or unpaid employment, including contract services, and who will provide
15 direct services to juveniles or vulnerable adults **OR WHO WILL WORK IN A**
16 **GROUP HOME, RESIDENTIAL TREATMENT CENTER, SHELTER OR OTHER CONGREGATE CARE**
17 **SETTING** shall submit a full set of fingerprints to the department for the
18 purpose of obtaining a state and federal criminal records check pursuant
19 to section 41-1750 and Public Law 92-544. The department of public safety
20 may exchange this fingerprint data with the federal bureau of
21 investigation. This subsection does not apply to those persons who are
22 subject to section 8-105, 8-509, 8-802 or 41-1968 or subsection A of this
23 section.

24 ~~J.~~ K. The special services unit of the department of economic
25 security and employees of the department of child safety may use the
26 department of public safety automated system to update all criminal
27 history record information in order to ensure, to the maximum extent
28 reasonably possible, complete disposition information. The department of
29 economic security or the department of child safety may deny employment or
30 issuance or renewal of the contract or license applied for in these cases
31 if it determines that the criminal history record information indicates
32 that ~~such~~ **THE** employee, applicant or contractor is not qualified or
33 suitable.

34 ~~K.~~ L. Volunteers who provide services to juveniles or vulnerable
35 adults under the direct visual supervision of the contractor's or
36 licensee's employees are exempt from the fingerprinting requirements of
37 this section, **UNLESS THE VOLUNTEER WORKS IN A GROUP HOME, RESIDENTIAL**
38 **TREATMENT CENTER, SHELTER OR OTHER CONGREGATE CARE SETTING.**

39 ~~L.~~ M. The department of economic security or the department of
40 child safety shall notify the department of public safety if the
41 department of economic security or the department of child safety receives
42 credible evidence that a person who possesses a valid fingerprint
43 clearance card pursuant to subsection A of this section either:

44 1. Is arrested for or charged with an offense listed in section
45 41-1758.07, subsection B or C.

1 2. Falsified information on the form required by subsection ~~F~~ G of
2 this section.
3 ~~M~~ N. For the purposes of this section, "vulnerable adult" has the
4 same meaning prescribed in section 46-451.
5 Sec. 8. Effective date
6 The following sections are effective from and after August 3, 2019:
7 1. Section 41-619.51, Arizona Revised Statutes, as amended by Laws
8 2018, chapter 46, section 3 and chapter 296, section 12 and this act.
9 2. Section 41-619.51, Arizona Revised Statutes, as amended by Laws
10 2018, chapter 287, section 3 and repealed by this act.
11 3. Section 41-1758, Arizona Revised Statutes, as amended by Laws
12 2018, chapter 46, section 4 and chapter 296, section 13 and this act.
13 4. Section 41-1758, Arizona Revised Statutes, as amended by Laws
14 2018, chapter 287, section 4 and repealed by this act.
15 5. Section 41-1758.01, Arizona Revised Statutes, as amended by Laws
16 2018, chapter 46, section 5 and chapter 296, section 14 and this act.
17 6. Section 41-1758.01, Arizona Revised Statutes, as amended by Laws
18 2018, chapter 287, section 5 and repealed by this act.