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CHAPTER 8

SENATE BILL 1049

AN ACT

AMENDING SECTIONS 8-105, 8-203.01, 8-509, 8-802, 13-1602, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 41-619.51, 41-619.52, 41-619.53, 41-619.54, 41-619.55, 41-1758.01, 41-1758.03 AND 41-1758.04, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 12, ARTICLE 3.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1758.07; AMENDING SECTIONS 41-1964, 41-1967, 41-1967.01, 41-1968, 41-1969 AND 46-141, ARIZONA REVISED STATUTES; RELATING TO FINGERPRINT CLEARANCE CARDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 8-105, Arizona Revised Statutes, is amended to read:

8-105. Preadoption certification; investigation; central adoption registry

A. Before any prospective adoptive parent may petition to adopt a child the person shall be certified by the court as acceptable to adopt children. A certificate shall be issued only after an investigation conducted by an officer of the court, by an agency or by the division. A written application for certification shall be made directly to the court, to an agency or to the division, in the form and content required by the court, agency or division.

B. The division is not required to accept every application for certification. In determining which applications to accept the division may give priority to applications filed by adult residents of this state who wish to adopt a child who has any ~~of the~~ special needs ~~described~~ AS DEFINED in section 8-141.

C. After receiving and accepting the written and completed application of the prospective adoptive parent or parents, which shall include a financial statement and a physician's or a registered nurse practitioner's statement of each applicant's physical health, the division, the agency or an officer of the court shall conduct or cause to be conducted an investigation of the prospective adoptive parent or parents to determine if they are fit and proper persons to adopt children.

D. The division shall not present for certification a prospective adoptive parent unless that person ~~has~~ AND EACH OTHER ADULT MEMBER OF THE HOUSEHOLD HAVE a valid fingerprint clearance card issued pursuant to ~~title 41, chapter 12, article 3.1 or provides to the division documentation of the person's application for a fingerprint clearance card~~ SECTION 41-1758.07. The prospective adoptive parent AND EACH OTHER ADULT MEMBER OF THE HOUSEHOLD must certify on forms that are provided by the division and that are notarized whether ~~the prospective adoptive parent~~ THAT PERSON is awaiting trial on or has ever been convicted of any of the criminal offenses listed in section ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or similar offenses in another state or jurisdiction.

E. An officer of the court may obtain a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

F. This investigation and report to the court shall consider all relevant and material facts dealing with the prospective adoptive parents' fitness to adopt children and shall include:

1. A complete social history.
2. The financial condition of the applicant.
3. The moral fitness of the applicant.

4. The religious background of the applicant.

5. The physical and mental health condition of the applicants.

6. Any court action for or adjudication of child abuse, abandonment of children, dependency or termination of parent-child relationship in which the applicant had control, care or custody of the child who was the subject of the action.

7. Whether the person or persons wish to be placed on the central registry established in subsection M of this section.

8. All other facts bearing on the issue of the fitness of the prospective adoptive parents that the court, agency or division may deem relevant.

G. The investigator shall not reveal to the prospective adoptive parents the identity of a child or the child's parent or parents and shall not reveal to the child or the child's parent or parents the identity of the prospective adoptive parents if these facts are not already known.

H. Within ninety days after the original application prescribed by subsection A of this section has been accepted, the division or the agency or a person or agency designated by the court to conduct an investigation shall present to the juvenile court the written report required by subsection F of this section, which shall include a definite recommendation for certifying the applicant as being acceptable or nonacceptable to adopt children ~~with~~ AND the reasons for the recommendation.

I. Within sixty days after receiving the investigation report required by subsections F and H of this section, the court shall certify the applicant as being acceptable or nonacceptable to adopt children based on the investigation report and recommendations of the report. A certification remains in effect for eighteen months from the date of its issuance and may be extended for additional one year periods if after review the court finds that there have been no material changes in circumstances that would adversely affect the acceptability of the applicant to adopt.

J. The court may require additional investigation if it finds that additional information is necessary on which to make an appropriate decision regarding certification.

K. Any applicant who has been certified as nonacceptable may petition the court to review such certification. Notice shall be given to all interested parties and the matter shall be heard by the court, which may affirm or reverse the certification.

L. If the applicant is certified as nonacceptable, the applicant may not reapply for certification to the court, to any agency or to the division for one year.

M. The division shall maintain a central adoption registry that includes the names of all prospective adoptive parents currently certified by the court as acceptable to adopt children, except those who request that their names not be included, the names of all children who are under the jurisdiction of the division and who are currently available for adoption,

the names of any other children who are currently available for adoption and whose names are voluntarily entered in the registry by any agency, parent or other person that has the right to give consent to the child's adoption, and other information as the division may elect to include in aid of adoptive placements. Access to information in the registry shall be made available on request to any agency under assurances as the division may require that the information sought is in furtherance of adoptive placements and that confidentiality of the information is preserved.

N. This section does not apply if:

1. The prospective adoptive parent is the spouse of the birth or legal parent of the child to be adopted or is an uncle, aunt, adult sibling, grandparent or great-grandparent of the child of the whole or half-blood or by marriage or adoption.

2. The birth or legal parent is deceased but at the time of death the parent had legal and physical custody of the child to be adopted and the child had resided primarily with the spouse of the birth or legal parent during the twenty-four months before the death of the parent.

3. The grandparent, great-grandparent, aunt, adult sibling or uncle is deceased but at the time of death that person had legal and physical custody of the child to be adopted and the child had resided primarily with the spouse of the grandparent, great-grandparent, aunt, adult sibling or uncle during the twenty-four months before the death of the grandparent, great-grandparent, aunt, adult sibling or uncle.

O. If the applicant has adopted a child within three years preceding the current application and is applying to adopt another child or is a foster parent who is licensed by this state, the division or agency or a person designated by the court to conduct an investigation shall only provide an update report on any changes in circumstances that have occurred since the previous certification or licensing report. If the applicant has adopted a child more than three years before the current application and is applying to adopt another child, the division or agency or a person designated by the court to conduct an investigation may provide an updated report on any changes in circumstances that have occurred since the previous certification or licensing report. The court shall certify the applicant as acceptable to adopt unless there are changes in circumstances that adversely affect the applicant's parenting ability. In making this determination, the court shall consider information from the prior certification or licensing report.

Sec. 2. Section 8-203.01, Arizona Revised Statutes, is amended to read:

8-203.01. <u>Fingerprinting juvenile probation officers; affidavit</u>

A. Juvenile probation officers employed by the juvenile court shall be fingerprinted as a condition of employment. A juvenile probation officer shall submit fingerprints and the form prescribed in subsection D of this section to the chief juvenile probation officer within ~~twenty~~ SEVEN WORKING days after the date a juvenile probation officer begins work. Employment

with the juvenile court as a juvenile probation officer is conditioned on the results of the fingerprint check.

B. Fingerprint checks shall be conducted pursuant to section 41-1750, subsection G.

C. The juvenile court shall assume the costs of fingerprint checks and may charge these costs to the fingerprinted juvenile probation officer.

D. Juvenile probation officers shall certify on forms that are provided by the juvenile court and notarized that they are not awaiting trial on and have never been convicted of or admitted committing any of the following criminal offenses in this state or similar offenses in another state or jurisdiction:

1. Sexual abuse of a minor.
2. Incest.
3. First or second degree murder.
4. Kidnapping.
5. Arson.
6. Sexual assault.
7. Sexual exploitation of a minor.
8. Contributing to the delinquency of a minor.
9. Commercial sexual exploitation of a minor.
10. Felony offenses involving distribution of marijuana, dangerous drugs or narcotic drugs.
11. Burglary.
12. Robbery.
13. A dangerous crime against children pursuant to section 13-705.
14. Child abuse.
15. Sexual conduct with a minor.
16. Molestation of a child.

E. The juvenile court shall make documented, good faith efforts to contact previous employers of juvenile probation officers to obtain information or recommendations that may be relevant to an individual's fitness for employment as a juvenile probation officer.

Sec. 3. Section 8-509, Arizona Revised Statutes, is amended to read:

8-509. <u>Licensing of foster homes; renewal of license; provisional license</u>

A. The division shall license and certify foster homes. Licenses are valid for a period of one year.

B. The division shall not issue a license without satisfactory proof that the foster parent or parents have completed six actual hours of approved initial foster parent training as set forth in section 8-503 and that each foster parent and each other adult member of the household has a valid fingerprint clearance card issued pursuant to ~~title 41, chapter 12, article 3.1 or provides to the division documentation of the person's application for a fingerprint clearance card~~ SECTION 41-1758.07. The foster parent and each other adult member of the household must certify on forms that are provided

by the division and that are notarized whether the foster parent or other adult member of the household is awaiting trial on or has ever been convicted of any of the criminal offenses listed in section ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or similar offenses in another state or jurisdiction.

C. The division shall not renew a license without satisfactory proof that the foster parent or parents have completed six actual hours of approved ongoing foster parent training as set forth in section 8-503.

D. Notwithstanding the requirements of subsections B and C of this section, if the division determines a condition of hardship to the foster parent or parents, the division may issue a provisional license for a period not to exceed six months. A provisional license may not be renewed.

E. Child welfare agencies that submit foster homes for licensing shall conduct an investigation of the foster home pursuant to licensing rules of the division. The division shall conduct investigations of all other foster homes. If the foster home meets all requirements set by the division, the agency shall submit an application stating the foster home's qualifications to the division. The agency may also recommend the types of licensing and certification to be granted to the foster home.

F. The division shall accept an adoptive home certification study as a licensing home study if the study has been updated within the past three months to include the information necessary to determine whether the home meets foster care licensing standards.

G. This section shall not apply when the child is placed in a home by a means other than by court order and when the home receives no compensation from the state or any political subdivision of the state.

H. The division shall not prohibit a person operating a licensed foster home from applying for or receiving compensation as a foster home parent due to employment with the state of Arizona.

Sec. 4. Section 8-802, Arizona Revised Statutes, is amended to read:

8-802. <u>Child protective services worker; fingerprint clearance cards; powers and duties; alteration of files; violation; classification</u>

A. The department of economic security shall employ child protective services workers. All persons who are employed as child protective services workers shall have a valid fingerprint clearance card that is issued pursuant to ~~title 41, chapter 12, article 3.1~~ SECTION 41-1758.07 or shall apply for a fingerprint clearance card within seven working days of employment. A child protective services worker shall certify on forms that are provided by the department of economic security and that are notarized whether the worker is awaiting trial on or has ever been convicted of any of the criminal offenses listed in section ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or similar offenses in another state or jurisdiction.

B. The department may cooperate with county agencies and community social services agencies to achieve the purposes of this chapter.

C. A child protective services worker shall:

1. Promote the safety and protection of children.

2. Accept, screen and assess reports of abuse or neglect pursuant to section 8-817.

3. Receive reports of dependent, abused or abandoned children and be prepared to provide temporary foster care for such children on a twenty-four hour basis.

4. Receive from any source oral or written information regarding a child who may be in need of protective services. A worker shall not interview a child without the prior written consent of the parent, guardian or custodian of the child unless either:

(a) The child initiates contact with the worker.

(b) The child who is interviewed is the subject of or is the sibling of or living with the child who is the subject of an abuse or abandonment investigation pursuant to paragraph 5, subdivision (b) of this subsection.

(c) The interview is conducted pursuant to the terms of the protocols established pursuant to section 8-817.

