

REFERENCE TITLE: ESAs; qualified schools; requirements; reporting

State of Arizona  
Senate  
Fifty-sixth Legislature  
Second Regular Session  
2024

## **SB 1399**

Introduced by  
Senator Epstein

### AN ACT

AMENDING SECTIONS 15-106, 15-2402, 15-2403 AND 15-2404, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 19, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 15-2407, 15-2408 AND 15-2409; AMENDING SECTIONS 23-1361, 41-619.51, 41-1279.03, 41-1750, 41-1758, 41-1758.01 AND 41-1758.08, ARIZONA REVISED STATUTES; RELATING TO ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-106, Arizona Revised Statutes, is amended to  
3 read:

4 15-106. Identity verified fingerprints

5 An applicant who applies for a new teaching certificate in order to  
6 teach in a school district, a participant in field experience or student  
7 teaching in this state, an applicant who applies for a renewal of an  
8 existing teaching certificate in order to continue teaching in a school  
9 district, an applicant who is required for the first time to be  
10 fingerprinted in order to teach in a charter school and an applicant who  
11 is required to renew fingerprints in order to continue teaching in a  
12 charter school pursuant to section 15-183, an applicant who is required to  
13 be fingerprinted pursuant to section 15-512 OR 15-2407 and any person who  
14 is contracted by this state, by a school district or by a charter school  
15 to provide tutoring services shall submit for an identity verified  
16 fingerprint card that will be used by the department of public safety to  
17 process the fingerprint clearance card pursuant to title 41, chapter 12,  
18 article 3.1 as follows:

19 1. The applicant shall submit a request for an application packet  
20 from the department of public safety.

21 2. The application packet shall be contained in an envelope  
22 specified by the department of public safety and shall include the  
23 following:

24 (a) A blank applicant fingerprint card.

25 (b) An application for a fingerprint clearance card.

26 (c) Instructions for ~~the return of~~ RETURNING the application  
27 packet.

28 3. A school district or charter school may contract for  
29 fingerprinting services through an entity or entities and shall provide a  
30 copy of the instructions to the entity or entities as provided by the  
31 department of public safety regarding the submission of identity verified  
32 fingerprints. If a school district or charter school elects to provide  
33 fingerprinting services, the school district or charter school shall  
34 authorize an individual employed by the school district or charter school  
35 to administer the services.

36 4. The department of public safety shall provide instructions to  
37 law enforcement agencies and public schools regarding the submission of  
38 identity verified fingerprints. The department of public safety shall  
39 reject the application for a fingerprint clearance card if the application  
40 is not correct or is not submitted according to the instructions provided  
41 by the department of public safety.

42 5. The applicant, at the time ~~that~~ identity verified fingerprints  
43 are taken, shall provide the law enforcement agency, school district,  
44 charter school or other entity with a completed application form for a  
45 fingerprint clearance card, the fingerprint card with the requisite

1 demographic information and the required fee in the form of a money order  
 2 or cashier's check made out to the department of public safety. The law  
 3 enforcement agency, school district, charter school or other entity shall  
 4 verify the identity of the applicant through recognized means of  
 5 photographic identification and a comparison of the demographic  
 6 information on the photographic identification against the demographic  
 7 information on the application form and the fingerprint card. The  
 8 authorized person taking the fingerprints shall enter on the application  
 9 form a description of the photographic identification presented by the  
 10 applicant. The law enforcement agency, school district, charter school or  
 11 other entity shall place the completed fingerprint card, the completed  
 12 application form or any other form required by the department of public  
 13 safety and the fee provided by the applicant in the postage prepaid  
 14 envelope provided by the department of public safety and mail it to the  
 15 fingerprinting division in the department of public safety. A law  
 16 enforcement agency, school district, charter school or other entity may  
 17 charge the applicant a reasonable fee for services provided pursuant to  
 18 this section.

19 6. Fingerprints submitted electronically or through an  
 20 internet-based system pursuant to section 41-1758.01 shall include a  
 21 completed application for a fingerprint clearance card, the requisite  
 22 applicant demographic information and the required fee, and shall be  
 23 identity verified in accordance with instructions provided by the  
 24 department of public safety. The department shall reject the application  
 25 for a fingerprint clearance card if the application is not correct or is  
 26 not submitted according to the department's instructions. The entity or  
 27 entities contracted by the department shall comply with:

28 (a) All information privacy and security measures and submission  
 29 standards established by the department.

30 (b) The information technology security policy approved by the  
 31 department.

32 7. The department of public safety shall process the application  
 33 packet in the same manner prescribed for fingerprint clearance cards  
 34 issued pursuant to title 41, chapter 12, article 3.1.

35 8. The department of public safety shall provide for digital  
 36 storage and retrieval of identity verified fingerprints taken pursuant to  
 37 this section. The fingerprints taken pursuant to this section shall be  
 38 digitally designated in the fingerprint archive as identity verified  
 39 fingerprint records.

40 9. A person who has a set of identity verified fingerprints on file  
 41 with the department of public safety pursuant to this section ~~shall~~ IS not  
 42 ~~be~~ required to submit a new set of fingerprints to the department of  
 43 public safety to renew the person's fingerprint clearance card. On  
 44 receipt of the required application form and fee for a renewal fingerprint  
 45 clearance card from a person required to submit identity verified

1 fingerprints, the department of public safety shall attempt to use the  
2 electronic copy of the applicant's identity verified fingerprints that are  
3 retained pursuant to this section to conduct the state and national  
4 criminal records checks. The department of public safety may require the  
5 applicant to submit a new set of identity verified fingerprints if the  
6 department of public safety determines that the original fingerprints  
7 submitted have been lost or damaged or are found to be otherwise of  
8 insufficient quality to conduct a valid technical fingerprint search  
9 either by the department of public safety or the federal bureau of  
10 investigation.

11 10. A person who participates in a teacher preparation program that  
12 is approved by the state board of education and who does not participate  
13 in field experience or student teaching in this state ~~shall~~ IS not ~~be~~  
14 required to obtain a fingerprint clearance card pursuant to this section.

15 Sec. 2. Section 15-2402, Arizona Revised Statutes, is amended to  
16 read:

17 15-2402. Arizona empowerment scholarship accounts; funds

18 A. Arizona empowerment scholarship accounts are established to  
19 provide options for the education of students in this state.

20 B. To enroll a qualified student for an Arizona empowerment  
21 scholarship account, the parent of the qualified student must sign an  
22 agreement to do all of the following:

23 1. Use a portion of the Arizona empowerment scholarship account  
24 monies allocated annually to provide an education for the qualified  
25 student in at least the subjects of reading, grammar, mathematics, social  
26 studies and science, ~~unless the Arizona empowerment scholarship account is~~  
27 ~~allocated monies according to a transfer schedule other than quarterly~~  
28 ~~transfers pursuant to section 15-2403, subsection G.~~

29 2. Not enroll the qualified student in a school district or charter  
30 school and release the school district from all obligations to educate the  
31 qualified student. This paragraph does not:

32 (a) Relieve the school district or charter school that the  
33 qualified student previously attended from the obligation to conduct an  
34 evaluation pursuant to section 15-766.

35 (b) Require ~~a~~ THE qualified student to withdraw from ~~a~~ THE school  
36 district or charter school before enrolling for an Arizona empowerment  
37 scholarship account if the qualified student withdraws from the school  
38 district or charter school before receiving any monies in the qualified  
39 student's Arizona empowerment scholarship account.

40 (c) Prevent ~~a~~ THE qualified student from applying in advance for  
41 an Arizona empowerment scholarship account to be funded beginning the  
42 following school year.

43 3. Not accept a scholarship from a school tuition organization  
44 pursuant to title 43 concurrently with an Arizona empowerment scholarship

1 account for the qualified student in the same year a parent signs the  
2 agreement pursuant to this section.

3 4. Use monies deposited in the qualified student's Arizona  
4 empowerment scholarship account only for the following expenses of the  
5 qualified student:

6 (a) Tuition or fees at a qualified school.

7 (b) Textbooks required by a qualified school.

8 (c) If the qualified student meets any of the criteria specified in  
9 section 15-2401, paragraph 7, subdivision (a), item (i), (ii) or (iii) as  
10 determined by a school district or by an independent third party pursuant  
11 to section 15-2403, subsection J, the qualified student may use the  
12 following additional services:

13 (i) Educational therapies from a licensed or accredited  
14 practitioner or provider, including and up to any amount not covered by  
15 insurance if the expense is partially paid by a health insurance policy  
16 for the qualified student.

17 (ii) A licensed or accredited paraprofessional or educational aide.

18 (iii) Tuition for vocational and life skills education approved by  
19 the department.

20 (iv) Associated goods and services that include educational and  
21 psychological evaluations, assistive technology rentals and braille  
22 translation goods and services approved by the department.

23 (d) Tutoring or teaching services provided by an individual or  
24 facility accredited by a state, regional or national accrediting  
25 organization **AND APPROVED BY THE DEPARTMENT.**

26 (e) Curricula and supplementary materials.

27 (f) Tuition or fees for a nonpublic online learning program.

28 (g) Fees for a nationally standardized norm-referenced achievement  
29 test, an advanced placement examination or any exams related to college or  
30 university admission.

31 (h) Tuition or fees at an eligible postsecondary institution.

32 (i) Textbooks required by an eligible postsecondary institution.

33 (j) Fees to manage the Arizona empowerment scholarship account.

34 (k) Services provided by a public school, including individual  
35 classes and extracurricular programs.

36 (l) Insurance or surety bond payments.

37 (m) Uniforms purchased from or through a qualified school.

38 (n) If the qualified student meets the criteria specified in  
39 section 15-2401, paragraph 7, subdivision (a), item (i), (ii) or (iii) and  
40 if the qualified student is in the second year prior to the final year of  
41 a contract executed pursuant to this article, costs associated with an  
42 annual education plan conducted by an independent evaluation team. The  
43 department shall prescribe minimum qualifications for independent  
44 evaluation teams pursuant to this subdivision and factors that teams must  
45 use to determine whether the qualified student shall be eligible to

1 continue to receive monies pursuant to this article through the school  
2 year in which the qualified student reaches twenty-two years of age. An  
3 independent evaluation team that provides an annual education plan  
4 pursuant to this subdivision shall submit a written report that summarizes  
5 the results of the evaluation to the parent of the qualified student and  
6 to the department on or before July 31. The written report submitted by  
7 the independent evaluation team is valid for one year. If the department  
8 determines that the qualified student meets the eligibility criteria  
9 prescribed in the annual education plan, the qualified student is eligible  
10 to continue to receive monies pursuant to this article until the qualified  
11 student reaches twenty-two years of age, subject to annual review. A  
12 parent may appeal the department's decision pursuant to title 41, chapter  
13 6, article 10. As an addendum to a qualified student's final-year  
14 contract, the department shall provide the following written information  
15 to the parent of the qualified student:

16 (i) That the qualified student will not be eligible to continue to  
17 receive monies pursuant to this article unless the results of an annual  
18 education plan conducted pursuant to this subdivision demonstrate that the  
19 qualified student meets the eligibility criteria prescribed in the annual  
20 education plan.

21 (ii) That the parent is entitled to obtain an annual education plan  
22 pursuant to this subdivision to determine whether the qualified student  
23 meets the eligibility criteria prescribed in the annual education plan.

24 (iii) A list of independent evaluation teams that meet the minimum  
25 qualifications prescribed by the department pursuant to this subdivision.

26 (o) Public transportation services in this state, including a  
27 commuter pass for the qualified student, or transportation network  
28 services as defined in section 28-9551 between the qualified student's  
29 residence and a qualified school in which the qualified student is  
30 enrolled.

31 (p) Computer hardware and technological devices primarily used for  
32 an educational purpose. For the purposes of this subdivision, "computer  
33 hardware and technological devices":

34 (i) Includes calculators, personal computers, laptops, tablet  
35 devices, microscopes, telescopes and printers.

36 (ii) Does not include entertainment and other primarily  
37 noneducational devices, including televisions, telephones, video game  
38 consoles and accessories, and home theatre and audio equipment.

39 5. Not file an affidavit of intent to homeschool pursuant to  
40 section 15-802, subsection B, paragraph 2 or 3.

41 6. Not use monies deposited in the qualified student's account for  
42 any of the following:

43 (a) Computer hardware or other technological devices, except as  
44 otherwise allowed under paragraph 4, subdivision (c) or (p) of this  
45 subsection.

1 (b) Transportation of the pupil, except for transportation services  
2 described in paragraph 4, subdivision (o) of this subsection.

3 7. NOT SELL ANY ITEM THAT WAS PURCHASED WITH MONIES FROM AN ARIZONA  
4 EMPOWERMENT SCHOLARSHIP ACCOUNT WHILE THE QUALIFIED STUDENT FOR WHOM THE  
5 ITEM WAS PURCHASED IS ENROLLED IN THE ARIZONA EMPOWERMENT SCHOLARSHIP  
6 ACCOUNTS PROGRAM.

7 8. FOR ANY TRANSACTION THAT IS AT LEAST \$500, OBTAIN APPROVAL FROM  
8 THE DEPARTMENT BEFORE COMPLETING THE TRANSACTION. THE DEPARTMENT SHALL  
9 REVIEW EACH TRANSACTION THAT IS SUBMITTED FOR APPROVAL PURSUANT TO THIS  
10 PARAGRAPH TO DETERMINE WHETHER THE EXPENSE IS ALLOWED UNDER THIS CHAPTER.