5. After the receipt of any report or information pursuant to paragraph 2, 3 or 4 of this subsection, immediately do both of the following:

(a) Notify the municipal or county law enforcement agency.

(b) Make a prompt and thorough investigation of the nature, extent and cause of any condition that would tend to support or refute the allegation that the child should be adjudicated dependent and the name, age and condition of other children in the home. A criminal conduct allegation shall be investigated according to the protocols established pursuant to section 8-817 with the appropriate municipal or county law enforcement agency as provided in section 8-817.

6. Take a child into temporary custody as provided in section 8-821. Law enforcement officers shall cooperate with the department to remove a child from the custody of the child's parents, guardian or custodian when necessary.

7. After investigation, evaluate conditions created by the parents, guardian or custodian that would support or refute the allegation that the child should be adjudicated dependent. The child protective services worker shall then determine whether any child is in need of protective services.

8. Offer to the family of any child who is found to be a child in need of protective services those services that are designed to correct unresolved problems that would indicate a reason to adjudicate the child dependent.

9. Submit a written report of the worker's investigation to:

(a) The department's case management information system within twenty-one days after receipt of the initial information except as provided in section 8-811. If the investigation involves allegations regarding a child who at the time of the alleged incident was in the custody of a child welfare agency licensed by the department of economic security under this title, a copy of the report and any additional investigative or other related

reports shall be provided to the board of directors of the agency or to the administrative head of the agency unless the incident is alleged to have been committed by the person. The department shall excise all information with regard to the identity of the source of the reports.

(b) The appropriate court forty-eight hours before a dependency hearing pursuant to a petition of dependency or within twenty-one days after a petition of dependency is filed, whichever is earlier. On receipt of the report the court shall make the report available to all parties and counsel.

10. Accept a child into voluntary placement pursuant to section 8-806.

11. Make a good faith effort to promptly obtain and abide by court orders that restrict or deny custody, visitation or contact by a parent or other person in the home with the child. As part of ~~their~~ THE good faith effort, the child protective services worker shall ask the parent, guardian or custodian under investigation if a current court order exists.

D. ~~No~~ A child shall NOT remain in temporary custody for a period exceeding seventy-two hours, excluding Saturdays, Sundays and holidays, unless a dependency petition is filed. If ~~no~~ A petition is NOT filed and the child is released to the child's parent, guardian or custodian, the worker shall file a report of removal with the central registry within seventy-two hours of the child's release. The report shall include:

1. The dates of previous referrals, investigations or temporary custody.

2. The dates on which other children in the family have been taken into temporary custody.

E. The department shall provide child protective services workers who investigate allegations of abuse and neglect with training in forensic interviewing and processes, the protocols established pursuant to section 8-817 and relevant law enforcement procedures. All child protective services workers shall be trained in their duty to protect the legal rights of children and families from the time of the initial contact through treatment. The training shall include knowledge of a child's rights as a victim of crime. The training for child protective services workers shall also include instruction on the legal rights of parents and the requirements for legal search and seizure by law enforcement officers.

F. In conducting an investigation pursuant to this section, if the worker is made aware that an allegation of abuse or neglect may also have been made in another state, the worker shall contact the appropriate agency in that state to attempt to determine the outcome of any investigation of that allegation.

G. Any person who alters a client file for the purpose of fraud or misrepresentation is guilty of a class 2 misdemeanor.

Sec. 5. Section 13-1602, Arizona Revised Statutes, is amended to read:

13-1602. <u>Criminal damage; classification</u>

A. A person commits criminal damage by recklessly:

1. Defacing or damaging property of another person; or

2. Tampering with property of another person so as substantially to impair its function or value; or

3. Tampering with the property of a utility.

4. Parking any vehicle in such a manner as to deprive livestock of access to the only reasonably available water.

5. Drawing or inscribing a message, slogan, sign or symbol that is made on any public or private building, structure or surface, except the ground, and that is made without permission of the owner.

B. Criminal damage is punished as follows:

1. Criminal damage is a class 4 felony if the person recklessly damages property of another in an amount of ten thousand dollars or more, or if the person recklessly causes impairment of the functioning of any utility.

2. Criminal damage is a class 5 felony if the person recklessly damages property of another in an amount of two thousand dollars or more but less than ten thousand dollars.

3. CRIMINAL DAMAGE IS A CLASS 6 FELONY IF THE PERSON RECKLESSLY DAMAGES THE PROPERTY OF ANOTHER IN AN AMOUNT OF ONE THOUSAND DOLLARS OR MORE BUT LESS THAN TWO THOUSAND DOLLARS.

~~3.~~ 4. Criminal damage is a class ~~6 felony~~ 1 MISDEMEANOR if the person recklessly damages property of another in an amount of more than two hundred fifty dollars but less than ~~two~~ ONE thousand dollars.

~~4.~~ 5. In all other cases criminal damage is a class 2 misdemeanor.

Sec. 6. Section 36-594.01, Arizona Revised Statutes, is amended to read:

36-594.01. <u>Fingerprinting of contract providers and home and community based service providers</u>

A. The following persons shall be fingerprinted pursuant to ~~title 41, chapter 12, article 3.1~~ SECTION 41-1758.07:

1. A person who is paid or who volunteers to work in a facility or program that is licensed by or that has entered into a contract with the division of developmental disabilities to provide services to persons with developmental disabilities.

2. A person who applies for certification as a home and community based service provider.

B. A person who is required to be fingerprinted pursuant to subsection A, paragraph 1 of this section shall have a valid fingerprint clearance card or shall apply for a fingerprint clearance card before providing services to persons with developmental disabilities.

C. A person who is required to be fingerprinted pursuant to subsection A, paragraph 2 of this section shall not be certified unless the person has a valid fingerprint clearance card or provides to the division of developmental disabilities documentation of the person's application for a fingerprint clearance card.

D. This section does not apply to home and community based service providers who provide attendant care and who are immediate relatives with whom the person with developmental disabilities resides.

E. Persons who are required to be fingerprinted pursuant to subsection A of this section shall certify on forms that are provided by the department whether the person is awaiting trial on or has been convicted of any of the offenses listed in section ~~41-1758.03~~ 41-1758.07, subsections B and C.

F. The division of developmental disabilities in the department of economic security shall notify the department of public safety if the division receives credible evidence that a person who possesses a valid fingerprint clearance card either:

1. Is arrested for or charged with an offense listed in section ~~41-1758.03~~ 41-1758.07, subsection B OR C.

2. Falsified information on the form required by subsection E of this section.

Sec. 7. Section 36-594.02, Arizona Revised Statutes, is amended to read:

36-594.02. Fingerprinting of adult developmental home licensees and child developmental foster home licensees

~~If~~ A person who applies for a license for an adult developmental home or a child developmental foster home ~~has not been previously fingerprinted for any other license, certificate or program with the division of developmental disabilities, the person who applies for such a license~~ shall have a valid fingerprint clearance card issued pursuant to ~~title 41, chapter 12, article 3.1 or provide to the division documentation of the person's application for a fingerprint clearance card. Such a~~ SECTION 41-1758.07. THE person shall certify on forms that are provided by the department whether the person is awaiting trial on or has been convicted of any of the offenses listed in section ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or similar offenses in another state or jurisdiction.

Sec. 8. Section 36-882, Arizona Revised Statutes, is amended to read:

36-882. License; posting; transfer prohibited; fee; provisional license; renewal

A. A child care facility shall not receive any child for care, supervision or training unless the facility is licensed by the department of health services.

B. An application for a license shall be made on a written or electronic form prescribed by the department and shall include:

1. Information required by the department for the proper administration of this chapter and rules adopted pursuant to this chapter.

2. The name and business or residential address of each controlling person.

3. An affirmation by the applicant that no controlling person has been denied a certificate to operate a child care group home or a license to operate a child care facility for the care of children in this state or

1 another state or has had a license to operate a child care facility or a
2 certificate to operate a child care group home revoked for reasons that
3 relate to the endangerment of the health and safety of children.
4 C. An application for an initial license shall include:
5 1. The form THAT IS required pursuant to section 36-883.02, subsection
6 C AND that is completed by the applicant.
7 2. A copy of a valid fingerprint clearance card issued to the
8 applicant pursuant to ~~title 41, chapter 12, article 3.1~~ SECTION 41-1758.07.
9 3. If the applicant's facility is located within one-fourth mile of
10 any agricultural land, the names and addresses of the owners and lessees of
11 the agricultural land and a copy of the agreement required pursuant to
12 subsection D of this section.
13 D. The department shall deny any license that affects agricultural
14 land regulated pursuant to section 3-365, except that the owner of the
15 agricultural land may agree to comply with the buffer zone requirements of
16 section 3-365. If the owner agrees in writing to comply with the buffer zone
17 requirements and records the agreement in the office of the county recorder
18 as a restrictive covenant running with the title to the land, the department
19 may license the child care facility to be located within the affected buffer
20 zone. The agreement may include any stipulations regarding the child care
21 facility, including conditions for future expansion of the facility and
22 changes in the operational status of the facility that will result in a
23 breach of the agreement. This subsection shall not apply to the issuance or
24 renewal of a license for a child care facility located in the same location
25 for which a child care facility license was previously issued.
26 E. On receipt of an application for an initial license, the department
27 shall inspect the applicant's physical space, activities and standards of
28 care. If the department determines that the applicant and the applicant's
29 facility are in substantial compliance with this chapter and rules adopted
30 pursuant to this chapter and the applicant agrees to carry out a plan
31 acceptable to the department to eliminate any deficiencies, the department
32 shall issue an initial license to the applicant.
33 F. The fee for an initial application for licensure is one hundred
34 fifty dollars and is not refundable. The application fee is for the first
35 full licensure period, including any provisional period. The application fee
36 for renewal of a license is one hundred fifty dollars and is not refundable.
37 An applicant for renewal who fails to submit the application forty-five days
38 before the expiration of the license is subject to a fifty dollar late filing
39 fee. The department shall deposit, pursuant to sections 35-146 and 35-147,
40 late filing fees in the state general fund.
41 G. A license is valid for three years from the date of issuance and
42 shall specify the following:
43 1. The name of the applicant.
44 2. The exact address where the applicant will locate the facility.

3. The maximum number and age limitations of children that shall be cared for at any one time.

4. The classification of services that the facility is licensed to provide.

H. The department may issue a provisional license, not to exceed six months, to an applicant or a licensed child care facility if:

1. The facility changes director.

2. The department determines that an applicant for an initial license or a licensed child care facility is not in substantial compliance with this chapter and rules adopted pursuant to this chapter and the immediate interests of children, families and the general public are best served if the child care facility or the applicant is given an opportunity to correct deficiencies.

I. A provisional license shall state the reason for the provisional status.

J. On the expiration of a provisional license, the department shall issue a regular license for the remainder of the license period if the department determines that the licensee and the child care facility are in substantial compliance with this chapter and rules adopted pursuant to this chapter and the applicant agrees to carry out a plan acceptable to the department to eliminate any deficiencies.

K. Except as provided in section 36-893, subsection A, on receipt of a renewal application that complies with this chapter and rules adopted pursuant to this chapter, the department shall issue a renewal license to the child care facility.

L. The licensee shall notify the department in writing within ten days of any change in the child care facility's director.

M. The license is not transferable from person to person and is valid only for the quarters occupied at the time of issuance.

N. The license shall be conspicuously posted in the child care facility.

O. The licensee shall conspicuously post a schedule of fees charged for services and the established policy for a refund of fees for services not rendered.

P. The licensee shall keep current department inspection reports at the child care facility and shall make them available to parents on request. The licensee shall conspicuously post a notice that identifies the location where these inspection reports are available for review.

Q. The department of health services shall notify the department of public safety if the department of health services receives credible evidence that a licensee who possesses a valid fingerprint clearance card either:

1. Is arrested for or charged with an offense listed in section ~~41-1758.03~~ 41-1758.07, subsection B.

2. Falsified information on any form required by section 36-883.02.

Sec. 9. Section 36-883.02, Arizona Revised Statutes, is amended to read:

36-883.02. Child care personnel; fingerprints; exemptions; definition

A. Except as provided in subsection B of this section, child care personnel, including volunteers, shall submit the form prescribed in subsection C of this section to the employer and shall have valid fingerprint clearance cards issued pursuant to ~~title 41, chapter 12, article 3.1~~ SECTION 41-1758.07 or shall apply for a fingerprint clearance card within seven working days of employment or beginning volunteer work.

B. Exempt from the fingerprinting requirements of subsection A of this section are parents, including foster parents and guardians, who are not employees of the child care facility and who participate in activities with their children under the supervision of and in the presence of child care personnel.

C. Applicants, licensees and child care personnel shall attest on forms that are provided by the department that:

1. They are not awaiting trial on or have never been convicted of or admitted in open court or pursuant to a plea agreement committing any of the offenses listed in section ~~41-1758.03~~ 41-1758.07, subsection B in this state or similar offenses in another state or jurisdiction.

2. They are not parents or guardians of a child adjudicated to be a dependent child as defined in section 8-201.

3. They have not been denied or had revoked a certificate to operate a child care group home or a license to operate a child care facility in this or any other state or that they have not been denied or had revoked a certification to work in a child care facility or child care group home.

D. Employers of child care personnel shall make documented, good faith efforts to contact previous employers of child care personnel to obtain information or recommendations that may be relevant to an individual's fitness for employment in a child care facility.

E. The forms required by subsection C of this section are confidential.

F. A child care facility shall not allow a person to be employed or volunteer in the facility in any capacity if the person has been denied a fingerprint clearance card pursuant to ~~title 41, chapter 12, article 3.1~~ SECTION 41-1758.07 or has not received an interim approval from the board of fingerprinting pursuant to section 41-619.55, subsection I.

G. The employer shall notify the department of public safety if the employer receives credible evidence that any child care personnel either:

1. Is arrested for or charged with an offense listed in section ~~41-1758.03~~ 41-1758.07, subsection B.

2. Falsified information on the form required by subsection C of this section.

H. For the purposes of this section, "child care personnel" means any employee or volunteer working at a child care facility.

Sec. 10. Section 36-897.01, Arizona Revised Statutes, is amended to read:

36-897.01. Certification; application; fees; rules; fingerprinting; renewal

A. A child care group home shall be certified by the department. An application for a certificate shall be made on a written or electronic form prescribed by the department and shall contain all information required by the department.

B. If a child care group home is within one-fourth mile of agriculture land, the application shall include the names and addresses of the owners and lessees of any agricultural land within one-fourth mile of the facility. Within ten days after receipt of an application for a certificate, the department shall notify the owners and lessees of agricultural land as listed on the application. The department shall deny a certificate that affects agricultural land regulated pursuant to section 3-365, except that the owner of the agricultural land may agree to comply with the buffer zone requirements of section 3-365. If the owner agrees in writing to comply with the buffer zone requirements and records the agreement in the office of the county recorder as a restrictive covenant running with the title to the land, the department may issue a certificate to the child care group home to be located within the affected buffer zone. The agreement may include any stipulations regarding the child care group home, including conditions for future expansion of the facility and changes in the operational status of the facility that will result in a breach of the agreement. This subsection applies to the renewal of a certificate for a child care group home located in the same location if the child care group home certificate was not previously issued under this subsection.

C. An application for an initial certificate shall be accompanied by a nonrefundable application fee of thirty dollars.

D. The department shall issue an initial certificate if the department determines that the applicant and the applicant's child care group home are in substantial compliance with the requirements of this article and department rules and the facility agrees to carry out a plan acceptable to the director to eliminate any deficiencies.

E. A certificate is valid for three years and may be renewed for successive three-year periods by submitting a renewal application as prescribed by the department and submitting a nonrefundable renewal application fee of thirty dollars. An applicant for renewal who fails to submit the application forty-five days before the expiration of the certificate is subject to a twenty-five dollar late filing fee. Late filing fees collected pursuant to this subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

F. In order to ensure that the equipment and services of a child care group home and the good character of an applicant are conducive to the welfare of children, the department by rule shall establish the criteria for granting, denying, suspending and revoking a certificate.

G. The director shall adopt rules and prescribe forms as may be necessary for the proper administration and enforcement of this article.

H. The certificate shall be conspicuously posted in the child care group home for viewing by parents and the public.

I. Current department inspection reports shall be kept at the child care group home and shall be made available to parents on request.

J. A certificate is not transferable and is valid only for the location occupied at the time it is issued.

K. An application for an initial certificate shall include:

1. The form THAT IS required pursuant to section 36-897.03, subsection B AND that is completed by the applicant.

2. A copy of a valid fingerprint clearance card issued to the applicant pursuant to ~~title 41, chapter 12, article 3.1~~ SECTION 41-1758.07.

L. Except as provided in section 36-897.10, subsection A, on receipt of a renewal application that complies with this chapter and rules adopted pursuant to this chapter, the department shall issue a renewal certificate to the child care group home.

M. The department of health services shall notify the department of public safety if the department of health services receives credible evidence that a person who possesses a valid fingerprint clearance card either:

1. Is arrested for or charged with an offense listed in section ~~41-1758.03~~ 41-1758.07, subsection B.

2. Falsified information on any form required by section 36-897.03.

Sec. 11. Section 36-897.03, Arizona Revised Statutes, is amended to read:

36-897.03. <u>Child care group homes; child care personnel; fingerprints; definition</u>

A. Child care personnel, including volunteers, shall submit the form prescribed in subsection B of this section to the employer and shall have valid fingerprint clearance cards issued pursuant to ~~title 41, chapter 12, article 3.1~~ SECTION 41-1758.07 or shall apply for a fingerprint clearance card within seven working days of employment or beginning volunteer work.

B. Applicants, certificate holders and child care personnel shall attest on forms that are provided by the department that:

1. They are not awaiting trial on or have never been convicted of or admitted in open court or pursuant to a plea agreement committing any of the offenses listed in section ~~41-1758.03~~ 41-1758.07, subsection B or C in this state or similar offenses in another state or jurisdiction.

2. They are not parents or guardians of a child adjudicated to be a dependent child as defined in section 8-201.

3. They have not been denied a certificate to operate a child care group home or a license to operate a child care facility for the care of children in this state or another state or had a license to operate a child care facility or a certificate to operate a child care group home revoked for reasons that relate to the endangerment of the health and safety of children.

C. The provider shall make documented, good faith efforts to contact previous employers of child care personnel to obtain information or recommendations that may be relevant to an individual's fitness to work in a certified child care group home.

D. The director may adopt rules prescribing the exclusion from child care group homes of individuals whose presence may be detrimental to the welfare of children.

E. The forms required by subsection B of this section are confidential.

F. A person who is awaiting trial on or who has been convicted of or who has admitted in open court or pursuant to a plea agreement to committing a criminal offense listed in section ~~41-1758.03~~ 41-1758.07, subsection B or subsection B, paragraph 2 or 3 of this section is prohibited from being employed in any capacity in a child care group home.

G. A person who is awaiting trial on or who has been convicted of or who has admitted in open court or pursuant to a plea agreement to committing a criminal offense listed in section ~~41-1758.03~~ 41-1758.07, subsection C shall not work in a child care group home without direct visual supervision unless the person has applied for and received the required fingerprint clearance card pursuant to section 41-1758 and is registered as child care personnel. A person who is subject to this subsection shall not be employed in any capacity in a child care group home if that person is denied the required fingerprint clearance card.

H. The employer shall notify the department of public safety if the employer receives credible evidence that any child care personnel either:

1. Is arrested for or charged with an offense listed in section ~~41-1758.03~~ 41-1758.07, subsection B.

2. Falsified information on the form required by subsection B of this section.

I. For the purposes of this section, "child care personnel" means all employees of and persons who are eighteen years of age or older and who reside in a child care group home that is certified by the department.

Sec. 12. Section 41-619.51, Arizona Revised Statutes, is amended to read:

41-619.51. <u>Definitions</u>

In this article, unless the context otherwise requires:

1. "Agency" means the supreme court, the department of economic security, the department of education, the department of health services, the department of juvenile corrections, the department of emergency and military

1 affairs or the board of examiners of nursing care institution administrators
2 and assisted living facility managers.
3 2. "Board" means the board of fingerprinting.
4 3. "Expedited review" means an examination, in accordance with board
5 rule, of the documents an applicant submits by the board or its hearing
6 officer without the applicant being present.
7 4. "Good cause exception" means the issuance of a fingerprint
8 clearance card to an employee pursuant to section 41-619.55.
9 5. "Person" means a person who is required to be fingerprinted
10 pursuant to this article and any of the following:
11 (a) Section 8-105.
12 (b) Section 8-322.
13 (c) Section 8-509.
14 (d) Section 8-802.
15 (e) Section 15-183.
16 (f) Section 15-534.
17 (g) Section 15-1330.
18 (h) Section 15-1881.
19 (i) Section 26-103.
20 (j) Section 36-411.
21 (k) Section 36-425.03.
22 (l) Section 36-446.04.
23 (m) Section 36-594.01.
24 (n) Section 36-594.02.
25 (o) Section 36-882.
26 (p) Section 36-883.02.
27 (q) Section 36-897.01.
28 (r) Section 36-897.03.
29 (s) Section 36-3008.
30 (t) SECTION 41-619.53.
31 (u) Section 41-1964.
32 (v) Section 41-1967.01.
33 (w) Section 41-1968.
34 (x) Section 41-1969.
35 (y) Section 41-2814.
36 (z) Section 46-141, subsection A.
37 (aa) Section 46-321.
38 Sec. 13. Section 41-619.52, Arizona Revised Statutes, is amended to
39 read:
40 41-619.52. <u>Board of fingerprinting; organization; meetings</u>
41 A. The board of fingerprinting is established consisting of the
42 following members:
43 1. A representative of the supreme court who is appointed by the chief
44 justice of the supreme court.

2. A representative of the department of economic security who is appointed by the director of the department of economic security.

3. A representative of the department of education who is appointed by the superintendent of public instruction.

4. A representative of the department of health services who is appointed by the director of the department of health services.

5. A representative of the department of juvenile corrections who is appointed by the director of the department of juvenile corrections.

B. At its initial meeting and annually thereafter, the board shall elect a chairperson and vice-chairperson from among its members and any other officers that are deemed necessary or advisable.

C. The board shall meet at least once each calendar quarter and additionally as the chairperson deems necessary. A majority of the members constitutes a quorum for the transaction of business.

D. Board members:

1. Serve at the pleasure of the appointing authority.

2. Are not eligible for compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.

3. Shall have a valid fingerprint clearance card issued pursuant to ~~chapter 12, article 3.1 of this title~~ SECTION 41-1758.07.

E. The chief justice, the superintendent of public instruction or a department director may designate an alternate member to represent a member who is appointed pursuant to subsection A by the chief justice, the superintendent of public instruction or a department director, respectively.