11 9. USE MONIES DEPOSITED IN THE QUALIFIED STUDENT'S ARIZONA  
12 EMPOWERMENT SCHOLARSHIP ACCOUNT ONLY FOR EDUCATIONAL GOODS OR SERVICES FOR  
13 WHICH A LESS EXPENSIVE GOOD OR SERVICE IS NOT AVAILABLE.

14 C. In exchange for the parent's agreement pursuant to subsection B  
15 of this section, the department shall transfer from the monies that would  
16 otherwise be allocated to a recipient's prior school district, or if the  
17 child is currently eligible to attend a preschool program for children  
18 with disabilities, a kindergarten program or any of grades one through  
19 twelve, the monies that the department determines would otherwise be  
20 allocated to a recipient's expected school district of attendance, to the  
21 treasurer for deposit into an Arizona empowerment scholarship account an  
22 amount that is equivalent to ninety percent of the sum of the base support  
23 level and additional assistance prescribed in sections 15-185 and 15-943  
24 for that particular student if that student were attending a charter  
25 school.

26 D. The department of education empowerment scholarship account fund  
27 is established consisting of monies appropriated by the legislature. The  
28 department shall administer the fund. Monies in the fund are subject to  
29 legislative appropriation. Monies in the fund shall be used for the  
30 department's costs in administering Arizona empowerment scholarship  
31 accounts under this chapter. Monies in the fund are exempt from the  
32 provisions of section 35-190 relating to lapsing of appropriations. If  
33 the number of Arizona empowerment scholarship accounts significantly  
34 increases after fiscal year 2020-2021, the department may request an  
35 increase in the amount appropriated to the fund in any subsequent fiscal  
36 year in the budget estimate submitted pursuant to section 35-113. The  
37 department shall list monies in the fund as a separate line item in its  
38 budget estimate.

39 E. The state treasurer empowerment scholarship account fund is  
40 established consisting of monies appropriated by the legislature. The  
41 state treasurer shall administer the fund. Monies in the fund shall be  
42 used for the state treasurer's costs in administering the Arizona  
43 empowerment scholarship accounts under this chapter. If the number of  
44 Arizona empowerment scholarship accounts significantly increases after  
45 fiscal year 2020-2021, the state treasurer may request an increase in the

1 amount appropriated to the fund in any subsequent fiscal year in the  
2 budget estimate submitted pursuant to section 35-113. Monies in the fund  
3 are subject to legislative appropriation. Monies in the fund are exempt  
4 from the provisions of section 35-190 relating to lapsing of  
5 appropriations. The state treasurer shall list monies in the fund as a  
6 separate line item in its budget estimate.

7 F. A parent must renew the qualified student's Arizona empowerment  
8 scholarship account on an annual basis.

9 G. Notwithstanding any changes to the student's multidisciplinary  
10 evaluation team plan, a student who has previously qualified for an  
11 Arizona empowerment scholarship account remains eligible to apply for  
12 renewal until the student finishes high school.

13 H. If a parent does not renew the qualified student's Arizona  
14 empowerment scholarship account for a period of three academic years, the  
15 department shall notify the parent that the qualified student's account  
16 will be closed in sixty calendar days. The notification must be sent  
17 through certified mail, email and telephone, if applicable. The parent  
18 has sixty calendar days to renew the qualified student's Arizona  
19 empowerment scholarship account. If the parent chooses not to renew or  
20 does not respond in sixty calendar days, the department shall close the  
21 account and any remaining monies shall be returned to the state.

22 I. A signed agreement under this section constitutes school  
23 attendance required by section 15-802.

24 J. A qualified school or a provider of services purchased pursuant  
25 to subsection B, paragraph 4 of this section may not share, refund or  
26 rebate any Arizona empowerment scholarship account monies with the parent  
27 or qualified student in any manner.

28 K. Notwithstanding subsection H of this section, on the qualified  
29 student's graduation from a postsecondary institution or after any period  
30 of four consecutive years after high school graduation in which the  
31 student is not enrolled in an eligible postsecondary institution, but not  
32 before this time as long as the account holder continues using a portion  
33 of account monies for eligible expenses each year and is in good standing,  
34 the qualified student's Arizona empowerment scholarship account shall be  
35 closed and any remaining monies shall be returned to the state.

36 L. Monies received pursuant to this article do not constitute  
37 taxable income to the parent of the qualified student.

38 Sec. 3. Section 15-2403, Arizona Revised Statutes, is amended to  
39 read:

40 15-2403. Arizona empowerment scholarship accounts;  
41 administration; appeals; audit; rules; policy  
42 handbook

43 A. The treasurer may contract with private financial management  
44 firms to manage Arizona empowerment scholarship accounts.



1           B. The department shall conduct or contract for annual audits of  
2 Arizona empowerment scholarship accounts to ensure compliance with section  
3 15-2402, subsection B, paragraph 4. The department shall also conduct or  
4 contract for random, quarterly and annual audits of Arizona empowerment  
5 scholarship accounts as needed to ensure compliance with section 15-2402,  
6 subsection B, paragraph 4.

7           C. The department may remove any parent or qualified student from  
8 eligibility for an Arizona empowerment scholarship account if the parent  
9 or qualified student fails to comply with the terms of the contract or  
10 applicable laws, rules or orders or knowingly misuses monies or knowingly  
11 fails to comply with the terms of the contract with intent to defraud and  
12 shall notify the treasurer. The department shall notify the treasurer to  
13 suspend the account of a parent or qualified student and shall notify the  
14 parent or qualified student in writing that the account has been suspended  
15 and that no further transactions will be allowed or disbursements made.  
16 The notification shall specify the reason for the suspension and state  
17 that the parent or qualified student has fifteen days, not including  
18 weekends, to respond and take corrective action. If the parent or  
19 qualified student refuses or fails to contact the department, furnish any  
20 information or make any report that may be required for reinstatement  
21 within the fifteen-day period, the department may remove the parent or  
22 qualified student pursuant to this subsection.

23           D. A parent may appeal to the state board of education any  
24 administrative decision the department makes pursuant to this article,  
25 including determinations of allowable expenses, removal from the program  
26 or enrollment eligibility. The department shall notify the parent in  
27 writing that the parent may appeal any administrative decision under this  
28 article and the process by which the parent may appeal at the same time  
29 the department notifies the parent of an administrative decision under  
30 this article. The state board of education shall establish an appeals  
31 process, and the department shall post this information on the  
32 department's website in the same location as the policy handbook developed  
33 pursuant to subsection K of this section.

34           E. A parent may represent himself or herself or designate a  
35 representative, not necessarily an attorney, before any appeals hearing  
36 held pursuant to this section. Any such designated representative who is  
37 not an attorney admitted to practice may not charge for any services  
38 rendered in connection with such a hearing. The fact that a  
39 representative participated in the hearing or assisted the account holder  
40 is not grounds for reversing any administrative decision or order if the  
41 evidence supporting the decision or order is substantial, reliable and  
42 probative.

43           F. The state board of education may refer cases of substantial  
44 misuse of monies to the attorney general for the purpose of collection or

1 for the purpose of a criminal investigation if the state board of  
2 education obtains evidence of fraudulent use of an account.

3 G. The department shall make ~~quarterly~~ MONTHLY transfers of the  
4 amount calculated pursuant to section 15-2402, subsection C to the  
5 treasurer for deposit in the Arizona empowerment scholarship account of  
6 each qualified student, ~~except the department may make transfers according~~  
7 ~~to another transfer schedule if the department determines a transfer~~  
8 ~~schedule other than quarterly transfers is necessary to operate the~~  
9 ~~Arizona empowerment scholarship account.~~

10 H. The department shall accept applications between July 1 and June  
11 30 of each year. THE DEPARTMENT SHALL POST ON THE DEPARTMENT'S WEBSITE  
12 AND INCLUDE IN EACH APPLICATION PACKET A NOTICE OUTLINING EACH LEGAL RIGHT  
13 THAT A QUALIFIED STUDENT AND PARENT WAIVE BY ENROLLING IN THE ARIZONA  
14 EMPOWERMENT SCHOLARSHIP ACCOUNTS PROGRAM. The department shall enroll and  
15 issue an award letter to eligible applicants within thirty days after  
16 receipt of a completed application and all required documentation. On or  
17 before May 30 of each year, the department shall furnish to the joint  
18 legislative budget committee an estimate of the amount required to fund  
19 Arizona empowerment scholarship accounts for the following fiscal  
20 year. The department shall include in its budget request PURSUANT TO  
21 SECTION 35-113 for the following fiscal year BOTH OF THE FOLLOWING:

22 1. The amount estimated pursuant to section 15-2402, subsection C  
23 for each qualified student.

24 2. AN UPDATED ESTIMATE OF THE AMOUNT REQUIRED TO FUND ARIZONA  
25 EMPOWERMENT SCHOLARSHIP ACCOUNTS FOR THE FOLLOWING FISCAL YEAR.

26 I. The state board of education may adopt rules and policies  
27 necessary to administer Arizona empowerment scholarship accounts,  
28 including rules and policies:

29 1. For establishing an appeals process pursuant to subsection D of  
30 this section.

31 2. For conducting or contracting for examinations of the use of  
32 account monies.

33 3. For conducting or contracting for random, quarterly and annual  
34 reviews of accounts.

35 4. For establishing or contracting for the establishment of an  
36 online anonymous fraud reporting service.

37 5. For establishing an anonymous telephone hotline for fraud  
38 reporting.

39 6. That require a surety bond or insurance for account holders.

40 7. FOR DETERMINING WHETHER AN EXPENSE IS ALLOWED, INCLUDING:

41 (a) DETERMINING WHETHER A LESS EXPENSIVE ALTERNATIVE GOOD OR  
42 SERVICE IS AVAILABLE FOR THE PURPOSE OF SECTION 15-2402, SUBSECTION B,  
43 PARAGRAPH 9.

1 (b) VERIFYING THAT AN INDIVIDUAL WHO PROVIDES TUTORING OR TEACHING  
2 SERVICES TO A QUALIFIED STUDENT IS NOT PROHIBITED FROM EMPLOYMENT AT A  
3 SCHOOL DISTRICT OR CHARTER SCHOOL IN THIS STATE PURSUANT TO SECTION  
4 15-505, SUBSECTION D. THE DEPARTMENT MAY NOT APPROVE AN EXPENSE UNDER  
5 SECTION 15-2402, SUBSECTION B, PARAGRAPH 4, SUBDIVISION (d) IF THE TUTOR  
6 OR TEACHER WHO PROVIDES THE SERVICES IS PROHIBITED FROM EMPLOYMENT UNDER  
7 SECTION 15-505, SUBSECTION D, INCLUDING PROHIBITED EMPLOYMENT BECAUSE THE  
8 INDIVIDUAL HAS EITHER:

9 (i) HAD THE INDIVIDUAL'S CERTIFICATE SUSPENDED OR REVOKED BY THE  
10 STATE BOARD OF EDUCATION, INCLUDING RECIPROCAL SUSPENSION OR REVOCATION.

11 (ii) ENGAGED IN IMMORAL OR UNPROFESSIONAL CONDUCT.

12 J. The department shall contract with an independent third party  
13 for the purposes of determining whether a qualified student is eligible to  
14 receive educational therapies or services pursuant to section 15-2402,  
15 subsection B, paragraph 4, subdivision (c). If during any period on or  
16 after January 1, 2023 the department fails to ensure that a contract with  
17 an independent third party is in effect, during that period:

18 1. The county school superintendent of each county may approve a  
19 list of independent third parties within the county whose evaluation may  
20 be used to determine whether a student who resides within the county is  
21 eligible to receive educational therapies or services pursuant to section  
22 15-2402, subsection B, paragraph 4, subdivision (c).

23 2. If the county school superintendent of a county does not provide  
24 a list of approved independent third parties within ninety days after the  
25 beginning of any period during which the department does not have a  
26 contract with an independent third party in effect as described in this  
27 subsection, the parent of a student who resides within the county has the  
28 right to obtain an independent educational evaluation from a qualified  
29 examiner to determine whether the student is eligible to receive  
30 educational therapies or services pursuant to section 15-2402,  
31 subsection B, paragraph 4, subdivision (c). The expense for an  
32 educational evaluation undertaken pursuant to this paragraph shall be  
33 provided by the school district within which the student resides and that  
34 serves the grade level of the student. For the purposes of this  
35 paragraph, "qualified examiner" means a licensed physician, psychiatrist  
36 or psychologist.

37 K. On or before July 1 of each year, the department shall develop  
38 an applicant and participant handbook that includes information relating  
39 to policies and processes of Arizona empowerment scholarship accounts.  
40 The policy handbook shall comply with the rules adopted by the state board  
41 of education pursuant to this section. The department shall post the  
42 handbook on its website.

43 L. Except for cases in which the attorney general determines that a  
44 parent or account holder has committed fraud, any expenditure from an  
45 Arizona empowerment scholarship account for a purchase that is deemed

1 ineligible pursuant to section 15-2402 and that is subsequently repaid by  
2 the parent or account holder shall be credited back to the Arizona  
3 empowerment scholarship account balance within thirty days after the  
4 receipt of payment.

5 M. If, in response to an appeal of an administrative decision made  
6 by the department, the state board of education issues a stay of an  
7 Arizona empowerment scholarship account suspension pursuant to rules  
8 adopted by the board, the department may not withhold funding or contract  
9 renewal for the account holder on account of the appealed administrative  
10 decision during the stay unless directed by the board to do so.