Sec. 14. Section 41-619.53, Arizona Revised Statutes, is amended to read:

41-619.53. <u>Board of fingerprinting; powers and duties; personnel; liability</u>

A. The board of fingerprinting shall:

1. Determine good cause exceptions pursuant to section 41-619.55. The board may appoint a hearing officer to recommend that an applicant be granted or denied a good cause exception after the hearing officer conducts an expedited review or a good cause exception hearing.

2. Adopt rules to implement this article, including rules to establish good cause exceptions for the issuance of fingerprint clearance cards pursuant to ~~section~~ SECTIONS 41-1758.03 AND 41-1758.07. This rule making is exempt from the requirements of chapter 6 of this title.

3. Administer and enforce this article and rules adopted pursuant to this article.

4. Furnish a copy of its rules, on request, to all applicants who petition the board for a good cause exception pursuant to ~~section~~ SECTIONS 41-1758.03 AND 41-1758.07 and, on request, to licensees, contract providers and state agencies.

5. Establish fees.

B. In order to grant a good cause exception, a majority plus an additional member, of the members present, must vote to approve the application. If the board grants a good cause exception, the board shall request in writing that the department of public safety issue a card to the applicant.

C. The board may employ clerical, professional and technical personnel subject to fee monies that are collected and to the budget that is approved by the board members and shall prescribe personnel duties and determine personnel compensation. Personnel employed by the board must have a valid fingerprint clearance card issued pursuant to ~~chapter 12, article 3.1 of this title~~ SECTION 41-1758.07. If the applicant is denied a fingerprint clearance card, in order to be employed by the board, the board must grant a good cause exception pursuant to this article by a unanimous vote.

D. In making any recommendation to the board to grant or deny a good cause exception, the hearing officer shall consider all of the reasons and criteria prescribed in section 41-619.55, subsection E.

E. Members and employees of the board are not liable for acts done or actions taken by any board member or employee if the members or employees act in good faith following the requirements of this article.

Sec. 15. Section 41-619.54, Arizona Revised Statutes, is amended to read:

41-619.54. Confidentiality of criminal record information; exception; reporting

A. All criminal history record information that is maintained by the board is confidential, except that criminal history record information may be disclosed pursuant to a determination for a good cause exception pursuant to section 41-619.55.

B. Persons who are present at a good cause exception hearing shall not discuss or share any criminal history record information outside of the good cause exception hearing.

C. Except as provided in subsection D of this section, criminal history record information and good cause exception determinations and hearings are exempt from title 39, chapter 1.

D. On or before December 1 of each year the board shall report the number of applications for a good cause exception and the number of good cause exceptions that were granted for the twelve month period ending September 30. The report shall itemize the number of applications and the number of applications granted for each of the sections listed in section 41-619.51, paragraph ~~6~~ 5. For each of these sections, the report shall further itemize each offense listed in section 41-1758.03, subsections B and C AND SECTION 41-1758.07, SUBSECTIONS B AND C for which a good cause exception was applied for and for which a good cause exception was granted. The board shall provide a copy of the report to the governor, the speaker of the house of representatives and the president of the senate.

Sec. 16. Section 41-619.55, Arizona Revised Statutes, is amended to read:

41-619.55. Good cause exceptions; expedited review; hearing; revocation

A. The board shall determine good cause exceptions. The board shall determine a good cause exception after an expedited review or after a good cause exception hearing. The board shall conduct an expedited review within twenty days after receiving an application for a good cause exception.

B. Within forty-five days after conducting an expedited review, the board shall hold a good cause exception hearing if the board determines that the applicant does not qualify for a good cause exception under an expedited review but is qualified to apply for a good cause exception and the applicant submits an application for a good cause exception within the time limits prescribed by rule.

C. When determining whether a person is eligible to receive a good cause exception under an expedited review, the board shall consider whether the person has shown to the board's satisfaction that the person is not awaiting trial on or has not been convicted of committing any of the offenses listed in section 41-1758.03, subsection B OR SECTION 41-1758.07, SUBSECTION B or that the person is successfully rehabilitated and is not a recidivist. Before granting a good cause exception under an expedited review, the board shall consider all of the criteria listed in subsection E of this section.

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

1. The board or its hearing officer.

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

E. The board may grant a good cause exception at a hearing if the person shows to the board's satisfaction that the person is not awaiting trial on or has not been convicted of committing any of the offenses listed in section 41-1758.03, subsection B OR SECTION 41-1758.07, SUBSECTION B or that the person is successfully rehabilitated and is not a recidivist. Notwithstanding any other law, the board may require applicants to disclose evidence regarding substantiated allegations of child abuse or neglect for consideration in determining an applicant's successful rehabilitation. The board shall grant or deny a good cause exception within eighty days after the good cause exception hearing. Before granting a good cause exception at a hearing the board shall consider all of the following in accordance with board rule:

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

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

3. The nature of the offense.

4. Any applicable mitigating circumstances.

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

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

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

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

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

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

F. If the board grants a good cause exception to a person, the board shall request in writing that the department of public safety issue a fingerprint clearance card to the person.

G. The board's staff, under the direction of the executive director of the board, shall review reports it receives of the arrest, charging or conviction of a person for offenses listed in ~~section~~ SECTIONS 41-1758.03 AND 41-1758.07 who previously received a fingerprint clearance card. Except as provided by subsection J of this section, the executive director shall report any arrest, charge or conviction of a prohibited crime to the state agencies listed on the applicant's fingerprint clearance card application.

H. The board may request in writing that the department of public safety revoke a person's fingerprint clearance card pursuant to section 41-1758.04 if the person received a fingerprint clearance card and the person is subsequently convicted of an offense listed in section 41-1758.03, subsection B or C OR SECTION 41-1758.07, SUBSECTION B OR C.

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

J. If the board's staff, under the direction of the executive director, receives a report of an arrest, charging or conviction of a prohibited crime for a person who previously received a fingerprint clearance card pursuant to section 15-1881, the executive director shall not report this information to the state agency that is listed on the applicant's fingerprint clearance card application but shall notify the person issued the fingerprint clearance card of the report.

K. The board is exempt from ~~title 41,~~ chapter 6, article 10 OF THIS TITLE.

L. A person who is required to obtain a fingerprint clearance card pursuant to section 41-619.52 is not eligible to receive a good cause exception pursuant to this section.

Sec. 17. Section 41-1758.01, Arizona Revised Statutes, is amended to read:

41-1758.01. <u>Fingerprinting division; duties</u>

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

1. Conduct fingerprint background checks for persons and applicants who are seeking employment with licensees, contract providers and state agencies or seeking employment or educational opportunities with agencies

that require fingerprint background checks pursuant to sections 8-105, 8-322, 8-509, 8-802, 15-183, ~~15-512,~~ 15-534, 15-1330, 15-1881, 26-103, 36-411, 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 and 41-2814, section 46-141, subsection A and section 46-321.

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

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

4. Inform in writing each person who submits fingerprints for a fingerprint background check of the person's right to petition the board of fingerprinting for a good cause exception pursuant to ~~section~~ SECTIONS 41-1758.03 AND 41-1758.07.

5. Administer and enforce this article.

Sec. 18. Section 41-1758.03, Arizona Revised Statutes, is amended to read:

41-1758.03. Fingerprint clearance cards; issuance; immunity

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

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

1. Sexual abuse of a vulnerable adult.
2. Incest.
3. First or second degree murder.
4. Sexual assault.
5. Sexual exploitation of a minor.
6. Sexual exploitation of a vulnerable adult.
7. Commercial sexual exploitation of a minor.
8. Commercial sexual exploitation of a vulnerable adult.
9. Child prostitution as prescribed in section 13-3212.
10. Child abuse.
11. Abuse of a vulnerable adult.
12. Sexual conduct with a minor.
13. Molestation of a child.

14. Molestation of a vulnerable adult.
15. A dangerous crime against children as defined in section 13-705.
16. Exploitation of minors involving drug offenses.
17. Taking a child for the ~~purposes~~ PURPOSE of prostitution as prescribed in section 13-3206.
18. Neglect or abuse of a vulnerable adult.
19. Sex trafficking.
20. Sexual abuse.
21. Production, publication, sale, possession and presentation of obscene items as prescribed in section 13-3502.
22. Furnishing harmful items to minors as prescribed in section 13-3506.
23. Furnishing harmful items to minors by internet activity as prescribed in section 13-3506.01.
24. Obscene or indecent telephone communications to minors for commercial purposes as prescribed in section 13-3512.
25. Luring a minor for sexual exploitation.
26. Enticement of persons for purposes of prostitution.
27. Procurement by false pretenses of person for purposes of prostitution.
28. Procuring or placing persons in a house of prostitution.
29. Receiving earnings of a prostitute.
30. Causing one's spouse to become a prostitute.
31. Detention of persons in a house of prostitution for debt.
32. Keeping or residing in a house of prostitution or employment in prostitution.
33. Pandering.
34. Transporting persons for the purpose of prostitution, polygamy and concubinage.
35. Portraying adult as a minor as prescribed in section 13-3555.
36. Admitting minors to public displays of sexual conduct as prescribed in section 13-3558.
37. UNLAWFUL SALE OR PURCHASE OF CHILDREN.
38. CHILD BIGAMY.

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

1. Manslaughter.
2. Endangerment.
3. Threatening or intimidating.
4. Assault.

5. Unlawfully administering intoxicating liquors, narcotic drugs or dangerous drugs.
6. Assault by vicious animals.
7. Drive by shooting.
8. Assaults on officers or fire fighters.
9. Discharging a firearm at a structure.
10. Indecent exposure.
11. Public sexual indecency.
12. Aggravated criminal damage.
13. Theft.
14. Theft by extortion.
15. Shoplifting.
16. Forgery.
17. Criminal possession of a forgery device.
18. Obtaining a signature by deception.
19. Criminal impersonation.
20. Theft of a credit card or obtaining a credit card by fraudulent means.
21. Receipt of anything of value obtained by fraudulent use of a credit card.
22. Forgery of a credit card.
23. Fraudulent use of a credit card.
24. Possession of any machinery, plate or other contrivance or incomplete credit card.
25. False statement as to financial condition or identity to obtain a credit card.
26. Fraud by persons authorized to provide goods or services.
27. Credit card transaction record theft.
28. Misconduct involving weapons.
29. Misconduct involving explosives.
30. Depositing explosives.
31. Misconduct involving simulated explosive devices.
32. Concealed weapon violation.
33. Possession and sale of peyote.
34. Possession and sale of a vapor-releasing substance containing a toxic substance.
35. Sale of precursor chemicals.
36. Possession, use or sale of marijuana, dangerous drugs or narcotic drugs.
37. Manufacture or distribution of an imitation controlled substance.
38. Manufacture or distribution of an imitation prescription-only drug.
39. Manufacture or distribution of an imitation over-the-counter drug.
40. Possession or possession with intent to use an imitation controlled substance.