11 Sec. 4. Section 15-2404, Arizona Revised Statutes, is amended to  
12 read:

13 15-2404. State control over nonpublic schools; prohibition;  
14 application; reporting requirements; services for  
15 children with disabilities; transparency portal

16 A. EXCEPT AS PROVIDED IN SECTION 15-2402, SUBSECTION J AND THIS  
17 SECTION, this chapter does not ~~permit~~ ALLOW any government agency to  
18 exercise control or supervision over any nonpublic school or homeschool.

19 B. A qualified school that accepts a payment from a parent pursuant  
20 to this chapter is not an agent of the state or federal government.

21 C. A qualified school shall not be required to alter its creed,  
22 practices, admissions policy or curriculum in order to accept students  
23 whose parents pay tuition or fees from an ARIZONA empowerment scholarship  
24 account pursuant to this chapter in order to participate as a qualified  
25 school.

26 D. In any legal proceeding challenging the application of this  
27 chapter to a qualified school, the state bears the burden of establishing  
28 that the law is necessary and does not impose any undue burden on  
29 qualified schools.

30 E. NOTWITHSTANDING SUBSECTIONS C AND D OF THIS SECTION, A QUALIFIED  
31 SCHOOL THAT ACCEPTS A PAYMENT FROM A PARENT OR QUALIFIED STUDENT PURSUANT  
32 TO THIS CHAPTER SHALL DO ALL OF THE FOLLOWING, CONSISTENT WITH THE FAMILY  
33 EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974 (20 UNITED STATES CODE SECTION  
34 1232g):

35 1. COMPLY WITH THE REPORTING, FOLLOW-UP AND HEARING PARTICIPATION  
36 REQUIREMENTS PRESCRIBED BY SECTION 41-1279.03.

37 2. COMPLY WITH THE FINANCIAL REPORTING REQUIRED PURSUANT TO  
38 SUBSECTION G OF THIS SECTION.

39 3. COMPLY WITH ANY REQUESTS FOR INFORMATION FROM THE DEPARTMENT OR  
40 THE STATE BOARD OF EDUCATION FOR THE PURPOSE OF THE FINANCIAL TRANSPARENCY  
41 PORTAL DEVELOPED PURSUANT TO SUBSECTION H OF THIS SECTION.

42 4. ANNUALLY POST AND REPORT TO THE DEPARTMENT THE QUALIFIED  
43 SCHOOL'S GRADUATION RATE USING A METHODOLOGY PRESCRIBED BY THE DEPARTMENT.  
44 THE DEPARTMENT SHALL PRESCRIBE A METHODOLOGY FOR THIS PARAGRAPH THAT IS

1 CONSISTENT WITH THE GRADUATION RATES USED PURSUANT TO SECTION 15-241,  
2 SUBSECTION D, PARAGRAPH 6.

3 5. ANNUALLY REPORT TO THE DEPARTMENT THE PERCENTAGE OF STUDENTS WHO  
4 RECEIVE INSTRUCTION IN THE QUALIFIED SCHOOL FOR A KINDERGARTEN PROGRAM OR  
5 ANY OF GRADES ONE THROUGH EIGHT AND WHO HAVE EXCESSIVE ABSENCES. FOR THE  
6 PURPOSES OF THIS PARAGRAPH, ABSENCES ARE CONSIDERED EXCESSIVE WHEN THE  
7 NUMBER OF ABSENT DAYS EXCEEDS TEN PERCENT OF THE NUMBER OF REQUIRED  
8 ATTENDANCE DAYS FOR THE QUALIFIED SCHOOL.

9 6. NOTIFY IN WRITING THE PARENT OF A PROSPECTIVE STUDENT WHO MEETS  
10 THE CRITERIA OF QUALIFIED STUDENT PRESCRIBED IN SECTION 15-2401, PARAGRAPH  
11 7, SUBDIVISION (a), ITEM (i), (ii) OR (iii) OF THE INDIVIDUAL SPECIAL  
12 EDUCATION SERVICES AND EDUCATIONAL THERAPIES THAT THE QUALIFIED SCHOOL  
13 WILL PROVIDE TO THE STUDENT BEFORE THE PARENT PAYS TUITION OR FEES FROM AN  
14 ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT TO THE QUALIFIED SCHOOL. THE  
15 NOTIFICATION PRESCRIBED IN THIS PARAGRAPH IS NOT REQUIRED IN SUBSEQUENT  
16 YEARS OF ENROLLMENT AT THE SAME QUALIFIED SCHOOL.

17 7. IF A QUALIFIED STUDENT HAS AN INDIVIDUALIZED EDUCATION PROGRAM  
18 OR SECTION 504 PLAN, PROVIDE ALL ACCOMMODATIONS AND SERVICES THAT ARE  
19 REQUIRED UNDER THE QUALIFIED STUDENT'S INDIVIDUALIZED EDUCATION PROGRAM OR  
20 SECTION 504 PLAN UNLESS A PARENT OR THE QUALIFIED STUDENT WAIVES IN  
21 WRITING THE ACCOMMODATIONS OR SERVICES. IF THE QUALIFIED SCHOOL FAILS TO  
22 EITHER PROVIDE THE ACCOMMODATIONS AND SERVICES OR OBTAIN A WRITTEN WAIVER  
23 PURSUANT TO THIS PARAGRAPH, THE QUALIFIED STUDENT MAY TRANSFER OUT OF THE  
24 QUALIFIED SCHOOL AND IS ENTITLED TO A REFUND FOR THE PORTION OF THE SCHOOL  
25 YEAR FOR WHICH THE STUDENT PAID TUITION AND FEES BUT DID NOT ATTEND THE  
26 QUALIFIED SCHOOL.

27 F. A QUALIFIED SCHOOL MAY NOT INCREASE TUITION AND RELATED FEES FOR  
28 QUALIFIED STUDENTS AT A RATE THAT EXCEEDS THE PERCENTAGE CHANGE IN THE  
29 CONSUMER PRICE INDEX FOR THE PREVIOUS YEAR.

30 G. THE STATE BOARD OF EDUCATION SHALL DEVELOP AND ADOPT MINIMUM  
31 FINANCIAL PERFORMANCE REQUIREMENTS FOR QUALIFIED SCHOOLS THAT ACCEPT  
32 PAYMENT FROM A PARENT OR QUALIFIED STUDENT PURSUANT TO THIS CHAPTER AND  
33 PRESCRIBE FINANCIAL REPORTING REQUIREMENTS FOR EACH QUALIFIED SCHOOL THAT  
34 DO ALL OF THE FOLLOWING:

35 1. REQUIRE THE SAME DATA POINTS THAT ARE COLLECTED FROM SCHOOL  
36 DISTRICTS AND CHARTER SCHOOLS PURSUANT TO ANNUAL FINANCIAL AND COMPLIANCE  
37 AUDITS AND FINANCIAL STATEMENT AUDITS REQUIRED UNDER SECTION 15-914.

38 2. REQUIRE ANY DATA OR INFORMATION NECESSARY TO EVALUATE ALL OF THE  
39 FOLLOWING:

40 (a) THE QUALIFIED SCHOOL'S FINANCIAL ABILITY TO CONTINUE OPERATING.

41 (b) WHETHER THE QUALIFIED SCHOOL IS IN FINANCIAL DEFAULT.

42 (c) WHETHER THE QUALIFIED SCHOOL'S OPERATING COSTS EXCEED ITS  
43 AVAILABLE RESOURCES.

44 (d) WHETHER THE QUALIFIED SCHOOL IS ABLE TO PAY DEBT PRINCIPAL,  
45 INTEREST PAYMENTS AND FACILITY COSTS THAT BECOME DUE.

1 (e) THE PERCENTAGE CHANGE OF THE QUALIFIED SCHOOL'S STUDENT COUNT  
2 EACH YEAR.

3 3. SUMMARIZE THE QUALIFIED SCHOOL'S FINANCIAL PERFORMANCE,  
4 INCLUDING WHETHER THE QUALIFIED SCHOOL MEETS THE MINIMUM FINANCIAL  
5 PERFORMANCE REQUIREMENTS ADOPTED PURSUANT TO THIS SUBSECTION.

6 H. THE DEPARTMENT SHALL DEVELOP A FINANCIAL TRANSPARENCY PORTAL  
7 THAT INCLUDES ALL INFORMATION REPORTED PURSUANT TO SUBSECTION G OF THIS  
8 SECTION. THE DEPARTMENT MAY CONTRACT WITH A THIRD PARTY TO DEVELOP AND  
9 MAINTAIN THE PORTAL.

10 Sec. 5. Title 15, chapter 19, article 1, Arizona Revised Statutes,  
11 is amended by adding sections 15-2407, 15-2408 and 15-2409, to read:

12 15-2407. Qualified schools; personnel; fingerprinting  
13 requirements; qualifications; annual audits;  
14 penalties; definition

15 A. NOTWITHSTANDING SECTIONS 15-161 AND 15-2404, A QUALIFIED SCHOOL  
16 THAT ACCEPTS PAYMENT FROM A PARENT OR QUALIFIED STUDENT PURSUANT TO THIS  
17 CHAPTER SHALL REQUIRE ALL SCHOOL PERSONNEL TO BOTH:

18 1. HAVE A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO TITLE  
19 41, CHAPTER 12, ARTICLE 3.1 OR TO APPLY FOR A FINGERPRINT CLEARANCE CARD  
20 WITHIN TWENTY DAYS AFTER THE INDIVIDUAL BEGINS WORK.

21 2. BE ELIGIBLE FOR EMPLOYMENT AT A SCHOOL DISTRICT OR CHARTER  
22 SCHOOL IN THIS STATE PURSUANT TO SECTION 15-505, SUBSECTION D.

23 B. A QUALIFIED SCHOOL THAT ACCEPTS PAYMENT FROM A PARENT OR  
24 QUALIFIED STUDENT PURSUANT TO THIS CHAPTER MAY COMMUNICATE TO A SCHOOL  
25 DISTRICT, CHARTER SCHOOL OR OTHER QUALIFIED SCHOOL FOR EMPLOYMENT PURPOSES  
26 WHETHER ANY SCHOOL PERSONNEL HAS BEEN ISSUED OR DENIED A FINGERPRINT  
27 CLEARANCE CARD.

28 C. NOTWITHSTANDING SECTIONS 15-161 AND 15-2404, A QUALIFIED SCHOOL  
29 THAT ACCEPTS PAYMENT FROM A PARENT OR QUALIFIED STUDENT PURSUANT TO THIS  
30 CHAPTER SHALL REQUIRE ALL SCHOOL PERSONNEL WHO PROVIDE ACADEMIC  
31 INSTRUCTION TO HAVE AT LEAST ONE OF THE FOLLOWING:

32 1. A BACCALAUREATE OR HIGHER DEGREE FROM AN ACCREDITED  
33 POSTSECONDARY INSTITUTION.

34 2. AT LEAST THREE YEARS OF TEACHING EXPERIENCE, INCLUDING TEACHING  
35 IN PUBLIC OR PRIVATE SCHOOLS.

36 3. SPECIALIZED SKILLS, KNOWLEDGE OR EXPERTISE RELATED TO THE  
37 CONTENT AREA OR SUBJECT MATTER FOR WHICH THE INDIVIDUAL PROVIDES  
38 INSTRUCTION.

39 D. THE AUDITOR GENERAL SHALL ANNUALLY AUDIT QUALIFIED SCHOOLS FOR  
40 COMPLIANCE WITH THE REQUIREMENTS OF SUBSECTION A OF THIS SECTION. IF THE  
41 AUDITOR GENERAL FINDS THAT A QUALIFIED SCHOOL HAS FAILED TO COMPLY WITH  
42 THE REQUIREMENTS OF SUBSECTION A OF THIS SECTION, THE AUDITOR GENERAL  
43 SHALL:

44 1. NOTIFY BOTH THE QUALIFIED SCHOOL AND THE STATE BOARD OF  
45 EDUCATION OF THE VIOLATION.