41. Possession or possession with intent to use an imitation prescription-only drug.

42. Possession or possession with intent to use an imitation over-the-counter drug.

43. Manufacture of certain substances and drugs by certain means.

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

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

46. A criminal offense under title 13, chapter 23.

47. Child neglect.

48. Misdemeanor offenses involving contributing to the delinquency of a minor.

49. Offenses involving domestic violence.

50. Arson.

51. Kidnapping.

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

53. Robbery.

54. Aggravated assault.

55. Felony offenses involving contributing to the delinquency of a minor.

56. Negligent homicide.

57. Criminal damage.

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

59. Taking identity of another person or entity.

60. Aggravated taking identity of another person or entity.

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

62. Cruelty to animals.

63. Prostitution.

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

65. Welfare fraud.

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

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

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

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

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

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

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

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

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

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

L. The division shall not issue a fingerprint clearance card to a person if the division cannot determine, within thirty business days after receipt of the person's state and federal criminal history record information, whether the person is awaiting trial on or has been convicted of committing any of the offenses listed in subsection B or C of this section. If the division is unable to make the determination required by this section and does not issue a fingerprint clearance card to a person, the person may request a good cause exception pursuant to section 41-619.55.

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

N. If, after conducting a state and federal criminal history ~~record~~ RECORDS check on a person who requests a fingerprint clearance card pursuant to section 15-1881, the division determines that it is not authorized to issue a fingerprint clearance card to the person, the division shall not notify the agency. The division shall notify the person who requested the card that the division is not authorized to issue a fingerprint clearance card.

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

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

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

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

Q. NOTWITHSTANDING ANY LAW TO THE CONTRARY, A PERSON MAY APPLY FOR AND RECEIVE A LEVEL I FINGERPRINT CLEARANCE CARD PURSUANT TO SECTION 41-1758.07 TO SATISFY A REQUIREMENT THAT THE PERSON HAVE A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO THIS SECTION.

Sec. 19. Section 41-1758.04, Arizona Revised Statutes, is amended to read:

41-1758.04. <u>Denial, suspension or revocation of fingerprint clearance card</u>

A. The division shall deny the issuance of a fingerprint clearance card to any person who is awaiting trial on or who has been convicted of an offense listed in section 41-1758.03, subsection B or C OR SECTION 41-1758.07, SUBSECTION B OR C.

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

C. The division shall suspend the fingerprint clearance card of a person who BECOMES SUBJECT TO REGISTRATION AS A SEX OFFENDER OR A PERSON WHO is arrested for an offense listed in section 41-1758.03, subsection B or C OR SECTION 41-1758.07, SUBSECTION B OR C.

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

Sec. 20. Title 41, chapter 12, article 3.1, Arizona Revised Statutes, is amended by adding section 41-1758.07, to read:

41-1758.07. Level I fingerprint clearance cards; definitions

A. ON RECEIVING THE STATE AND FEDERAL CRIMINAL HISTORY RECORD OF A PERSON WHO IS REQUIRED TO BE FINGERPRINTED PURSUANT TO THIS SECTION, THE FINGERPRINTING DIVISION IN THE DEPARTMENT OF PUBLIC SAFETY SHALL COMPARE THE RECORD WITH THE LIST OF CRIMINAL OFFENSES THAT PRECLUDE THE PERSON FROM RECEIVING A LEVEL I FINGERPRINT CLEARANCE CARD. IF THE PERSON'S CRIMINAL HISTORY RECORD DOES NOT CONTAIN ANY OF THE OFFENSES LISTED IN SUBSECTIONS B AND C OF THIS SECTION, THE FINGERPRINTING DIVISION SHALL ISSUE THE PERSON A LEVEL I FINGERPRINT CLEARANCE CARD.

B. A PERSON WHO IS SUBJECT TO REGISTRATION AS A SEX OFFENDER IN THIS STATE OR ANY OTHER JURISDICTION OR WHO IS AWAITING TRIAL ON OR WHO HAS BEEN CONVICTED OF COMMITTING OR ATTEMPTING, SOLICITING, FACILITATING OR CONSPIRING TO COMMIT ONE OR MORE OF THE FOLLOWING OFFENSES IN THIS STATE OR THE SAME OR SIMILAR OFFENSES IN ANOTHER STATE OR JURISDICTION IS PRECLUDED FROM RECEIVING A LEVEL I FINGERPRINT CLEARANCE CARD:

1. SEXUAL ABUSE OF A VULNERABLE ADULT.
2. INCEST.
3. HOMICIDE, INCLUDING FIRST OR SECOND DEGREE MURDER, MANSLAUGHTER AND NEGLIGENT HOMICIDE.
4. SEXUAL ASSAULT.
5. SEXUAL EXPLOITATION OF A MINOR.
6. SEXUAL EXPLOITATION OF A VULNERABLE ADULT.
7. COMMERCIAL SEXUAL EXPLOITATION OF A MINOR.
8. COMMERCIAL SEXUAL EXPLOITATION OF A VULNERABLE ADULT.
9. CHILD PROSTITUTION AS PRESCRIBED IN SECTION 13-3212.
10. CHILD ABUSE.
11. FELONY CHILD NEGLECT.
12. ABUSE OF A VULNERABLE ADULT.
13. SEXUAL CONDUCT WITH A MINOR.
14. MOLESTATION OF A CHILD.
15. MOLESTATION OF A VULNERABLE ADULT.
16. DANGEROUS CRIMES AGAINST CHILDREN AS DEFINED IN SECTION 13-705.
17. EXPLOITATION OF MINORS INVOLVING DRUG OFFENSES.
18. TAKING A CHILD FOR THE PURPOSE OF PROSTITUTION AS PRESCRIBED IN SECTION 13-3206.
19. NEGLECT OR ABUSE OF A VULNERABLE ADULT.
20. SEX TRAFFICKING.
21. SEXUAL ABUSE.

22. PRODUCTION, PUBLICATION, SALE, POSSESSION AND PRESENTATION OF OBSCENE ITEMS AS PRESCRIBED IN SECTION 13-3502.

23. FURNISHING HARMFUL ITEMS TO MINORS AS PRESCRIBED IN SECTION 13-3506.

24. FURNISHING HARMFUL ITEMS TO MINORS BY INTERNET ACTIVITY AS PRESCRIBED IN SECTION 13-3506.01.

25. OBSCENE OR INDECENT TELEPHONE COMMUNICATIONS TO MINORS FOR COMMERCIAL PURPOSES AS PRESCRIBED IN SECTION 13-3512.

26. LURING A MINOR FOR SEXUAL EXPLOITATION.

27. ENTICEMENT OF PERSONS FOR PURPOSES OF PROSTITUTION.

28. PROCUREMENT BY FALSE PRETENSES OF PERSON FOR PURPOSES OF PROSTITUTION.

29. PROCURING OR PLACING PERSONS IN A HOUSE OF PROSTITUTION.

30. RECEIVING EARNINGS OF A PROSTITUTE.

31. CAUSING ONE'S SPOUSE TO BECOME A PROSTITUTE.

32. DETENTION OF PERSONS IN A HOUSE OF PROSTITUTION FOR DEBT.

33. KEEPING OR RESIDING IN A HOUSE OF PROSTITUTION OR EMPLOYMENT IN PROSTITUTION.

34. PANDERING.

35. TRANSPORTING PERSONS FOR THE PURPOSE OF PROSTITUTION, POLYGAMY AND CONCUBINAGE.

36. PORTRAYING ADULT AS A MINOR AS PRESCRIBED IN SECTION 13-3555.

37. ADMITTING MINORS TO PUBLIC DISPLAYS OF SEXUAL CONDUCT AS PRESCRIBED IN SECTION 13-3558.

38. ANY FELONY OFFENSE INVOLVING CONTRIBUTING TO THE DELINQUENCY OF A MINOR.

39. UNLAWFUL SALE OR PURCHASE OF CHILDREN.

40. CHILD BIGAMY.

41. ANY FELONY OFFENSE INVOLVING DOMESTIC VIOLENCE AS DEFINED IN SECTION 13-3601 EXCEPT FOR A FELONY OFFENSE ONLY INVOLVING CRIMINAL DAMAGE IN AN AMOUNT OF MORE THAN TWO HUNDRED FIFTY DOLLARS BUT LESS THAN ONE THOUSAND DOLLARS IF THE OFFENSE WAS COMMITTED BEFORE THE EFFECTIVE DATE OF THIS SECTION.

42. ANY FELONY OFFENSE IN VIOLATION OF TITLE 13, CHAPTER 12 IF COMMITTED WITHIN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A LEVEL I FINGERPRINT CLEARANCE CARD.

43. FELONY DRUG OR ALCOHOL RELATED OFFENSES IF COMMITTED WITHIN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A LEVEL I FINGERPRINT CLEARANCE CARD.

44. FELONY INDECENT EXPOSURE.

45. FELONY PUBLIC SEXUAL INDECENCY.

46. TERRORISM.

47. ANY OFFENSE INVOLVING A VIOLENT CRIME AS DEFINED IN SECTION 13-901.03.

C. A PERSON WHO IS AWAITING TRIAL ON OR WHO HAS BEEN CONVICTED OF COMMITTING OR ATTEMPTING, SOLICITING, FACILITATING OR CONSPIRING TO COMMIT

1 ONE OR MORE OF THE FOLLOWING OFFENSES IN THIS STATE OR THE SAME OR SIMILAR
2 OFFENSES IN ANOTHER STATE OR JURISDICTION IS PRECLUDED FROM RECEIVING A LEVEL
3 I FINGERPRINT CLEARANCE CARD, EXCEPT THAT THE PERSON MAY PETITION THE BOARD
4 OF FINGERPRINTING FOR A GOOD CAUSE EXCEPTION PURSUANT TO SECTION 41-619.55:
5 1. ANY MISDEMEANOR OFFENSE IN VIOLATION OF TITLE 13, CHAPTER 12.
6 2. MISDEMEANOR INDECENT EXPOSURE.
7 3. MISDEMEANOR PUBLIC SEXUAL INDECENCY.
8 4. AGGRAVATED CRIMINAL DAMAGE.
9 5. THEFT.
10 6. THEFT BY EXTORTION.
11 7. SHOPLIFTING.
12 8. FORGERY.
13 9. CRIMINAL POSSESSION OF A FORGERY DEVICE.
14 10. OBTAINING A SIGNATURE BY DECEPTION.
15 11. CRIMINAL IMPERSONATION.
16 12. THEFT OF A CREDIT CARD OR OBTAINING A CREDIT CARD BY FRAUDULENT
17 MEANS.
18 13. RECEIPT OF ANYTHING OF VALUE OBTAINED BY FRAUDULENT USE OF A CREDIT
19 CARD.
20 14. FORGERY OF A CREDIT CARD.
21 15. FRAUDULENT USE OF A CREDIT CARD.
22 16. POSSESSION OF ANY MACHINERY, PLATE OR OTHER CONTRIVANCE OR
23 INCOMPLETE CREDIT CARD.
24 17. FALSE STATEMENT AS TO FINANCIAL CONDITION OR IDENTITY TO OBTAIN A
25 CREDIT CARD.
26 18. FRAUD BY PERSONS AUTHORIZED TO PROVIDE GOODS OR SERVICES.
27 19. CREDIT CARD TRANSACTION RECORD THEFT.
28 20. MISCONDUCT INVOLVING WEAPONS.
29 21. MISCONDUCT INVOLVING EXPLOSIVES.
30 22. DEPOSITING EXPLOSIVES.
31 23. MISCONDUCT INVOLVING SIMULATED EXPLOSIVE DEVICES.
32 24. CONCEALED WEAPON VIOLATION.
33 25. MISDEMEANOR POSSESSION AND MISDEMEANOR SALE OF PEYOTE.
34 26. FELONY POSSESSION AND FELONY SALE OF PEYOTE IF COMMITTED MORE THAN
35 FIVE YEARS BEFORE THE DATE OF APPLYING FOR A LEVEL I FINGERPRINT CLEARANCE
36 CARD.
37 27. MISDEMEANOR POSSESSION AND MISDEMEANOR SALE OF A VAPOR-RELEASING
38 SUBSTANCE CONTAINING A TOXIC SUBSTANCE.
39 28. FELONY POSSESSION AND FELONY SALE OF A VAPOR-RELEASING SUBSTANCE
40 CONTAINING A TOXIC SUBSTANCE IF COMMITTED MORE THAN FIVE YEARS BEFORE THE
41 DATE OF APPLYING FOR A LEVEL I FINGERPRINT CLEARANCE CARD.
42 29. MISDEMEANOR SALE OF PRECURSOR CHEMICALS.
43 30. FELONY SALE OF PRECURSOR CHEMICALS IF COMMITTED MORE THAN FIVE
44 YEARS BEFORE THE DATE OF APPLYING FOR A LEVEL I FINGERPRINT CLEARANCE CARD.