1           2. INSTRUCT THE QUALIFIED SCHOOL HOW TO CURE THE VIOLATION.  
2           E. IF THE STATE BOARD OF EDUCATION DETERMINES THAT THE QUALIFIED  
3 SCHOOL HAS FAILED TO CORRECT THE VIOLATION WITHIN SIXTY DAYS AFTER THE  
4 AUDITOR GENERAL ISSUES A NOTICE PURSUANT TO SUBSECTION D OF THIS SECTION,  
5 THE STATE BOARD OF EDUCATION SHALL NOTIFY THE QUALIFIED SCHOOL AND THE  
6 DEPARTMENT THAT THE QUALIFIED SCHOOL IS NOT IN COMPLIANCE. A QUALIFIED  
7 SCHOOL THAT IS DETERMINED TO BE IN NONCOMPLIANCE PURSUANT TO THIS  
8 SUBSECTION SHALL REIMBURSE THE DEPARTMENT FOR ALL ARIZONA EMPOWERMENT  
9 SCHOLARSHIP ACCOUNT MONIES THAT THE QUALIFIED SCHOOL RECEIVED PURSUANT TO  
10 THIS ARTICLE DURING THE PREVIOUS SCHOOL YEAR.  
11           F. FOR THE PURPOSES OF THIS SECTION, "SCHOOL PERSONNEL":  
12           1. INCLUDES ANY INDIVIDUAL WHO IS INITIALLY HIRED BY THE QUALIFIED  
13 SCHOOL AFTER JANUARY 1, 1990 AND WHO IS ANY OF THE FOLLOWING:  
14           (a) A PAID EMPLOYEE OF THE QUALIFIED SCHOOL.  
15           (b) AN INDIVIDUAL WHO PROVIDES SERVICES DIRECTLY TO STUDENTS OF THE  
16 QUALIFIED SCHOOL AND WHO IS ALL OF THE FOLLOWING:  
17           (i) NOT A PAID EMPLOYEE OF THE QUALIFIED SCHOOL.  
18           (ii) NOT A PARENT OR GUARDIAN OF A STUDENT WHO ATTENDS THE  
19 QUALIFIED SCHOOL.  
20           (iii) NOT UNDER THE DIRECTION OF OR, EXCEPT FOR BRIEF PERIODS OF  
21 TIME DURING A SCHOOL DAY OR SCHOOL ACTIVITY, WITHIN SIGHT OF A PAID  
22 EMPLOYEE OF THE QUALIFIED SCHOOL WHILE PROVIDING SERVICES TO STUDENTS.  
23           (iv) REQUIRED OR ALLOWED TO PROVIDE SERVICES DIRECTLY TO STUDENTS.  
24           2. DOES NOT INCLUDE AN INDIVIDUAL WHO IS EITHER:  
25           (a) REQUIRED AS A CONDITION OF LICENSURE TO BE FINGERPRINTED IF THE  
26 LICENSE IS REQUIRED FOR EMPLOYMENT.  
27           (b) REESTABLISHING EMPLOYMENT WITH A QUALIFIED SCHOOL WITHIN ONE  
28 YEAR AFTER TERMINATING EMPLOYMENT WITH THE SAME QUALIFIED SCHOOL.  
29           15-2408. Joint legislative audit committee; committees of  
30                                   reference; program review; reports; auditor  
31                                   general; audit; continuation; definitions  
32           A. THE JOINT LEGISLATIVE AUDIT COMMITTEE SHALL DIRECT THE  
33 APPROPRIATE LEGISLATIVE COMMITTEES OF REFERENCE ESTABLISHED PURSUANT TO  
34 SECTION 41-2954 TO WHICH THE DEPARTMENT IS ASSIGNED TO COMPLETE A PROGRAM  
35 REVIEW OF THE ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNTS PROGRAM AT LEAST  
36 SEVENTEEN MONTHS BEFORE THE TERMINATION DATE FOR THE PROGRAM PRESCRIBED BY  
37 SECTION 15-2409.  
38           B. THE COMMITTEES OF REFERENCE SHALL UNDERTAKE THE PROGRAM REVIEW  
39 IN THE SCOPE AND DETAIL THE COMMITTEES OF REFERENCE DEEM APPROPRIATE AND  
40 SHALL ADDRESS WHETHER THERE IS A NEED FOR THE PROGRAM IN THIS STATE AND,  
41 IF SO, ASSESS THE DEGREE TO WHICH THE ORIGINAL OBJECTIVES OF THE PROGRAM  
42 HAVE BEEN ACHIEVED EXPRESSED IN TERMS OF THE PERFORMANCE, IMPACT OR  
43 ACCOMPLISHMENTS OF THE PROGRAM AND OF THE SITUATION THE PROGRAM WAS  
44 INTENDED TO ADDRESS.

1 C. THE COMMITTEES OF REFERENCE SHALL COMPLETE THE DRAFT PROGRAM  
2 REVIEW REPORT NOT LATER THAN ELEVEN MONTHS BEFORE THE TERMINATION DATE FOR  
3 THE PROGRAM PRESCRIBED BY SECTION 15-2409. BEFORE THE DRAFT PROGRAM  
4 REVIEW REPORT IS SUBMITTED, THE DEPARTMENT SHALL BE GIVEN AN OPPORTUNITY  
5 TO REVIEW, WITHIN FORTY CALENDAR DAYS, THE DRAFT PROGRAM REVIEW REPORT AND  
6 SUBMIT WRITTEN COMMENTS OR A REBUTTAL TO BE INCLUDED IN THE PRELIMINARY  
7 PROGRAM REVIEW REPORT.

8 D. THE COMMITTEES OF REFERENCE SHALL SUBMIT THE PRELIMINARY PROGRAM  
9 REVIEW REPORT TO THE GOVERNOR, TO EACH MEMBER OF THE JOINT LEGISLATIVE  
10 AUDIT COMMITTEE, TO EACH MEMBER OF THE COMMITTEES OF REFERENCE TO WHICH  
11 THE DEPARTMENT IS ASSIGNED AND TO THE DEPARTMENT ON OR BEFORE OCTOBER 1 OF  
12 THE YEAR BEFORE THE SCHEDULED TERMINATION DATE FOR THE PROGRAM PRESCRIBED  
13 BY SECTION 15-2409.

14 E. THE JOINT LEGISLATIVE AUDIT COMMITTEE SHALL DIRECT THE AUDITOR  
15 GENERAL TO CONDUCT A PROGRAM PERFORMANCE AUDIT TO DETERMINE ONE OR MORE OF  
16 THE FOLLOWING:

17 1. WHETHER THE DEPARTMENT IS MANAGING THE PROGRAM IN AN ECONOMICAL  
18 AND EFFICIENT MANNER.

19 2. CAUSES OF INEFFICIENCIES OR UNECONOMICAL PRACTICES IN THE  
20 PROGRAM, INCLUDING INADEQUACIES IN MANAGEMENT INFORMATION SYSTEMS,  
21 INTERNAL AND ADMINISTRATIVE PROCEDURES, ORGANIZATIONAL STRUCTURE, USE OF  
22 RESOURCES, ALLOCATION OF PERSONNEL, PURCHASING POLICIES AND EQUIPMENT.

23 3. WHETHER THE DESIRED RESULTS OF THE PROGRAM ARE BEING ACHIEVED.

24 4. WHETHER THE OBJECTIVES OF THE PROGRAM AS ESTABLISHED BY THE  
25 LEGISLATURE ARE BEING MET.

26 F. THE AUDITOR GENERAL SHALL CONDUCT THE PROGRAM PERFORMANCE AUDIT  
27 IN A MANNER THAT IS CONSISTENT WITH THE PERFORMANCE AUDIT PROCEDURES  
28 PRESCRIBED IN TITLE 41, CHAPTER 7, ARTICLE 10.1 AND SHALL SUBMIT TO THE  
29 GOVERNOR, TO EACH MEMBER OF THE JOINT LEGISLATIVE AUDIT COMMITTEE, TO THE  
30 COMMITTEES OF REFERENCE TO WHICH THE DEPARTMENT IS ASSIGNED AND TO THE  
31 DEPARTMENT ON OR BEFORE OCTOBER 1 OF THE YEAR BEFORE THE SCHEDULED  
32 TERMINATION DATE FOR THE PROGRAM PRESCRIBED BY SECTION 15-2409.

33 G. AFTER RECEIPT OF THE PROGRAM PERFORMANCE AUDIT, THE COMMITTEES  
34 OF REFERENCE SHALL HOLD AT LEAST ONE PUBLIC HEARING TO RECEIVE TESTIMONY  
35 FROM THE PUBLIC AND FROM THE OFFICIALS OF THE DEPARTMENT. THE COMMITTEES  
36 OF REFERENCE MAY HOLD ADDITIONAL PUBLIC HEARINGS FOR THE PURPOSES PROVIDED  
37 IN SECTION 41-2954, SUBSECTION C AS APPLICABLE TO THE PROGRAM.

38 H. IN DETERMINING WHETHER TO CONTINUE OR TERMINATE THE PROGRAM,  
39 EACH COMMITTEE OF REFERENCE SHALL CONSIDER THE INFORMATION PROVIDED IN THE  
40 PRELIMINARY PROGRAM REVIEW REPORT AND THE PROGRAM PERFORMANCE AUDIT AND  
41 THE FACTORS PROVIDED IN SECTION 41-2954, SUBSECTION D AS APPLICABLE TO THE  
42 PROGRAM.

43 I. THE PROGRAM IS CONTINUED PURSUANT TO THIS SECTION IF LEGISLATION  
44 TO CONTINUE THE PROGRAM IS PASSED BY THE LEGISLATURE AND SIGNED BY THE  
45 GOVERNOR BEFORE THE TERMINATION DATE FOR THE PROGRAM PURSUANT TO SECTION



1 15-2409 EVEN IF THE LEGISLATION TO CONTINUE THE PROGRAM HAS NOT BECOME  
2 EFFECTIVE ON THE DATE OF SCHEDULED TERMINATION.

3 J. IF THE LEGISLATURE CONTINUES THE PROGRAM, THE JOINT LEGISLATIVE  
4 AUDIT COMMITTEE MAY DIRECT THE AUDITOR GENERAL OR THE COMMITTEES OF  
5 REFERENCE TO CONDUCT A FOLLOW-UP REVIEW OF THE PROGRAM TO DETERMINE HOW  
6 THE DEPARTMENT HAS PERFORMED ITS STATUTORY FUNCTIONS OR CORRECTED  
7 DEFICIENCIES RELATING TO THE PROGRAM BEFORE PROGRAM REVIEW, OR BOTH.

8 K. FOR THE PURPOSES OF THIS SECTION:

9 1. "COMMITTEE OF REFERENCE" HAS THE SAME MEANING PRESCRIBED IN  
10 SECTION 41-2952.

11 2. "PROGRAM" MEANS THE ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNTS  
12 PROGRAM.

13 3. "PROGRAM REVIEW" MEANS A SYSTEMATIC EVALUATION BY THE COMMITTEES  
14 OF REFERENCE UNDER THE SUPERVISION OF THE JOINT LEGISLATIVE AUDIT  
15 COMMITTEE, WITH THE ASSISTANCE OF THE DEPARTMENT, JOINT LEGISLATIVE BUDGET  
16 COMMITTEE, AUDITOR GENERAL AND SUPPORT STAFF, TO DETERMINE IF THE MERITS  
17 OF THE PROGRAM JUSTIFY ITS CONTINUATION RATHER THAN TERMINATION, OR ITS  
18 CONTINUATION AT A LEVEL LESS THAN OR GREATER THAN THE EXISTING LEVEL.

19 15-2409. Arizona empowerment scholarship accounts program;  
20 termination July 1, 2032; delayed repeal

21 A. THE ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNTS PROGRAM TERMINATES  
22 ON JULY 1, 2032.

23 B. THIS CHAPTER IS REPEALED FROM AND AFTER DECEMBER 31, 2032.

24 Sec. 6. Section 23-1361, Arizona Revised Statutes, is amended to  
25 read:

26 23-1361. Blacklist; definition; exceptions; privileged  
27 communications; immunity

28 A. "Blacklist" means any understanding or agreement whereby the  
29 names of any person or persons, list of names, descriptions or other means  
30 of identification shall be spoken, written, printed or implied for the  
31 purpose of being communicated or transmitted between two or more employers  
32 of labor, or their bosses, foremen, superintendents, managers, officers or  
33 other agents, whereby the laborer is prevented or prohibited from engaging  
34 in a useful occupation. Any understanding or agreement between employers,  
35 or their bosses, foremen, superintendents, managers, officers or other  
36 agents, whether written or verbal, comes within the meaning of this  
37 section and it makes no difference whether the employers, or their bosses,  
38 foremen, superintendents, managers, officers or other agents, act  
39 individually or for some company, corporation, syndicate, partnership or  
40 society and it makes no difference whether they are employed or acting as  
41 agents for the same or different companies, corporations, syndicates,  
42 partnerships or societies.

43 B. It is not unlawful for a former employer to provide to a  
44 requesting employer, or agents acting in the employer's behalf,  
45 information concerning a person's education, training, experience,

1 qualifications and job performance to be used for the purpose of  
2 evaluating the person for employment. It is not unlawful for a school  
3 district OR A QUALIFIED SCHOOL AS DEFINED IN SECTION 15-2401 to provide  
4 information received as a result of a fingerprint check required by  
5 section 15-512 OR 15-2407 to any other school district, CHARTER SCHOOL OR  
6 QUALIFIED SCHOOL AS DEFINED IN SECTION 15-2401 if requested to do so by  
7 the person who was the subject of the fingerprint check or communicate to  
8 any school district, CHARTER SCHOOL OR QUALIFIED SCHOOL AS DEFINED IN  
9 SECTION 15-2401 if requested to do so by the person who applied for a  
10 fingerprint clearance card whether the person has been issued or denied a  
11 fingerprint clearance card. A copy of any written communication regarding  
12 employment must be sent by the employer providing the information to the  
13 former employee's last known address.

14 C. An employer who in good faith provides information requested by  
15 a prospective employer about the reason for termination of a former  
16 employee or about the job performance, professional conduct or evaluation  
17 of a current or former employee is immune from civil liability for the  
18 disclosure or the consequences of providing the information. There is a  
19 presumption of good faith if either:

20 1. The employer employs less than one hundred employees and  
21 provides only the information authorized by this subsection.

22 2. The employer employs at least one hundred employees and has a  
23 regular practice in this state of providing information requested by a  
24 prospective employer about the reason for termination of a former employee  
25 or about the job performance, professional conduct or evaluation of a  
26 current or former employee.

27 D. The presumption of good faith under subsection C of this section  
28 is rebuttable by showing that the employer disclosed the information with  
29 actual malice or with intent to mislead. This subsection and subsection C  
30 of this section do not alter any privileges that exist under common law.  
31 For the purposes of this subsection, "actual malice" means knowledge that  
32 the information was false or was provided with reckless disregard of its  
33 truth or falsity.