31. MISDEMEANOR POSSESSION, MISDEMEANOR USE OR MISDEMEANOR SALE OF MARIJUANA, DANGEROUS DRUGS OR NARCOTIC DRUGS.

32. FELONY POSSESSION, FELONY USE OR FELONY SALE OF MARIJUANA, DANGEROUS DRUGS OR NARCOTIC DRUGS IF COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A LEVEL I FINGERPRINT CLEARANCE CARD.

33. MISDEMEANOR MANUFACTURE OR MISDEMEANOR DISTRIBUTION OF AN IMITATION CONTROLLED SUBSTANCE.

34. FELONY MANUFACTURE OR FELONY DISTRIBUTION OF AN IMITATION CONTROLLED SUBSTANCE IF COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A LEVEL I FINGERPRINT CLEARANCE CARD.

35. MISDEMEANOR MANUFACTURE OR MISDEMEANOR DISTRIBUTION OF AN IMITATION PRESCRIPTION-ONLY DRUG.

36. FELONY MANUFACTURE OR FELONY DISTRIBUTION OF AN IMITATION PRESCRIPTION-ONLY DRUG IF COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A LEVEL I FINGERPRINT CLEARANCE CARD.

37. MISDEMEANOR MANUFACTURE OR MISDEMEANOR DISTRIBUTION OF AN IMITATION OVER-THE-COUNTER DRUG.

38. FELONY MANUFACTURE OR FELONY DISTRIBUTION OF AN IMITATION OVER-THE-COUNTER DRUG IF COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A LEVEL I FINGERPRINT CLEARANCE CARD.

39. MISDEMEANOR POSSESSION OR MISDEMEANOR POSSESSION WITH INTENT TO USE AN IMITATION CONTROLLED SUBSTANCE.

40. FELONY POSSESSION OR FELONY POSSESSION WITH INTENT TO USE AN IMITATION CONTROLLED SUBSTANCE IF COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A LEVEL I FINGERPRINT CLEARANCE CARD.

41. MISDEMEANOR POSSESSION OR MISDEMEANOR POSSESSION WITH INTENT TO USE AN IMITATION PRESCRIPTION-ONLY DRUG.

42. FELONY POSSESSION OR FELONY POSSESSION WITH INTENT TO USE AN IMITATION PRESCRIPTION-ONLY DRUG IF COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A LEVEL I FINGERPRINT CLEARANCE CARD.

43. MISDEMEANOR POSSESSION OR MISDEMEANOR POSSESSION WITH INTENT TO USE AN IMITATION OVER-THE-COUNTER DRUG.

44. FELONY POSSESSION OR FELONY POSSESSION WITH INTENT TO USE AN IMITATION OVER-THE-COUNTER DRUG IF COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A LEVEL I FINGERPRINT CLEARANCE CARD.

45. MISDEMEANOR MANUFACTURE OF CERTAIN SUBSTANCES AND DRUGS BY CERTAIN MEANS.

46. FELONY MANUFACTURE OF CERTAIN SUBSTANCES AND DRUGS BY CERTAIN MEANS IF COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A LEVEL I FINGERPRINT CLEARANCE CARD.

47. ADDING POISON OR OTHER HARMFUL SUBSTANCE TO FOOD, DRINK OR MEDICINE.

48. A CRIMINAL OFFENSE INVOLVING CRIMINAL TRESPASS AND BURGLARY UNDER TITLE 13, CHAPTER 15.

49. A CRIMINAL OFFENSE UNDER TITLE 13, CHAPTER 23, EXCEPT TERRORISM.

1 50. MISDEMEANOR OFFENSES INVOLVING CHILD NEGLECT.
2 51. MISDEMEANOR OFFENSES INVOLVING CONTRIBUTING TO THE DELINQUENCY OF A
3 MINOR.
4 52. MISDEMEANOR OFFENSES INVOLVING DOMESTIC VIOLENCE AS DEFINED IN
5 SECTION 13-3601.
6 53. FELONY OFFENSES INVOLVING DOMESTIC VIOLENCE IF THE OFFENSE ONLY
7 INVOLVED CRIMINAL DAMAGE IN AN AMOUNT OF MORE THAN TWO HUNDRED FIFTY DOLLARS
8 BUT LESS THAN ONE THOUSAND DOLLARS AND THE OFFENSE WAS COMMITTED BEFORE THE
9 EFFECTIVE DATE OF THIS SECTION.
10 54. ARSON.
11 55. FELONY OFFENSES INVOLVING SALE, DISTRIBUTION OR TRANSPORTATION OF,
12 OFFER TO SELL, TRANSPORT OR DISTRIBUTE OR CONSPIRACY TO SELL, TRANSPORT OR
13 DISTRIBUTE MARIJUANA, DANGEROUS DRUGS OR NARCOTIC DRUGS IF COMMITTED MORE
14 THAN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A LEVEL I FINGERPRINT
15 CLEARANCE CARD.
16 56. CRIMINAL DAMAGE.
17 57. MISAPPROPRIATION OF CHARTER SCHOOL MONIES AS PRESCRIBED IN SECTION
18 13-1818.
19 58. TAKING IDENTITY OF ANOTHER PERSON OR ENTITY.
20 59. AGGRAVATED TAKING IDENTITY OF ANOTHER PERSON OR ENTITY.
21 60. TRAFFICKING IN THE IDENTITY OF ANOTHER PERSON OR ENTITY.
22 61. CRUELTY TO ANIMALS.
23 62. PROSTITUTION, AS PRESCRIBED IN SECTION 13-3214.
24 63. SALE OR DISTRIBUTION OF MATERIAL HARMFUL TO MINORS THROUGH VENDING
25 MACHINES AS PRESCRIBED IN SECTION 13-3513.
26 64. WELFARE FRAUD.
27 65. ANY FELONY OFFENSE IN VIOLATION OF TITLE 13, CHAPTER 12 IF
28 COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A LEVEL I
29 FINGERPRINT CLEARANCE CARD.
30 66. KIDNAPPING.
31 67. ROBBERY, AGGRAVATED ROBBERY OR ARMED ROBBERY.
32 D. A PERSON WHO IS AWAITING TRIAL ON OR WHO HAS BEEN CONVICTED OF
33 COMMITTING OR ATTEMPTING TO COMMIT A MISDEMEANOR VIOLATION OF SECTION
34 28-1381, 28-1382 OR 28-1383 IN THIS STATE OR THE SAME OR SIMILAR OFFENSE IN
35 ANOTHER STATE OR JURISDICTION WITHIN FIVE YEARS FROM THE DATE OF APPLYING FOR
36 A LEVEL I FINGERPRINT CLEARANCE CARD IS PRECLUDED FROM DRIVING ANY VEHICLE TO
37 TRANSPORT EMPLOYEES OR CLIENTS OF THE EMPLOYING AGENCY AS PART OF THE
38 PERSON'S EMPLOYMENT. THE DIVISION SHALL PLACE A NOTATION ON THE LEVEL I
39 FINGERPRINT CLEARANCE CARD THAT INDICATES THIS DRIVING RESTRICTION. THIS
40 SUBSECTION DOES NOT PRECLUDE A PERSON FROM DRIVING A VEHICLE ALONE AS PART OF
41 THE PERSON'S EMPLOYMENT.

1 E. NOTWITHSTANDING SUBSECTION C OF THIS SECTION, ON RECEIVING WRITTEN
2 NOTICE FROM THE BOARD OF FINGERPRINTING THAT A GOOD CAUSE EXCEPTION WAS
3 GRANTED PURSUANT TO SECTION 41-619.55, THE FINGERPRINTING DIVISION SHALL
4 ISSUE A LEVEL I FINGERPRINT CLEARANCE CARD TO THE APPLICANT.
5 F. IF THE FINGERPRINTING DIVISION DENIES A PERSON'S APPLICATION FOR A
6 LEVEL I FINGERPRINT CLEARANCE CARD PURSUANT TO SUBSECTION C OF THIS SECTION
7 AND A GOOD CAUSE EXCEPTION IS REQUESTED PURSUANT TO SECTION 41-619.55, THE
8 FINGERPRINTING DIVISION SHALL RELEASE, ON REQUEST BY THE BOARD OF
9 FINGERPRINTING, THE PERSON'S CRIMINAL HISTORY RECORD TO THE BOARD OF
10 FINGERPRINTING.
11 G. A PERSON SHALL BE GRANTED A LEVEL I FINGERPRINT CLEARANCE CARD
12 PURSUANT TO THIS SECTION IF EITHER OF THE FOLLOWING APPLIES:
13 1. AN AGENCY GRANTED A GOOD CAUSE EXCEPTION BEFORE AUGUST 16, 1999 AND
14 NO NEW PRECLUDING OFFENSE IS IDENTIFIED. THE FINGERPRINT CLEARANCE CARD
15 SHALL SPECIFY ONLY THE PROGRAM THAT GRANTED THE GOOD CAUSE EXCEPTION. ON THE
16 REQUEST OF THE APPLICANT, THE AGENCY THAT GRANTED THE PRIOR GOOD CAUSE
17 EXCEPTION SHALL NOTIFY THE FINGERPRINTING DIVISION IN WRITING OF THE DATE ON
18 WHICH THE PRIOR GOOD CAUSE EXCEPTION WAS GRANTED AND THE DATE OF THE
19 CONVICTION AND THE NAME OF THE OFFENSE FOR WHICH THE GOOD CAUSE EXCEPTION WAS
20 GRANTED.
21 2. THE BOARD GRANTED A GOOD CAUSE EXCEPTION AND NO NEW PRECLUDING
22 OFFENSE IS IDENTIFIED.
23 H. THE LICENSEE OR CONTRACT PROVIDER SHALL ASSUME THE COSTS OF
24 FINGERPRINT CHECKS CONDUCTED PURSUANT TO THIS SECTION AND MAY CHARGE THESE
25 COSTS TO PERSONS REQUIRED TO BE FINGERPRINTED.
26 I. A PERSON WHO IS UNDER EIGHTEEN YEARS OF AGE OR WHO IS AT LEAST
27 NINETY-NINE YEARS OF AGE IS EXEMPT FROM THE LEVEL I FINGERPRINT CLEARANCE
28 CARD REQUIREMENTS OF THIS SECTION. AT ALL TIMES THE PERSON SHALL BE UNDER
29 THE DIRECT VISUAL SUPERVISION OF PERSONNEL WHO HAVE VALID LEVEL I FINGERPRINT
30 CLEARANCE CARDS.
31 J. THE FINGERPRINTING DIVISION MAY CONDUCT PERIODIC STATE CRIMINAL
32 HISTORY RECORDS CHECKS FOR THE PURPOSE OF UPDATING THE CLEARANCE STATUS OF
33 CURRENT LEVEL I FINGERPRINT CLEARANCE CARD HOLDERS PURSUANT TO THIS SECTION
34 AND MAY NOTIFY THE BOARD OF FINGERPRINTING AND THE AGENCY OF THE RESULTS OF
35 THE RECORDS CHECK.
36 K. THE FINGERPRINTING DIVISION SHALL REVOKE A PERSON'S LEVEL I
37 FINGERPRINT CLEARANCE CARD ON RECEIPT OF A WRITTEN REQUEST FOR REVOCATION
38 FROM THE BOARD OF FINGERPRINTING PURSUANT TO SECTION 41-619.55.
39 L. THE FINGERPRINTING DIVISION SHALL NOT ISSUE A LEVEL I FINGERPRINT
40 CLEARANCE CARD TO AN APPLICANT IF THE DIVISION CANNOT DETERMINE, WITHIN
41 THIRTY BUSINESS DAYS AFTER RECEIPT OF THE PERSON'S STATE AND FEDERAL CRIMINAL
42 HISTORY RECORD INFORMATION, WHETHER THE PERSON IS AWAITING TRIAL ON OR HAS
43 BEEN CONVICTED OF COMMITTING ANY OF THE OFFENSES LISTED IN SUBSECTION B OR C
44 OF THIS SECTION. IF THE DIVISION IS UNABLE TO MAKE THE DETERMINATION
45 REQUIRED BY THIS SECTION AND DOES NOT ISSUE A LEVEL I FINGERPRINT CLEARANCE

1 CARD TO A PERSON, THE PERSON MAY REQUEST A GOOD CAUSE EXCEPTION PURSUANT TO
2 SECTION 41-619.55.
3 M. IF AFTER CONDUCTING A STATE AND FEDERAL CRIMINAL HISTORY RECORDS
4 CHECK THE FINGERPRINTING DIVISION DETERMINES THAT IT IS NOT AUTHORIZED TO
5 ISSUE A LEVEL I FINGERPRINT CLEARANCE CARD TO AN APPLICANT, THE DIVISION
6 SHALL NOTIFY THE AGENCY THAT THE FINGERPRINTING DIVISION IS NOT AUTHORIZED TO
7 ISSUE A LEVEL I FINGERPRINT CLEARANCE CARD. THIS NOTICE SHALL INCLUDE THE
8 CRIMINAL HISTORY INFORMATION ON WHICH THE DENIAL WAS BASED. THIS CRIMINAL
9 HISTORY INFORMATION IS SUBJECT TO DISSEMINATION RESTRICTIONS PURSUANT TO
10 SECTION 41-1750 AND PUBLIC LAW 92-544.
11 N. THE FINGERPRINTING DIVISION IS NOT LIABLE FOR DAMAGES RESULTING
12 FROM:
13 1. THE ISSUANCE OF A LEVEL I FINGERPRINT CLEARANCE CARD TO AN
14 APPLICANT WHO IS LATER FOUND TO HAVE BEEN INELIGIBLE TO RECEIVE A LEVEL I
15 FINGERPRINT CLEARANCE CARD AT THE TIME THE CARD WAS ISSUED.
16 2. THE DENIAL OF A LEVEL I FINGERPRINT CLEARANCE CARD TO AN APPLICANT
17 WHO IS LATER FOUND TO HAVE BEEN ELIGIBLE TO RECEIVE A LEVEL I FINGERPRINT
18 CLEARANCE CARD AT THE TIME ISSUANCE OF THE CARD WAS DENIED.
19 O. NOTWITHSTANDING ANY LAW TO THE CONTRARY, AN INDIVIDUAL MAY APPLY
20 FOR AND RECEIVE A LEVEL I FINGERPRINT CLEARANCE CARD PURSUANT TO THIS SECTION
21 TO SATISFY A REQUIREMENT THAT THE PERSON HAVE A VALID FINGERPRINT CLEARANCE
22 CARD ISSUED PURSUANT TO SECTION 41-1758.03.
23 P. NOTWITHSTANDING ANY LAW TO THE CONTRARY, EXCEPT AS PRESCRIBED
24 PURSUANT TO SUBSECTION Q OF THIS SECTION, AN INDIVIDUAL WHO RECEIVES A
25 LEVEL I FINGERPRINT CLEARANCE CARD PURSUANT TO THIS SECTION ALSO SATISFIES A
26 REQUIREMENT THAT THE INDIVIDUAL HAVE A VALID FINGERPRINT CLEARANCE CARD
27 ISSUED PURSUANT TO SECTION 41-1758.03.
28 Q. UNLESS A CARDHOLDER COMMITS AN OFFENSE LISTED IN SUBSECTION B OR C
29 OF THIS SECTION AFTER THE EFFECTIVE DATE OF THIS SECTION, A FINGERPRINT
30 CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.03 BEFORE THE EFFECTIVE
31 DATE OF THIS SECTION AND ITS RENEWALS ARE VALID FOR ALL REQUIREMENTS FOR A
32 LEVEL I FINGERPRINT CLEARANCE CARD EXCEPT THOSE RELATING TO THE REQUIREMENTS
33 OF SECTION 8-105 OR 8-509. A FINGERPRINT CLEARANCE CARD ISSUED BEFORE THE
34 EFFECTIVE DATE OF THIS SECTION TO MEET THE REQUIREMENTS OF SECTION 8-105 OR
35 8-509 AND ITS RENEWALS ARE VALID AFTER THE EFFECTIVE DATE OF THIS SECTION TO
36 MEET ALL REQUIREMENTS FOR A LEVEL I FINGERPRINT CLEARANCE CARD, INCLUDING THE
37 REQUIREMENTS OF SECTION 8-105 OR 8-509 IF THE CARDHOLDER HAS BEEN CERTIFIED
38 BY THE COURT TO ADOPT OR HAS BEEN ISSUED A FOSTER HOME LICENSE BEFORE THE
39 EFFECTIVE DATE OF THIS SECTION.
40 R. THE ISSUANCE OF A LEVEL I FINGERPRINT CLEARANCE CARD DOES NOT
41 ENTITLE A PERSON TO EMPLOYMENT.

S. FOR THE PURPOSES OF THIS SECTION:

1. "PERSON" MEANS A PERSON WHO IS FINGERPRINTED PURSUANT TO:

(a) SECTION 8-105, 8-509, 8-802, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 OR 46-141.

(b) SUBSECTION O OF THIS SECTION.

2. "RENEWAL" MEANS THE ISSUANCE OF A FINGERPRINT CLEARANCE CARD TO AN EXISTING FINGERPRINT CLEARANCE CARD HOLDER WHO APPLIES BEFORE THE PERSON'S EXISTING FINGERPRINT CLEARANCE CARD EXPIRES.

Sec. 21. Section 41-1964, Arizona Revised Statutes, is amended to read:

41-1964. Day care homes; child care personnel; fingerprints; definition

A. Child care personnel shall have valid fingerprint clearance cards issued pursuant to ~~chapter 12, article 3.1 of this title~~ SECTION 41-1758.07 or shall apply for a fingerprint clearance card no later than seven working days from the date of certification by the department or within seven working days after residing or working in the home of a child care home provider or being designated as a backup provider.

B. Before certification or within seven working days after residing or working in the home of a child care provider or being designated as a backup provider, child care personnel shall certify on forms that are provided by the department and notarized whether:

1. They are awaiting trial on or have been convicted of or admitted committing any of the criminal offenses listed in section ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or similar offenses in another state or jurisdiction.

2. They are parents or guardians of a child adjudicated to be a dependent child as defined in section 8-201.

3. They have been denied a license to operate a facility for the care of children for cause in this state or another state or had a license or certificate to operate such a facility revoked.

C. The department shall make documented, good faith efforts to contact previous employers of certified day care home personnel to obtain information or recommendations that may be relevant to an individual's fitness for work in a certified day care home.

D. The notarized forms are confidential.

E. The department of economic security shall notify the department of public safety if the department of economic security receives credible evidence that any child care personnel who possesses a valid fingerprint clearance card either:

1. Is arrested for or charged with an offense listed in section ~~41-1758.03~~ 41-1758.07, subsection B OR C.

2. Falsified information on the form required by subsection B of this section.

F. For the purposes of this section, "child care personnel" means child care home providers, in-home providers and noncertified relative providers as defined in section 46-801 and designated backup providers and all persons who are eighteen years of age or older and who work or reside in the home of a child care home provider.

Sec. 22. Section 41-1967, Arizona Revised Statutes, is amended to read:

41-1967. Child care resource and referral system; immunity

A. The department shall establish and maintain a statewide child care resource and referral system, including a child care home provider registry, through community-based organizations to:

1. Provide families with:

(a) Information on all types of child care.

(b) Referrals to child care providers and programs.

(c) Information about child care resources and services.

(d) Information about choosing child care.

(e) Information about registered child care home providers.

2. Assist child care providers and programs with:

(a) Information on training related to child care issues.

(b) Technical assistance that relates to initiating or providing child care services.

(c) Parent referrals.

(d) Becoming registered as a child care home provider.

3. Coordinate with the community to:

(a) Develop statistics of the demand for and supply of child care.

(b) Maintain ongoing relationships with all local groups interested in child care.

B. The child care resource and referral system shall:

1. Identify all available child care providers and programs through coordination with public and private agencies.

2. Collect in a uniform method provider information for the referral database that includes:

(a) The type of program.

(b) The hours of service.

(c) The ages of children served.

(d) Fees for service.

(e) The licensure, certification and registration status of providers.

(f) Other significant provider and program information.

3. Establish and maintain a referral process that responds to parental need for information. The child care resource and referral system shall make referrals to child care providers and programs that:

(a) Promote parental choice and meet the needs of families.

(b) Are included in the resource and referral database.

4. Collect in a uniform method family information for the referral database that includes the:

1 (a) Number of calls and contacts.
2 (b) Ages of children in need of care.
3 (c) Days and times of care requested.
4 (d) Type of care requested.
5 (e) Special needs and requests made by the family.
6 (f) Reason that the care is needed.
7 5. Provide outreach services that include:
8 (a) Efforts to reach parents and providers in local communities.
9 (b) Involvement in the local communities.
10 (c) Publication of services through all available media sources,
11 agencies and other appropriate channels.
12 (d) Public awareness information to parents and providers about the
13 child care home provider registry and the benefits of using the registry or
14 becoming registered.
15 6. Provide technical assistance to existing and prospective child care
16 providers and programs that include:
17 (a) Information on all aspects of initiating new child care services
18 including child care regulations, zoning, program and budget development and
19 assistance in finding information from other sources.
20 (b) Educational information and resources that assist existing child
21 care providers and programs to better serve the children and parents in their
22 community.
23 (c) Local coordination of existing child care and child related
24 services.
25 7. Establish and maintain a child care home provider registry that
26 includes:
27 (a) Child care home providers that are registered pursuant to section
28 41-1967.01.
29 (b) A complaint tracking system that contains written complaints
30 concerning providers and written provider responses. The complaints and
31 responses are available to the public.
32 (c) A system for notifying a provider that is excluded or removed from
33 the registry that the provider may appeal directly to the entity making the
34 determination resulting in the exclusion or removal.
35 (d) Information provided by registered providers relating to the
36 services provided and child care environment.
37 C. The following child care providers are eligible to be considered
38 for inclusion in the child care resource and referral database, unless barred
39 by other provisions of law:
40 1. Child care providers licensed or certified by a government agency
41 ~~which~~ THAT is authorized by law to license, certify or approve child care
42 providers.
43 2. Child care home providers that are registered pursuant to section
44 41-1967.01. These providers shall submit and amend when necessary sworn,
45 written statements to the department or its designees, on forms approved by

the department, attesting that the provider is not subject to exclusion or removal from the child care resource and referral database under any of the grounds specified in subsection E of this section.