34 E. Communications concerning employees or prospective employees  
35 that are made by an employer or prospective employer, or by a labor  
36 organization, to a government body or agency and that are required by law  
37 or that are furnished pursuant to written rules or policies of the  
38 government body or agency are privileged.

39 F. An employer, including this state and its agencies, a labor  
40 organization or an individual is not civilly liable for privileged  
41 communications made pursuant to subsection E of this section.

42 G. In response to a request by another bank, savings and loan  
43 association, credit union, escrow agent, commercial mortgage banker,  
44 mortgage banker or mortgage broker it is not unlawful for a bank, a  
45 savings and loan association, a credit union, an escrow agent, a

1 commercial mortgage banker, a mortgage banker or a mortgage broker to  
2 provide a written employment reference that advises of the applicant's  
3 involvement in any theft, embezzlement, misappropriation or other  
4 defalcation that has been reported to federal authorities pursuant to  
5 federal banking guidelines or reported to the department of insurance and  
6 financial institutions. In order for the immunity provided in subsection  
7 H of this section to apply, a copy of the written employment reference  
8 must be sent by the institution providing the reference to the last known  
9 address of the applicant in question.

10 H. A bank, savings and loan association, credit union, escrow  
11 agent, commercial mortgage banker, mortgage banker or mortgage broker is  
12 not civilly liable for providing an employment reference unless the  
13 information provided is false and the bank, savings and loan association,  
14 credit union, escrow agent, commercial mortgage banker, mortgage banker or  
15 mortgage broker providing the false information does so with knowledge and  
16 malice.

17 I. A court shall award court costs, attorney fees and other related  
18 expenses to any party that prevails in any civil proceeding in which a  
19 violation of this section is alleged.

20 Sec. 7. Section 41-619.51, Arizona Revised Statutes, is amended to  
21 read:

22 41-619.51. Definitions

23 In this article, unless the context otherwise requires:

24 1. "Agency" means the supreme court, the department of economic  
25 security, the department of child safety, the department of education, the  
26 department of health services, the department of juvenile corrections, the  
27 department of emergency and military affairs, the department of public  
28 safety, the department of transportation, the state real estate  
29 department, the department of insurance and financial institutions, the  
30 Arizona game and fish department, the Arizona department of agriculture,  
31 the board of examiners of nursing care institution administrators and  
32 assisted living facility managers, the state board of dental examiners,  
33 the Arizona state board of pharmacy, the board of physical therapy, the  
34 state board of psychologist examiners, the board of athletic training, the  
35 board of occupational therapy examiners, the state board of podiatry  
36 examiners, the acupuncture board of examiners, the state board of  
37 technical registration, ~~or~~ the board of massage therapy or the Arizona  
38 department of housing.

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

40 3. "Central registry exception" means notification to the  
41 department of economic security, the department of child safety or the  
42 department of health services, as appropriate, pursuant to section  
43 41-619.57 that the person is not disqualified because of a central  
44 registry check conducted pursuant to section 8-804.

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

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

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

- 9           (a) Section 3-314.
- 10          (b) Section 8-105.
- 11          (c) Section 8-322.
- 12          (d) Section 8-463.
- 13          (e) Section 8-509.
- 14          (f) Section 8-802.
- 15          (g) Section 8-804.
- 16          (h) Section 15-183.
- 17          (i) Section 15-503.
- 18          (j) Section 15-512.
- 19          (k) Section 15-534.
- 20          (l) Section 15-763.01.
- 21          (m) Section 15-782.02.
- 22          (n) Section 15-1330.
- 23          (o) Section 15-1881.
- 24          (p) SECTION 15-2407.
- 25          ~~(q)~~ (q) Section 17-215.
- 26          ~~(r)~~ (r) Section 28-3228.
- 27          ~~(s)~~ (s) Section 28-3413.
- 28          ~~(t)~~ (t) Section 32-122.02.
- 29          ~~(u)~~ (u) Section 32-122.05.
- 30          ~~(v)~~ (v) Section 32-122.06.
- 31          ~~(w)~~ (w) Section 32-823.
- 32          ~~(x)~~ (x) Section 32-1232.
- 33          ~~(y)~~ (y) Section 32-1276.01.
- 34          ~~(z)~~ (z) Section 32-1284.
- 35          ~~(aa)~~ (aa) Section 32-1297.01.
- 36          ~~(bb)~~ (bb) Section 32-1904.
- 37          ~~(cc)~~ (cc) Section 32-1941.
- 38          ~~(dd)~~ (dd) Section 32-1982.
- 39          ~~(ee)~~ (ee) Section 32-2022.
- 40          ~~(ff)~~ (ff) Section 32-2063.
- 41          ~~(gg)~~ (gg) Section 32-2108.01.
- 42          ~~(hh)~~ (hh) Section 32-2123.
- 43          ~~(ii)~~ (ii) Section 32-2371.
- 44          ~~(jj)~~ (jj) Section 32-3430.
- 45          ~~(kk)~~ (kk) Section 32-3620.

- 1       ~~(kk)~~ (ll) Section 32-3668.
- 2       ~~(jj)~~ (mm) Section 32-3669.
- 3       ~~(mm)~~ (nn) Section 32-3922.
- 4       ~~(nn)~~ (oo) Section 32-3924.
- 5       ~~(oo)~~ (pp) Section 32-4222.
- 6       ~~(pp)~~ (qq) Section 32-4128.
- 7       ~~(qq)~~ (rr) Section 36-113.
- 8       ~~(rr)~~ (ss) Section 36-207.
- 9       ~~(ss)~~ (tt) Section 36-411.
- 10       ~~(tt)~~ (uu) Section 36-425.03.
- 11       ~~(uu)~~ (vv) Section 36-446.04.
- 12       ~~(vv)~~ (ww) Section 36-594.01.
- 13       ~~(ww)~~ (xx) Section 36-594.02.
- 14       ~~(xx)~~ (yy) Section 36-766.01.
- 15       ~~(yy)~~ (zz) Section 36-882.
- 16       ~~(zz)~~ (aaa) Section 36-883.02.
- 17       ~~(aaa)~~ (bbb) Section 36-897.01.
- 18       ~~(bbb)~~ (ccc) Section 36-897.03.
- 19       ~~(ccc)~~ (ddd) Section 36-3008.
- 20       ~~(ddd)~~ (eee) Section 41-619.53.
- 21       ~~(eee)~~ (fff) Section 41-1964.
- 22       ~~(fff)~~ (ggg) Section 41-1967.01.
- 23       ~~(ggg)~~ (hhh) Section 41-1968.
- 24       ~~(hhh)~~ (iii) Section 41-1969.
- 25       ~~(iii)~~ (jjj) Section 41-2814.
- 26       ~~(jjj)~~ (kkk) Section 41-4025.
- 27       ~~(kkk)~~ (lll) Section 46-141, subsection A or B.
- 28       ~~(lll)~~ (mmm) Section 46-321.

29       Sec. 8. Section 41-1279.03, Arizona Revised Statutes, is amended to  
30 read:

31       41-1279.03. Powers and duties

32       A. The auditor general shall:

33       1. Prepare an audit plan for approval by the committee and report  
34 to the committee the results of each audit and investigation and other  
35 reviews conducted by the auditor general.

36       2. Conduct or cause to be conducted annual financial and compliance  
37 audits of financial transactions and accounts kept by or for all state  
38 agencies subject to the federal single audit requirements. The audits  
39 shall be conducted in accordance with generally accepted governmental  
40 auditing standards and accordingly shall include tests of the accounting  
41 records and other auditing procedures as may be considered necessary in  
42 the circumstances. The audits shall include the issuance of suitable  
43 reports as required by the federal single audit requirements so that the  
44 legislature, the federal government and others will be informed as to the  
45 adequacy of financial statements of this state in compliance with

1 generally accepted accounting principles and to determine whether this  
2 state has complied with laws and regulations that may have a material  
3 effect on the financial statements and on major federal assistance  
4 programs.

5 3. Perform procedural reviews for all state agencies at times  
6 determined by the auditor general. These reviews may include evaluation  
7 of administrative and accounting internal controls and reports on these  
8 reviews.

9 4. Perform special research requests, special audits and related  
10 assignments as designated by the committee and conduct performance audits,  
11 special audits, special research requests and investigations of any state  
12 agency, whether created by the constitution or otherwise, as may be  
13 requested by the committee.

14 5. Annually on or before the fourth Monday of December, prepare a  
15 written report to the governor and to the committee that contains a  
16 summary of activities for the previous fiscal year.

17 6. In the fifth year and in each fifth year thereafter in which a  
18 transportation excise tax is in effect in a county as provided in section  
19 42-6106 or 42-6107, conduct a performance audit that:

20 (a) Reviews past expenditures and future planned expenditures of  
21 the transportation excise revenues and determines the impact of the  
22 expenditures in solving transportation problems within the county and, for  
23 a transportation excise tax in effect in a county as provided in section  
24 42-6107, determines whether the expenditures of the transportation excise  
25 revenues comply with section 28-6392, subsection B.

26 (b) Reviews projects completed to date and projects to be completed  
27 during the remaining years in which a transportation excise tax is in  
28 effect. Within six months after each review period, the auditor general  
29 shall present a report to the speaker of the house of representatives and  
30 the president of the senate detailing findings and making recommendations.

31 (c) Reviews, determines, reports and makes recommendations to the  
32 speaker of the house of representatives and the president of the senate  
33 whether the distribution of Arizona highway user revenues complies with  
34 title 28, chapter 18, article 2.

35 7. If requested by the committee, conduct performance audits of  
36 counties and incorporated cities and towns receiving Arizona highway user  
37 revenue fund monies pursuant to title 28, chapter 18, article 2 to  
38 determine whether the monies are being spent as provided in section  
39 28-6533, subsection B.

40 8. Perform special audits designated pursuant to law if the auditor  
41 general determines that there are adequate monies appropriated for the  
42 auditor general to complete the audit. If the auditor general determines  
43 the appropriated monies are inadequate, the auditor general shall notify  
44 the [JOINT LEGISLATIVE AUDIT](#) committee. Based on information provided by  
45 the auditor general, for any legislative measure that requires the auditor

1 general to perform a special audit, the joint legislative budget committee  
2 staff shall notify all the members of the legislature as soon as  
3 practicable of the cost to conduct the special audit.

4 9. Establish a schoolwide audit team in the office of the auditor  
5 general to conduct performance audits and monitor school districts to  
6 determine the percentage of every dollar spent in the classroom by the  
7 school district. Each school district shall prominently post on its  
8 website home page a copy of its profile pages that displays the percentage  
9 of every dollar spent in the classroom by that school district from the  
10 most recent status report issued by the auditor general pursuant to this  
11 paragraph. The auditor general shall determine, through random selection,  
12 the school districts to be audited each year, subject to review by the  
13 joint legislative audit committee. A school district that is subject to  
14 an audit pursuant to this paragraph shall notify the auditor general in  
15 writing whether the school district agrees or disagrees with the findings  
16 of the audit and whether the school district will implement the  
17 recommendations, implement modifications to the recommendations or refuse  
18 to implement the recommendations. The school district shall submit to the  
19 auditor general a written status report on the implementation of the audit  
20 recommendations at the request of the auditor general, within the two-year  
21 period following the issuance of an audit conducted pursuant to this  
22 paragraph. The auditor general shall review the school district's  
23 progress toward implementing the recommendations of the audit and provide  
24 status reports of the reviews to the joint legislative audit committee  
25 during this two-year period. The auditor general may review a school  
26 district's progress beyond this two-year period for recommendations that  
27 have not yet been implemented by the school district. The school district  
28 shall participate in any hearing scheduled during this review period by  
29 the joint legislative audit committee or by any other legislative  
30 committee designated by the joint legislative audit committee.

31 10. Annually review per diem compensation and reimbursement of  
32 expenses for employees of this state and members of a state board,  
33 commission, council or advisory committee by judgmentally selecting  
34 samples and evaluating the propriety of per diem compensation and expense  
35 reimbursements.