D. Child care providers identified in subsection C, paragraph 1 of this section may be excluded or removed from the child care resource and referral database whenever the provider's license or certification is revoked, terminated or suspended, or when a child care facility is closed for cause.

E. Child care home providers identified in subsection C, paragraph 2 of this section may be excluded or removed from the child care home provider registry and the child care resource and referral database if:

1. The provider fails to obtain a fingerprint clearance card or the provider's fingerprint clearance card is revoked or suspended.

2. The provider has been denied a license to operate a facility for the care of children or had a license or certificate to operate a facility revoked or has been removed for cause from participation in the child and adult food program in this state or in any other state or jurisdiction.

3. The provider, the provider's employees or any person eighteen years of age or older who resides in the provider's child care facility has been convicted of or is awaiting trial on any of the criminal offenses listed in section ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or similar criminal offenses in any other state or jurisdiction.

4. The provider, the provider's employees or any person who resides in the provider's child care facility has been the subject of an investigation where a report of child abuse or neglect has been substantiated by a child protective services agency or a law enforcement agency in this state or in any other state or jurisdiction.

5. The provider fails to maintain current training and certification in first aid and infant and child cardiopulmonary resuscitation.

6. The provider fails to enclose a pool pursuant to section 36-1681, subsections A, B and C.

7. The provider fails to separately store firearms and ammunition under lock and key or combination lock.

F. This section and section 41-1967.01 do not create an affirmative obligation on the part of any state agency or any child care resource and referral agency to review, monitor or investigate child care providers and programs.

G. Neither this state nor its officers or employees, acting within the scope of their employment, are liable for any damage or injury caused by their conduct pursuant to this section or section 41-1967.01, except for gross negligence or conduct intended to cause injury.

H. Neither a child care resource and referral agency nor its officers and employees, acting within the scope of their employment, are liable for any damage or injury caused by their conduct pursuant to this section or

section 41-1967.01, except for gross negligence or conduct intended to cause injury.

I. The department shall adopt rules that are consistent with the terms of this section.

Sec. 23. Section 41-1967.01, Arizona Revised Statutes, is amended to read:

41-1967.01. Child care home provider; registration; fingerprints; definition

A. A child care home provider who receives compensation to care for four or fewer children and who has not been certified by the department of economic security pursuant to section 46-807 or licensed or certified by the department of health services pursuant to section 36-883 or 36-897.01 shall register with the department of economic security if the child care home provider wishes to be listed with the child care resource and referral system.

B. Each applicant for registration shall submit a full set of fingerprints to the department of public safety for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

C. Child care providers shall have a valid fingerprint clearance card issued pursuant to ~~chapter 12, article 3.1 of this title~~ SECTION 41-1758.07 or shall apply for a fingerprint clearance card by the date of registration with the department.

D. By the date of registration, child care providers shall certify on forms that are provided by the department and notarized whether:

1. They are awaiting trial on or have been convicted of or admitted committing any of the ~~following~~ criminal offenses LISTED IN SECTION 41-1758.07, SUBSECTION B OR C in this state or similar offenses in another state or jurisdiction~~:~~.

~~(a) Sexual abuse of a minor.~~

~~(b) Incest.~~

~~(c) First or second degree murder.~~

~~(d) Kidnapping.~~

~~(e) Arson.~~

~~(f) Sexual assault.~~

~~(g) Sexual exploitation of a minor.~~

~~(h) Felony offenses involving contributing to the delinquency of a minor.~~

~~(i) Commercial sexual exploitation of a minor.~~

~~(j) Felony offenses involving sale, distribution or transportation of, offer to sell, transport or distribute or conspiracy to sell, transport or distribute marijuana, dangerous drugs or narcotic drugs.~~

~~(k) Felony offenses involving the possession or use of marijuana, dangerous drugs or narcotic drugs.~~

~~(l) Burglary.~~
~~(m) Aggravated or armed robbery.~~
~~(n) Robbery.~~
~~(o) A dangerous crime against children as defined in section 13-705.~~
~~(p) Child abuse.~~
~~(q) Sexual conduct with a minor.~~
~~(r) Molestation of a child.~~
~~(s) Manslaughter.~~
~~(t) Assault or aggravated assault.~~
~~(u) Exploitation of minors involving drug offenses.~~
~~(v) A violation of section 28-1381, 28-1382 or 28-1383.~~
~~(w) Offenses involving domestic violence.~~

2. They are parents or guardians of a child adjudicated to be a dependent child as defined in section 8-201.

3. They have been denied a license to operate a child care facility for cause in this state or another state or had a license or certificate to operate a child care facility revoked.

E. The notarized forms are confidential.

F. Each applicant for registration shall not have been the subject of an investigation where a report of child abuse or neglect has been substantiated.

G. Each applicant shall maintain current training and certification in first aid and infant and child cardiopulmonary resuscitation.

H. The applicant shall enclose any pool on the applicant's premises pursuant to section 36-1681, subsections A, B and C.

I. The applicant shall separately store firearms and ammunition under lock and key or combination lock.

J. The department shall adopt rules to carry out this section.

K. The director shall charge a fee for processing the fingerprint information required pursuant to this section.

L. Any obligation or liability under this section is governed by the provisions of section 41-1967, subsections F, G and H.

M. For the purposes of this section, "child care provider" means a registered child care home provider pursuant to subsection A of this section.

Sec. 24. Section 41-1968, Arizona Revised Statutes, is amended to read:

41-1968. <u>DES employees; fingerprint requirement; definition</u>

Each employee of the department who has contact with children or vulnerable adults shall have a valid fingerprint clearance card issued pursuant to ~~chapter 12, article 3.1 of this title~~ SECTION 41-1758.07 or provide to the department documentation of the person's application for a fingerprint clearance card. The employee shall certify on forms that are provided by the department and that are notarized whether the employee is awaiting trial on or has ever been convicted of any of the criminal offenses listed in section ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or

similar offenses in another state or jurisdiction. For the purposes of this section, "vulnerable adult" has the same meaning prescribed in section 13-3623.

Sec. 25. Section 41-1969, Arizona Revised Statutes, is amended to read:

41-1969. Information technology personnel; criminal history records

A. Each employee of the department of economic security who is employed in an information technology position shall have a valid fingerprint clearance card issued pursuant to ~~chapter 12, article 3.1 of this title~~ SECTION 41-1758.07 or provide to the department documentation of the person's application for a fingerprint clearance card. Before accepting an offer of employment, an applicant for an information technology position in the department of economic security shall have a valid fingerprint clearance card issued pursuant to ~~chapter 12, article 3.1 of this title~~ SECTION 41-1758.07 or provide to the department documentation of the person's application for a fingerprint clearance card.

B. The department of economic security shall not disclose information obtained pursuant to subsection A of this section except to members of the department's staff solely for employment purposes.

Sec. 26. Section 46-141, Arizona Revised Statutes, is amended to read:

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

A. Each license granted by the department of economic security and each contract entered into between the department of economic security and any contract provider for the provision of services to juveniles shall provide that, as a condition of employment, personnel who are employed by the licensee or contractor, whether paid or not, and who are required or allowed to provide services directly to juveniles shall have a valid fingerprint clearance card issued pursuant to ~~title 41, chapter 12, article 3.1~~ SECTION 41-1758.07 or shall apply for a fingerprint clearance card within seven working days of employment.

B. The licensee or contractor shall assume the costs of fingerprint checks and may charge these costs to its fingerprinted personnel. The department may allow all or part of the costs of fingerprint checks to be included as an allowable cost in a contract.

C. A service contract or license with any contract provider or licensee that involves the employment of persons who have contact with juveniles shall provide that the contract or license may be canceled or terminated immediately if a person certifies pursuant to subsections F and G of this section that the person is awaiting trial on or has been convicted of any of the offenses listed in subsections F and G of this section in this state or similar offenses in another state or jurisdiction or if the person does not possess or is denied issuance of a valid fingerprint clearance card.

D. A contract provider or licensee may avoid cancellation or termination of the contract or license under subsection C of this section if a person who does not possess or has been denied issuance of a valid fingerprint clearance card or who certifies pursuant to subsections F and G of this section that the person has been convicted of or is awaiting trial on any of the offenses listed in section ~~41-1758.03~~ 41-1758.07, subsection B is immediately prohibited from employment or service with the contract provider or licensee in any capacity requiring or allowing contact with juveniles.

E. A contract provider or licensee may avoid cancellation or termination of the contract or license under subsection C of this section if a person who does not possess or has been denied issuance of a valid fingerprint clearance card or who certifies pursuant to subsections F and G of this section that the person has been convicted of or is awaiting trial on any of the offenses listed in section ~~41-1758.03~~ 41-1758.07, subsection C is immediately prohibited from employment or service with the contract provider or licensee in any capacity requiring contact with juveniles unless the person is granted a good cause exception pursuant to section 41-619.55.

F. Personnel who are employed by any contract provider or licensee, whether paid or not, and who are required or allowed to provide services directly to juveniles shall certify on forms provided by the department of economic security and notarized whether they are awaiting trial on or have ever been convicted of any of the criminal offenses listed in section ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or similar offenses in another state or jurisdiction.

G. Personnel who are employed by any contract provider or licensee, whether paid or not, and who are required or allowed to provide services directly to juveniles shall certify on forms provided by the department of economic security and notarized whether they have ever committed any act of sexual abuse of a child, including sexual exploitation and commercial sexual exploitation, or any act of child abuse.

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

I. A person who applies to the department of economic security for a license or certificate or for paid or unpaid employment, including contract services, and who will provide direct services to juveniles or vulnerable adults shall submit a full set of fingerprints to the department for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation. This subsection does not apply to those persons who are subject to section 8-105, 8-509, 8-802 or 41-1968.

J. The special services unit of the department of economic security may use the department of public safety automated system to update all criminal history record information in order to ensure, to the maximum extent reasonably possible, complete disposition information. The department of economic security may deny employment or issuance or renewal of the contract or license applied for in these cases if it determines that the criminal history record information indicates that such employee, applicant or contractor is not qualified or suitable.

K. Volunteers who provide services to juveniles under the direct visual supervision of the contractor's or licensee's employees are exempt from the fingerprinting requirements of this section.

L. The department of economic security shall notify the department of public safety if the department of economic security receives credible evidence that a person who possesses a valid fingerprint clearance card pursuant to subsection A of this section either:

1. Is arrested for or charged with an offense listed in section ~~41-1758.03~~ 41-1758.07, subsection B OR C.

2. Falsified information on the form required by subsection F of this section.

Sec. 27. Emergency

This act is an emergency measure that is necessary to preserve the public peace, health or safety and is operative immediately as provided by law.

APPROVED BY THE GOVERNOR JUNE 29, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 30, 2009.