36 11. ESTABLISH AN AUDIT TEAM IN THE OFFICE OF THE AUDITOR GENERAL TO  
37 CONDUCT AUDITS AND MONITOR QUALIFIED SCHOOLS TO DETERMINE THE PERCENTAGE  
38 OF ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT MONIES THAT ARE SPENT IN THE  
39 CLASSROOM BY THE QUALIFIED SCHOOL. NOTWITHSTANDING ANY OTHER LAW, A  
40 QUALIFIED SCHOOL THAT ACCEPTS A PAYMENT FROM A PARENT OR QUALIFIED STUDENT  
41 PURSUANT TO TITLE 15, CHAPTER 19 SHALL PROMINENTLY POST ON ITS WEBSITE  
42 HOME PAGE A COPY OF ITS PROFILE PAGES THAT DISPLAYS THE PERCENTAGE OF  
43 ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT MONIES SPENT IN THE CLASSROOM BY  
44 THAT QUALIFIED SCHOOL FROM THE MOST RECENT STATUS REPORT ISSUED BY THE  
45 AUDITOR GENERAL PURSUANT TO THIS PARAGRAPH. THE AUDITOR GENERAL SHALL

1 DETERMINE, THROUGH RANDOM SELECTION, THE QUALIFIED SCHOOLS TO BE AUDITED  
2 EACH YEAR, SUBJECT TO REVIEW BY THE JOINT LEGISLATIVE AUDIT COMMITTEE. A  
3 QUALIFIED SCHOOL THAT IS SUBJECT TO AN AUDIT PURSUANT TO THIS PARAGRAPH  
4 SHALL NOTIFY THE AUDITOR GENERAL IN WRITING WHETHER THE QUALIFIED SCHOOL  
5 AGREES OR DISAGREES WITH THE FINDINGS AND RECOMMENDATIONS OF THE AUDIT AND  
6 WHETHER THE QUALIFIED SCHOOL WILL IMPLEMENT THE FINDINGS AND  
7 RECOMMENDATIONS, IMPLEMENT MODIFICATIONS TO THE FINDINGS AND  
8 RECOMMENDATIONS OR REFUSE TO IMPLEMENT THE FINDINGS AND RECOMMENDATIONS.  
9 THE QUALIFIED SCHOOL SHALL SUBMIT TO THE AUDITOR GENERAL A WRITTEN STATUS  
10 REPORT ON THE IMPLEMENTATION OF THE AUDIT FINDINGS AND RECOMMENDATIONS  
11 EVERY SIX MONTHS FOR TWO YEARS AFTER THE COMPLETION OF AN AUDIT CONDUCTED  
12 PURSUANT TO THIS PARAGRAPH. THE AUDITOR GENERAL SHALL REVIEW THE  
13 QUALIFIED SCHOOL'S PROGRESS TOWARD IMPLEMENTING THE FINDINGS AND  
14 RECOMMENDATIONS OF THE AUDIT EVERY SIX MONTHS AFTER RECEIVING THE  
15 QUALIFIED SCHOOL'S STATUS REPORT FOR TWO YEARS. THE AUDITOR GENERAL MAY  
16 REVIEW A QUALIFIED SCHOOL'S PROGRESS BEYOND THIS TWO-YEAR PERIOD FOR  
17 RECOMMENDATIONS THAT HAVE NOT YET BEEN IMPLEMENTED BY THE QUALIFIED  
18 SCHOOL. THE AUDITOR GENERAL SHALL PROVIDE A STATUS REPORT OF THESE  
19 REVIEWS TO THE JOINT LEGISLATIVE AUDIT COMMITTEE. THE QUALIFIED SCHOOL  
20 SHALL PARTICIPATE IN ANY HEARING SCHEDULED DURING THIS REVIEW PERIOD BY  
21 THE JOINT LEGISLATIVE AUDIT COMMITTEE OR BY ANY OTHER LEGISLATIVE  
22 COMMITTEE DESIGNATED BY THE JOINT LEGISLATIVE AUDIT COMMITTEE. FOR THE  
23 PURPOSES OF THIS PARAGRAPH, "QUALIFIED SCHOOL" HAS THE SAME MEANING  
24 PRESCRIBED IN SECTION 15-2401.

25 B. The auditor general may:

26 1. Subject to approval by the committee, adopt rules necessary to  
27 administer the duties of the office.

28 2. Hire consultants to conduct the studies required by subsection  
29 A, paragraphs 6 and 7 of this section.

30 C. If approved by the committee, the auditor general may charge a  
31 reasonable fee for the cost of performing audits or providing accounting  
32 services for auditing federal funds, special audits or special services  
33 requested by political subdivisions of this state. Monies collected  
34 pursuant to this subsection shall be deposited in the audit services  
35 revolving fund.

36 D. The department of transportation, the county treasurer, the  
37 county transportation excise tax recipients, ~~and~~ the board of supervisors  
38 of a county that has approved a county transportation excise tax as  
39 provided in section 42-6106 or 42-6107 and the governing bodies of  
40 counties, cities and towns receiving Arizona highway user revenue fund  
41 monies shall cooperate with and provide necessary information to the  
42 auditor general or the auditor general's consultant.

43 E. The department of transportation or the county transportation  
44 excise tax recipients shall reimburse the auditor general as follows, and



1 the auditor general shall deposit the reimbursed monies in the audit  
2 services revolving fund:

3 1. For the cost of conducting the studies or hiring a consultant to  
4 conduct the studies required by subsection A, paragraph 6, subdivisions  
5 (a) and (b) of this section, from monies collected pursuant to a county  
6 transportation excise tax levied pursuant to section 42-6106 or 42-6107.

7 2. For the cost of conducting the studies or hiring a consultant  
8 pursuant to subsection A, paragraph 6, subdivision (c) and paragraph 7 of  
9 this section, from the Arizona highway user revenue fund.

10 Sec. 9. Section 41-1750, Arizona Revised Statutes, is amended to  
11 read:

12 41-1750. Central state repository; department of public  
13 safety; duties; funds; accounts; definitions

14 A. The department is responsible for the effective operation of the  
15 central state repository in order to collect, store and disseminate  
16 complete and accurate Arizona criminal history records and related  
17 criminal justice information. The department may procure criminal history  
18 records and related criminal justice information for violations that are  
19 not listed in this section. The department shall:

20 1. Procure from all criminal justice agencies in this state  
21 accurate and complete personal identification data, fingerprints, charges,  
22 process control numbers and dispositions and such other information as may  
23 be pertinent to all persons who have been charged with, arrested for,  
24 convicted of or summoned to court as a criminal defendant for any of the  
25 following:

26 (a) A felony offense or an offense involving domestic violence as  
27 defined in section 13-3601.

28 (b) A violation of title 13, chapter 14 or title 28, chapter 4.

29 (c) An offense listed in:

30 (i) Section 32-2422, subsection A, paragraph 4.

31 (ii) Section 32-2441, paragraph 4.

32 (iii) Section 32-2612, subsection A, paragraph 4.

33 (iv) Section 32-2622, subsection A, paragraph 4.

34 (v) Section 41-1758.03, subsections B and C.

35 (vi) Section 41-1758.07, subsections B and C.

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

43 3. Collect information concerning criminal offenses that manifest  
44 evidence of prejudice based on race, color, religion, national origin,  
45 sexual orientation, gender, antisemitism or disability.

1           4. Cooperate with the central state repositories in other states  
2 and with the appropriate agency of the federal government in the exchange  
3 of information pertinent to violators of the law.

4           5. Ensure the rapid exchange of information concerning the  
5 commission of crime and the detection of violators of the law among the  
6 criminal justice agencies of other states and of the federal government.

7           6. Furnish assistance to peace officers throughout this state in  
8 crime scene investigation for the detection of latent fingerprints and in  
9 the comparison of latent fingerprints.

10          7. Conduct periodic operational audits of the central state  
11 repository and of a representative sample of other agencies that  
12 contribute records to or receive criminal justice information from the  
13 central state repository or through the Arizona criminal justice  
14 information system.

15          8. Establish and enforce the necessary physical and system  
16 safeguards to ensure that the criminal justice information maintained and  
17 disseminated by the central state repository or through the Arizona  
18 criminal justice information system is appropriately protected from  
19 unauthorized inquiry, modification, destruction or dissemination as  
20 required by this section.

21          9. Aid and encourage coordination and cooperation among criminal  
22 justice agencies through the statewide and interstate exchange of criminal  
23 justice information.

24          10. Provide training and proficiency testing on the use of criminal  
25 justice information to agencies receiving information from the central  
26 state repository or through the Arizona criminal justice information  
27 system.

28          11. Operate and maintain the Arizona automated fingerprint  
29 identification system established by section 41-2411.

30          12. Provide criminal history record information to the  
31 fingerprinting division for the purpose of screening applicants for  
32 fingerprint clearance cards.

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

36          C. Criminal justice agencies may provide criminal history records  
37 and related criminal justice information for violations that are not  
38 listed in this section. The chief officers of criminal justice agencies  
39 of this state or its political subdivisions shall provide to the central  
40 state repository fingerprints and information concerning personal  
41 identification data, descriptions, crimes for which persons are arrested,  
42 process control numbers and dispositions and such other information as may  
43 be pertinent to all persons who have been charged with, arrested for,  
44 convicted of or summoned to court as criminal defendants for any of the  
45 following:

1           1. Felony offenses or offenses involving domestic violence as  
2 defined in section 13-3601.

3           2. Violations of title 13, chapter 14 or title 28, chapter 4 that  
4 have occurred in this state.

5           3. An offense listed in:

6           (a) Section 32-2422, subsection A, paragraph 4.

7           (b) Section 32-2441, paragraph 4.

8           (c) Section 32-2612, subsection A, paragraph 4.

9           (d) Section 32-2622, subsection A, paragraph 4.

10          (e) Section 41-1758.03, subsections B and C.

11          (f) Section 41-1758.07, subsections B and C.

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

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

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

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

30           1. With criminal justice agencies of the federal government, Indian  
31 tribes, this state or its political subdivisions and other states, on  
32 request by the chief officers of such agencies or their designated  
33 representatives, specifically for the purposes of the administration of  
34 criminal justice and for evaluating the fitness of current and prospective  
35 criminal justice employees. The department may conduct periodic state and  
36 federal criminal history records checks for the purpose of updating the  
37 status of current criminal justice employees or volunteers and may notify  
38 the criminal justice agency of the results of the records check. The  
39 department is authorized to submit fingerprints to the federal bureau of  
40 investigation to be retained for the purpose of being searched by future  
41 submissions to the federal bureau of investigation including latent  
42 fingerprint searches.

43           2. With any noncriminal justice agency pursuant to a statute,  
44 ordinance or executive order that specifically authorizes the noncriminal  
45 justice agency to receive criminal history record information for the

1 purpose of evaluating the fitness of current or prospective licensees,  
2 employees, contract employees or volunteers, on submission of the  
3 subject's fingerprints and the prescribed fee. Each statute, ordinance,  
4 or executive order that authorizes noncriminal justice agencies to receive  
5 criminal history record information for these purposes shall identify the  
6 specific categories of licensees, employees, contract employees or  
7 volunteers, and shall require that fingerprints of the specified  
8 individuals be submitted in conjunction with such requests for criminal  
9 history record information. The department may conduct periodic state and  
10 federal criminal history records checks for the purpose of updating the  
11 status of current licensees, employees, contract employees or volunteers  
12 and may notify the noncriminal justice agency of the results of the  
13 records check. The department is authorized to submit fingerprints to the  
14 federal bureau of investigation to be retained for the purpose of being  
15 searched by future submissions to the federal bureau of investigation  
16 including latent fingerprint searches.

17 3. With the board of fingerprinting for the purpose of conducting  
18 good cause exceptions pursuant to section 41-619.55 and central registry  
19 exceptions pursuant to section 41-619.57.

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

22 5. With the governor, if the governor elects to become actively  
23 involved in the investigation of criminal activity or the administration  
24 of criminal justice in accordance with the governor's constitutional duty  
25 to ensure that the laws are faithfully executed or as needed to carry out  
26 the other responsibilities of the governor's office.

27 6. With regional computer centers that maintain authorized  
28 computer-to-computer interfaces with the department, that are criminal  
29 justice agencies or under the management control of a criminal justice  
30 agency and that are established by a statute, ordinance or executive order  
31 to provide automated data processing services to criminal justice agencies  
32 specifically for the purposes of the administration of criminal justice or  
33 evaluating the fitness of regional computer center employees who have  
34 access to the Arizona criminal justice information system and the national  
35 crime information center system.

36 7. With an individual who asserts a belief that criminal history  
37 record information relating to the individual is maintained by an agency  
38 or in an information system in this state that is subject to this section.  
39 On submission of fingerprints, the individual may review this information  
40 for the purpose of determining its accuracy and completeness by making  
41 application to the agency operating the system. Rules adopted under this  
42 section shall include provisions for administrative review and necessary  
43 correction of any inaccurate or incomplete information. The review and  
44 challenge process authorized by this paragraph is limited to criminal  
45 history record information.

1           8. With individuals and agencies pursuant to a specific agreement  
2 with a criminal justice agency to provide services required for the  
3 administration of criminal justice pursuant to that agreement if the  
4 agreement specifically authorizes access to data, limits the use of data  
5 to purposes for which given and ensures the security and confidentiality  
6 of the data consistent with this section.

7           9. With individuals and agencies for the express purpose of  
8 research, evaluative or statistical activities pursuant to an agreement  
9 with a criminal justice agency if the agreement specifically authorizes  
10 access to data, limits the use of data to research, evaluative or  
11 statistical purposes and ensures the confidentiality and security of the  
12 data consistent with this section.

13           10. With the auditor general for audit purposes.

14           11. With central state repositories of other states for noncriminal  
15 justice purposes for dissemination in accordance with the laws of those  
16 states.

17           12. On submission of the fingerprint card, with the department of  
18 child safety and a tribal social services agency to provide criminal  
19 history record information on prospective adoptive parents for the purpose  
20 of conducting the preadoption certification investigation under title 8,  
21 chapter 1, article 1 if the department of economic security is conducting  
22 the investigation, or with an agency or a person appointed by the court,  
23 if the agency or person is conducting the investigation. Information  
24 received under this paragraph shall only be used for the purposes of the  
25 preadoption certification investigation.

26           13. With the department of child safety, a tribal social services  
27 agency and the superior court for the purpose of evaluating the fitness of  
28 custodians or prospective custodians of juveniles, including parents,  
29 relatives and prospective guardians. Information received under this  
30 paragraph shall only be used for the purposes of that evaluation. The  
31 information shall be provided on submission of either:

32           (a) The fingerprint card.

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

35           14. On submission of a fingerprint card, provide criminal history  
36 record information to the superior court for the purpose of evaluating the  
37 fitness of investigators appointed under section 14-5303 or 14-5407,  
38 guardians appointed under section 14-5206 or 14-5304 or conservators  
39 appointed under section 14-5401.

40           15. With the supreme court to provide criminal history record  
41 information on prospective fiduciaries pursuant to section 14-5651.

42           16. With the department of juvenile corrections to provide criminal  
43 history record information pursuant to section 41-2814.

44           17. On submission of the fingerprint card, provide criminal history  
45 record information to the Arizona peace officer standards and training

1 board or a board certified law enforcement academy to evaluate the fitness  
2 of prospective cadets.

3 18. With the internet sex offender website database established  
4 pursuant to section 13-3827.

5 19. With licensees of the United States nuclear regulatory  
6 commission for the purpose of determining whether an individual should be  
7 granted unescorted access to the protected area of a commercial nuclear  
8 generating station on submission of the subject of record's fingerprints  
9 and the prescribed fee.

10 20. With the state board of education for the purpose of evaluating  
11 the fitness of a certificated educator, an applicant for a teaching or  
12 administrative certificate or a noncertificated person as defined in  
13 section 15-505 if the state board of education or its employees or agents  
14 have reasonable suspicion that the educator or person engaged in conduct  
15 that would be a criminal violation of the laws of this state or was  
16 involved in immoral or unprofessional conduct or that the applicant  
17 engaged in conduct that would warrant disciplinary action if the applicant  
18 were certificated at the time of the alleged conduct. The information  
19 shall be provided on the submission of either:

20 (a) The fingerprint card.

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

23 21. With each school district and charter school in this state **AND**  
24 **WITH EACH QUALIFIED SCHOOL THAT ACCEPTS PAYMENT FROM THE PARENT OF ONE OR**  
25 **MORE QUALIFIED STUDENTS PURSUANT TO TITLE 15, CHAPTER 19.** The department  
26 of education and the state board for charter schools shall provide the  
27 department of public safety with a current list of email addresses for  
28 each school district, ~~and~~ charter school ~~in this state~~ **AND QUALIFIED**  
29 **SCHOOL** and shall periodically provide the department of public safety with  
30 updated email addresses. If the department of public safety is notified  
31 that a person who is required to have a fingerprint clearance card to be  
32 employed by or to engage in volunteer activities at a school district, ~~or~~  
33 charter school **OR QUALIFIED SCHOOL** has been arrested for or convicted of  
34 an offense listed in section 41-1758.03, subsection B or has been arrested  
35 for or convicted of an offense that amounts to unprofessional conduct  
36 under section 15-550, the department of public safety shall notify each  
37 school district, ~~and~~ charter school **AND QUALIFIED SCHOOL** in this state  
38 that the person's fingerprint clearance card has been suspended or  
39 revoked.

40 22. With a tribal social services agency and the department of  
41 child safety as provided by law, which currently is the Adam Walsh child  
42 protection and safety act of 2006 (42 United States Code section 16961),  
43 for the purposes of investigating or responding to reports of child abuse,  
44 neglect or exploitation. Information received pursuant to this paragraph  
45 from the national crime information center, the interstate identification

1 index and the Arizona criminal justice information system network shall  
2 only be used for the purposes of investigating or responding as prescribed  
3 in this paragraph. The information shall be provided on submission to the  
4 department of public safety of either:

5 (a) The fingerprints of the person being investigated.

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

8 23. With a nonprofit organization that interacts with children or  
9 vulnerable adults for the lawful purpose of evaluating the fitness of all  
10 current and prospective employees, contractors and volunteers of the  
11 organization. The criminal history record information shall be provided  
12 on submission of the applicant fingerprint card and the prescribed fee.

13 24. With the superior court for the purpose of determining an  
14 individual's eligibility for substance abuse and treatment courts in a  
15 family or juvenile case.

16 25. With the governor to provide criminal history record  
17 information on prospective gubernatorial nominees, appointees and  
18 employees as provided by law.

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

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

24 J. The director shall establish a fee in an amount necessary to  
25 cover the cost of federal noncriminal justice fingerprint processing for  
26 criminal history record information checks that are authorized by law for  
27 noncriminal justice employment, licensing or other lawful purposes. An  
28 additional fee may be charged by the department for state noncriminal  
29 justice fingerprint processing. Fees submitted to the department for  
30 state noncriminal justice fingerprint processing are not refundable.

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

35 L. Except as provided in subsection 0 of this section, each agency  
36 authorized by this section may charge a fee, in addition to any other fees  
37 prescribed by law, in an amount necessary to cover the cost of state and  
38 federal noncriminal justice fingerprint processing for criminal history  
39 record information checks that are authorized by law for noncriminal  
40 justice employment, licensing or other lawful purposes.

41 M. A fingerprint account within the records processing fund is  
42 established for the purpose of separately accounting for the collection  
43 and payment of fees for noncriminal justice fingerprint processing by the  
44 department. Monies collected for this purpose shall be credited to the  
45 account, and payments by the department to the United States for federal

1 noncriminal justice fingerprint processing shall be charged against the  
2 account. Monies in the account not required for payment to the United  
3 States shall be used by the department in support of the department's  
4 noncriminal justice fingerprint processing duties. At the end of each  
5 fiscal year, any balance in the account not required for payment to the  
6 United States or to support the department's noncriminal justice  
7 fingerprint processing duties reverts to the state general fund.

8 N. A records processing fund is established for the purpose of  
9 separately accounting for the collection and payment of fees for  
10 department reports and photographs of traffic accident scenes processed by  
11 the department. Monies collected for this purpose shall be credited to  
12 the fund and shall be used by the department in support of functions  
13 related to providing copies of department reports and photographs. At the  
14 end of each fiscal year, any balance in the fund not required for support  
15 of the functions related to providing copies of department reports and  
16 photographs reverts to the state general fund.

17 O. The department of child safety may pay from appropriated monies  
18 the cost of federal fingerprint processing or federal criminal history  
19 record information checks that are authorized by law for employees and  
20 volunteers of the department, guardians pursuant to section 8-453,  
21 subsection A, paragraph 6, the licensing of foster parents or the  
22 certification of adoptive parents.

23 P. The director shall adopt rules that provide for:

24 1. The collection and disposition of fees pursuant to this section.

25 2. The refusal of service to those agencies that are delinquent in  
26 paying these fees.

27 Q. The director shall ensure that the following limitations are  
28 observed regarding dissemination of criminal justice information obtained  
29 from the central state repository or through the Arizona criminal justice  
30 information system:

31 1. Any criminal justice agency that obtains criminal justice  
32 information from the central state repository or through the Arizona  
33 criminal justice information system assumes responsibility for the  
34 security of the information and shall not secondarily disseminate this  
35 information to any individual or agency not authorized to receive this  
36 information directly from the central state repository or originating  
37 agency.

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

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



1           4. The existence or nonexistence of criminal history record  
2 information shall not be confirmed to any individual or agency not  
3 authorized to receive the information itself.

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

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

11           R. This section and the rules adopted under this section apply to  
12 all agencies and individuals collecting, storing or disseminating criminal  
13 justice information processed by manual or automated operations if the  
14 collection, storage or dissemination is funded in whole or in part with  
15 monies made available by the law enforcement assistance administration  
16 after July 1, 1973, pursuant to title I of the crime control act of 1973,  
17 and to all agencies that interact with or receive criminal justice  
18 information from or through the central state repository and through the  
19 Arizona criminal justice information system.

20           S. This section does not apply to criminal history record  
21 information contained in:

22           1. Posters, arrest warrants, announcements or lists for identifying  
23 or apprehending fugitives or wanted persons.

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

28           3. Transcripts or records of judicial proceedings if released by a  
29 court or legislative or administrative proceedings.

30           4. Announcements of executive clemency or pardon.

31           5. Computer databases, other than the Arizona criminal justice  
32 information system, that are specifically designed for community  
33 notification of an offender's presence in the community pursuant to  
34 section 13-3825 or for public informational purposes authorized by section  
35 13-3827.

36           T. Nothing in this section prevents a criminal justice agency from  
37 disclosing to the public criminal history record information that is  
38 reasonably contemporaneous to the event for which an individual is  
39 currently within the criminal justice system, including information noted  
40 on traffic accident reports concerning citations, blood alcohol tests or  
41 arrests made in connection with the traffic accident being investigated.

42           U. In order to ensure that complete and accurate criminal history  
43 record information is maintained and disseminated by the central state  
44 repository:

1           1. The booking agency shall take legible ten-print fingerprints of  
2 all persons who are arrested for offenses listed in subsection C of this  
3 section. The booking agency shall obtain a process control number and  
4 provide to the person fingerprinted a document that indicates proof of the  
5 fingerprinting and that informs the person that the document must be  
6 presented to the court.

7           2. Except as provided in paragraph 3 of this subsection, if a  
8 person is summoned to court as a result of an indictment or complaint for  
9 an offense listed in subsection C of this section, the court shall order  
10 the person to appear before the county sheriff and provide legible  
11 ten-print fingerprints. The county sheriff shall obtain a process control  
12 number and provide a document to the person fingerprinted that indicates  
13 proof of the fingerprinting and that informs the person that the document  
14 must be presented to the court. For the purposes of this paragraph,  
15 "summoned" includes a written promise to appear by the defendant on a  
16 uniform traffic ticket and complaint.

17           3. If a person is arrested for a misdemeanor offense listed in  
18 subsection C of this section by a city or town law enforcement agency, the  
19 person shall appear before the law enforcement agency that arrested the  
20 defendant and provide legible ten-print fingerprints. The law enforcement  
21 agency shall obtain a process control number and provide a document to the  
22 person fingerprinted that indicates proof of the fingerprinting and that  
23 informs the person that the document must be presented to the court.

24           4. The mandatory fingerprint compliance form shall contain the  
25 following information:

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

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

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

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

32           (e) Instructions on reporting for ten-print fingerprinting,  
33 including available times and locations for reporting for ten-print  
34 fingerprinting.

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

37           5. Within ten days after a person is fingerprinted, the arresting  
38 authority or agency that took the fingerprints shall forward the  
39 fingerprints to the department in the manner or form required by the  
40 department.

41           6. On the issuance of a summons for a defendant who is charged with  
42 an offense listed in subsection C of this section, the summons shall  
43 direct the defendant to provide ten-print fingerprints to the appropriate  
44 law enforcement agency.

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

8           8. If the defendant fails to present a completed mandatory  
9 fingerprint compliance form or if the court has not received the process  
10 control number, the court, on its own motion, may remand the defendant  
11 into custody for ten-print fingerprinting. If otherwise eligible for  
12 release, the defendant shall be released from custody after being  
13 ten-print fingerprinted.

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

21           10. Dispositions resulting from formal proceedings in a court  
22 having jurisdiction in a criminal action against an individual who is  
23 arrested for an offense specified in subsection C of this section or  
24 section 8-341, subsection Q, paragraph 3 shall be reported to the central  
25 state repository within forty days of the date of the disposition. This  
26 information shall be submitted on a form or in a manner specified by rules  
27 approved by the supreme court.

28           11. The state department of corrections or the department of  
29 juvenile corrections, within forty days, shall advise the central state  
30 repository that it has assumed supervision of a person convicted of an  
31 offense specified in subsection C of this section or section 8-341,  
32 subsection Q, paragraph 3. The state department of corrections or the  
33 department of juvenile corrections shall also report dispositions that  
34 occur thereafter to the central state repository within forty days of the  
35 date of the dispositions. This information shall be submitted on a form  
36 or in a manner required by the department of public safety.

37           12. Each criminal justice agency shall query the central state  
38 repository before dissemination of any criminal history record information  
39 to ensure the completeness of the information. Inquiries shall be made  
40 before any dissemination except in those cases in which time is of the  
41 essence and the repository is technically incapable of responding within  
42 the necessary time period. If time is of the essence, the inquiry shall  
43 still be made and the response shall be provided as soon as possible.

44           V. The director shall adopt rules specifying that any agency that  
45 collects, stores or disseminates criminal justice information that is

1 subject to this section shall establish effective security measures to  
2 protect the information from unauthorized access, disclosure, modification  
3 or dissemination. The rules shall include reasonable safeguards to  
4 protect the affected information systems from fire, flood, wind, theft,  
5 sabotage or other natural or man-made hazards or disasters.

6 W. The department shall make available to agencies that contribute  
7 to, or receive criminal justice information from, the central state  
8 repository or through the Arizona criminal justice information system a  
9 continuing training program in the proper methods for collecting, storing  
10 and disseminating information in compliance with this section.

11 X. Nothing in this section creates a cause of action or a right to  
12 bring an action including an action based on discrimination due to sexual  
13 orientation.

14 Y. The definition prescribed in subsection Z, paragraph 3 of this  
15 section does not diminish or infringe on any rights protected under the  
16 first amendment to the United States constitution or the Arizona  
17 constitution.

18 Z. For the purposes of this section:

19 1. "Administration of criminal justice" means performance of the  
20 detection, apprehension, detention, pretrial release, posttrial release,  
21 prosecution, adjudication, correctional supervision or rehabilitation of  
22 criminal offenders. Administration of criminal justice includes  
23 enforcement of criminal traffic offenses and civil traffic violations,  
24 including parking violations, when performed by a criminal justice agency.  
25 Administration of criminal justice also includes criminal identification  
26 activities and the collection, storage and dissemination of criminal  
27 history record information.

28 2. "Administrative records" means records that contain adequate and  
29 proper documentation of the organization, functions, policies, decisions,  
30 procedures and essential transactions of the agency and that are designed  
31 to furnish information to protect the rights of this state and of persons  
32 directly affected by the agency's activities.

33 3. "Antisemitism" includes the definition of antisemitism that was  
34 adopted by the international holocaust remembrance alliance on May 26,  
35 2016 and that has been adopted by the United States department of state,  
36 including the contemporary examples of antisemitism identified in the  
37 adopted definition.

38 4. "Arizona criminal justice information system" or "system" means  
39 the statewide information system managed by the director for the  
40 collection, processing, preservation, dissemination and exchange of  
41 criminal justice information and includes the electronic equipment,  
42 facilities, procedures and agreements necessary to exchange this  
43 information.

44 5. "Booking agency" means the county sheriff or, if a person is  
45 booked into a municipal jail, the municipal law enforcement agency.

1           6. "Central state repository" means the central location within the  
2 department for the collection, storage and dissemination of Arizona  
3 criminal history records and related criminal justice information.

4           7. "Criminal history record information" and "criminal history  
5 record" means information that is collected by criminal justice agencies  
6 on individuals and that consists of identifiable descriptions and  
7 notations of arrests, detentions, indictments and other formal criminal  
8 charges, and any disposition arising from those actions, sentencing,  
9 formal correctional supervisory action and release. Criminal history  
10 record information and criminal history record do not include  
11 identification information to the extent that the information does not  
12 indicate involvement of the individual in the criminal justice system or  
13 information relating to juveniles unless they have been adjudicated as  
14 adults.

15           8. "Criminal justice agency" means either:

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

19           (b) A government agency or subunit of a government agency that is  
20 specifically authorized to perform as its principal function the  
21 administration of criminal justice pursuant to a statute, ordinance or  
22 executive order and that allocates more than fifty percent of its annual  
23 budget to the administration of criminal justice. This subdivision  
24 includes agencies of any foreign sovereignty duly recognized by the  
25 federal government.

26           9. "Criminal justice information" means information that is  
27 collected by criminal justice agencies and that is needed for the  
28 performance of their legally authorized and required functions, such as  
29 criminal history record information, citation information, stolen property  
30 information, traffic accident reports, wanted persons information and  
31 system network log searches. Criminal justice information does not  
32 include the administrative records of a criminal justice agency.

33           10. "Disposition" means information disclosing that a decision has  
34 been made not to bring criminal charges or that criminal proceedings have  
35 been concluded or information relating to sentencing, correctional  
36 supervision, release from correctional supervision, the outcome of an  
37 appellate review of criminal proceedings or executive clemency.

38           11. "Dissemination" means the written, oral or electronic  
39 communication or transfer of criminal justice information to individuals  
40 and agencies other than the criminal justice agency that maintains the  
41 information. Dissemination includes the act of confirming the existence  
42 or nonexistence of criminal justice information.

43           12. "Management control":

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

1 (i) Priorities regarding development and operation of criminal  
2 justice information systems and programs.

3 (ii) Standards for the selection, supervision and termination of  
4 personnel involved in the development of criminal justice information  
5 systems and programs and in the collection, maintenance, analysis and  
6 dissemination of criminal justice information.

7 (iii) Policies governing the operation of computers, circuits and  
8 telecommunications terminals used to process criminal justice information  
9 to the extent that the equipment is used to process, store or transmit  
10 criminal justice information.

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

14 13. "Process control number" means the Arizona automated  
15 fingerprint identification system number that attaches to each arrest  
16 event at the time of fingerprinting and that is assigned to the arrest  
17 fingerprint card, disposition form and other pertinent documents.

18 14. "Secondary dissemination" means the dissemination of criminal  
19 justice information from an individual or agency that originally obtained  
20 the information from the central state repository or through the Arizona  
21 criminal justice information system to another individual or agency.

22 15. "Sexual orientation" means consensual homosexuality or  
23 heterosexuality.

24 16. "Subject of record" means the person who is the primary subject  
25 of a criminal justice record.

26 Sec. 10. Section 41-1758, Arizona Revised Statutes, is amended to  
27 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 child safety, the department of education, the  
32 department of health services, the department of juvenile corrections, the  
33 department of emergency and military affairs, the department of public  
34 safety, the department of transportation, the state real estate  
35 department, the department of insurance and financial institutions, the  
36 board of fingerprinting, the Arizona game and fish department, the Arizona  
37 department of agriculture, the board of examiners of nursing care  
38 institution administrators and assisted living facility managers, the  
39 state board of dental examiners, the Arizona state board of pharmacy, the  
40 board of physical therapy, the state board of psychologist examiners, the  
41 board of athletic training, the board of occupational therapy examiners,  
42 the state board of podiatry examiners, the acupuncture board of examiners,  
43 the state board of technical registration, ~~or~~ the board of massage therapy  
44 or the Arizona department of housing.

- 1           2. "Division" means the fingerprinting division in the department  
2 of public safety.
- 3           3. "Electronic or internet-based fingerprinting services" means a  
4 secure system for digitizing applicant fingerprints and transmitting the  
5 applicant data and fingerprints of a person or entity submitting  
6 fingerprints to the department of public safety for any authorized purpose  
7 under this title. For the purposes of this paragraph, "secure system"  
8 means a system that complies with the information technology security  
9 policy approved by the department of public safety.
- 10          4. "Good cause exception" means the issuance of a fingerprint  
11 clearance card to an applicant pursuant to section 41-619.55.
- 12          5. "Person" means a person who is required to be fingerprinted  
13 pursuant to any of the following:
- 14           (a) Section 3-314.
  - 15           (b) Section 8-105.
  - 16           (c) Section 8-322.
  - 17           (d) Section 8-463.
  - 18           (e) Section 8-509.
  - 19           (f) Section 8-802.
  - 20           (g) Section 15-183.
  - 21           (h) Section 15-503.
  - 22           (i) Section 15-512.
  - 23           (j) Section 15-534.
  - 24           (k) Section 15-763.01.
  - 25           (l) Section 15-782.02.
  - 26           (m) Section 15-1330.
  - 27           (n) Section 15-1881.
  - 28           (o) [SECTION 15-2407.](#)
  - 29           ~~(p)~~ (p) Section 17-215.
  - 30           ~~(q)~~ (q) Section 28-3228.
  - 31           ~~(r)~~ (r) Section 28-3413.
  - 32           ~~(s)~~ (s) Section 32-122.02.
  - 33           ~~(t)~~ (t) Section 32-122.05.
  - 34           ~~(u)~~ (u) Section 32-122.06.
  - 35           ~~(v)~~ (v) Section 32-823.
  - 36           ~~(w)~~ (w) Section 32-1232.
  - 37           ~~(x)~~ (x) Section 32-1276.01.
  - 38           ~~(y)~~ (y) Section 32-1284.
  - 39           ~~(z)~~ (z) Section 32-1297.01.
  - 40           ~~(aa)~~ (aa) Section 32-1904.
  - 41           ~~(ab)~~ (bb) Section 32-1941.
  - 42           ~~(bc)~~ (cc) Section 32-1982.
  - 43           ~~(cd)~~ (dd) Section 32-2022.
  - 44           ~~(de)~~ (ee) Section 32-2063.
  - 45           ~~(ef)~~ (ff) Section 32-2108.01.

- 1       ~~(ff)~~ (gg) Section 32-2123.
- 2       ~~(gg)~~ (hh) Section 32-2371.
- 3       ~~(hh)~~ (ii) Section 32-3430.
- 4       ~~(ii)~~ (jj) Section 32-3620.
- 5       ~~(jj)~~ (kk) Section 32-3668.
- 6       ~~(kk)~~ (ll) Section 32-3669.
- 7       ~~(ll)~~ (mm) Section 32-3922.
- 8       ~~(mm)~~ (nn) Section 32-3924.
- 9       ~~(nn)~~ (oo) Section 32-4128.
- 10       ~~(oo)~~ (pp) Section 32-4222.
- 11       ~~(pp)~~ (qq) Section 36-113.
- 12       ~~(qq)~~ (rr) Section 36-207.
- 13       ~~(rr)~~ (ss) Section 36-411.
- 14       ~~(ss)~~ (tt) Section 36-425.03.
- 15       ~~(tt)~~ (uu) Section 36-446.04.
- 16       ~~(uu)~~ (vv) Section 36-594.01.
- 17       ~~(vv)~~ (ww) Section 36-594.02.
- 18       ~~(ww)~~ (xx) Section 36-766.01.
- 19       ~~(xx)~~ (yy) Section 36-882.
- 20       ~~(yy)~~ (zz) Section 36-883.02.
- 21       ~~(zz)~~ (aaa) Section 36-897.01.
- 22       ~~(aaa)~~ (bbb) Section 36-897.03.
- 23       ~~(bbb)~~ (ccc) Section 36-3008.
- 24       ~~(ccc)~~ (ddd) Section 41-619.52.
- 25       ~~(ddd)~~ (eee) Section 41-619.53.
- 26       ~~(eee)~~ (fff) Section 41-1964.
- 27       ~~(fff)~~ (ggg) Section 41-1967.01.
- 28       ~~(ggg)~~ (hhh) Section 41-1968.
- 29       ~~(hhh)~~ (iii) Section 41-1969.
- 30       ~~(iii)~~ (jjj) Section 41-2814.
- 31       ~~(jjj)~~ (kkk) Section 41-4025.
- 32       ~~(kkk)~~ (lll) Section 46-141, subsection A or B.
- 33       ~~(lll)~~ (mmm) Section 46-321.

34       6. "Vulnerable adult" has the same meaning prescribed in section  
35 13-3623.

36       Sec. 11. Section 41-1758.01, Arizona Revised Statutes, is amended  
37 to read:

38       41-1758.01. Fingerprinting division; powers and duties

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

- 41       1. Conduct fingerprint background checks for persons and applicants  
42 who are seeking licenses from state agencies, employment with licensees,  
43 contract providers and state agencies or employment or educational  
44 opportunities with agencies that require fingerprint background checks  
45 pursuant to sections 3-314, 8-105, 8-322, 8-463, 8-509, 8-802, 15-183,



1 15-503, 15-512, 15-534, 15-763.01, 15-782.02, 15-1330, 15-1881, 15-2407,  
2 17-215, 28-3228, 28-3413, 32-122.02, 32-122.05, 32-122.06, 32-823,  
3 32-1232, 32-1276.01, 32-1284, 32-1297.01, 32-1904, 32-1941, 32-1982,  
4 32-2022, 32-2063, 32-2108.01, 32-2123, 32-2371, 32-3430, 32-3620, 32-3668,  
5 32-3669, 32-3922, 32-3924, 32-4128, 32-4222, 36-113, 36-207, 36-411,  
6 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-766.01, 36-882, 36-883.02,  
7 36-897.01, 36-897.03, 36-3008, 41-619.52, 41-619.53, 41-1964, 41-1967.01,  
8 41-1968, 41-1969, 41-2814, ~~AND~~ AND 41-4025, section 46-141, subsection A or B  
9 and section 46-321.

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

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

17 4. Inform in writing each person who submits fingerprints for a  
18 fingerprint background check of the right to petition the board of  
19 fingerprinting for a good cause exception pursuant to section 41-1758.03,  
20 41-1758.04 or 41-1758.07.

21 5. If after conducting a state and federal criminal history records  
22 check the division determines that it is not authorized to issue a  
23 fingerprint clearance card to a person, inform the person in writing that  
24 the division is not authorized to issue a fingerprint clearance card. The  
25 notice shall include the criminal history information on which the denial  
26 was based. This criminal history information is subject to dissemination  
27 restrictions pursuant to section 41-1750 and Public Law 92-544.

28 6. Notify the person in writing if the division suspends, revokes  
29 or places a driving restriction notation on a fingerprint clearance card  
30 pursuant to section 41-1758.04. The notice shall include the criminal  
31 history information on which the suspension, revocation or placement of  
32 the driving restriction notation was based. This criminal history  
33 information is subject to dissemination restrictions pursuant to section  
34 41-1750 and Public Law 92-544.

35 7. Administer and enforce this article.

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

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

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

3           Sec. 12. Section 41-1758.08, Arizona Revised Statutes, is amended  
4 to read:

5           41-1758.08. Fingerprint clearance card; use of expired card

6           A. Notwithstanding any other law, an expired fingerprint clearance  
7 card may be used to satisfy the fingerprint requirements of section  
8 15-183, 15-503, 15-512, 15-534, 15-782.02, 15-1330, ~~or~~ 15-1881 OR 15-2407  
9 if the person signs an affidavit stating both of the following:

10           1. The person submitted a completed application to the division for  
11 a new fingerprint clearance card within ninety days before the expiration  
12 date on the person's current fingerprint clearance card.

13           2. The person is not awaiting trial on and has not been convicted  
14 of a criminal offense that would make the person ineligible for a  
15 fingerprint clearance card.

16           B. This section does not apply to a fingerprint clearance card that  
17 has been denied, suspended or revoked or to a person who has requested a  
18 good cause exception hearing.

19           Sec. 13. Fingerprinting requirement; current school personnel

20           Notwithstanding section 15-2407, subsection A, Arizona Revised  
21 Statutes, as added by this act, current school personnel, as defined in  
22 section 15-2407, Arizona Revised Statutes, as added by this act, must  
23 comply with the fingerprint clearance card requirements prescribed in  
24 section 15-2407, Arizona Revised Statutes, as added by this act, within  
25 six months after the effective date of this act.