

COMMITTEE ON PUBLIC SAFETY AND HUMAN SERVICES

SENATE AMENDMENTS TO H.B. 2727

(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

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

4 8-105. Preadoption certification; investigation; central
5 adoption registry

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

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

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

25 D. The division shall not present for certification a prospective
26 adoptive parent unless that person has a valid fingerprint clearance card
27 issued pursuant to ~~title 41, chapter 12, article 3.1 or provides to the~~
28 ~~division documentation of the person's application for a fingerprint~~

1 ~~clearance card~~ SECTION 41-1759.07. The prospective adoptive parent must
2 certify on forms that are provided by the division and that are notarized
3 whether the prospective adoptive parent is awaiting trial on or has ever been
4 convicted of any of the criminal offenses listed in section ~~41-1758.03~~ 41-
5 1758.07, subsections B and C in this state or similar offenses in another
6 state or jurisdiction.

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

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

- 14 1. A complete social history.
- 15 2. The financial condition of the applicant.
- 16 3. The moral fitness of the applicant.
- 17 4. The religious background of the applicant.
- 18 5. The physical and mental health condition of the applicants.
- 19 6. Any court action for or adjudication of child abuse, abandonment of
20 children, dependency or termination of parent-child relationship in which the
21 applicant had control, care or custody of the child who was the subject of
22 the action.
- 23 7. Whether the person or persons wish to be placed on the central
24 registry established in subsection M of this section.
- 25 8. All other facts bearing on the issue of the fitness of the
26 prospective adoptive parents that the court, agency or division may deem
27 relevant.

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

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

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

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

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

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

26 M. The division shall maintain a central adoption registry that
27 includes the names of all prospective adoptive parents currently certified by
28 the court as acceptable to adopt children, except those who request that
29 their names not be included, the names of all children who are under the
30 jurisdiction of the division and who are currently available for adoption,
31 the names of any other children who are currently available for adoption and
32 whose names are voluntarily entered in the registry by any agency, parent or

1 other person that has the right to give consent to the child's adoption, and
2 other information as the division may elect to include in aid of adoptive
3 placements. Access to information in the registry shall be made available on
4 request to any agency under assurances as the division may require that the
5 information sought is in furtherance of adoptive placements and that
6 confidentiality of the information is preserved.

7 N. This section does not apply if:

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

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

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

22 0. If the applicant has adopted a child within three years preceding
23 the current application and is applying to adopt another child or is a foster
24 parent who is licensed by this state, the division or agency or a person
25 designated by the court to conduct an investigation shall only provide an
26 update report on any changes in circumstances that have occurred since the
27 previous certification or licensing report. If the applicant has adopted a
28 child more than three years before the current application and is applying to
29 adopt another child, the division or agency or a person designated by the
30 court to conduct an investigation may provide an updated report on any
31 changes in circumstances that have occurred since the previous certification
32 or licensing report. The court shall certify the applicant as acceptable to

1 adopt unless there are changes in circumstances that adversely affect the
2 applicant's parenting ability. In making this determination, the court shall
3 consider information from the prior certification or licensing report.

4 Sec. 2. Section 8-509, Arizona Revised Statutes, is amended to read:

5 8-509. Licensing of foster homes; renewal of license;
6 provisional license

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

9 B. The division shall not issue a license without satisfactory proof
10 that the foster parent or parents have completed six actual hours of approved
11 initial foster parent training as set forth in section 8-503 and that each
12 foster parent and each other adult member of the household has a valid
13 fingerprint clearance card issued pursuant to ~~title 41, chapter 12, article~~
14 ~~3.1 or provides to the division documentation of the person's application for~~
15 ~~a fingerprint clearance card~~ SECTION 41-1759.07. The foster parent and each
16 other adult member of the household must certify on forms that are provided
17 by the division and that are notarized whether the foster parent or other
18 adult member of the household is awaiting trial on or has ever been convicted
19 of any of the criminal offenses listed in section ~~41-1758.03~~ 41-1758.07,
20 subsections B and C in this state or similar offenses in another state or
21 jurisdiction.

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

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

29 E. Child welfare agencies that submit foster homes for licensing shall
30 conduct an investigation of the foster home pursuant to licensing rules of
31 the division. The division shall conduct investigations of all other foster
32 homes. If the foster home meets all requirements set by the division, the

1 agency shall submit an application stating the foster home's qualifications
2 to the division. The agency may also recommend the types of licensing and
3 certification to be granted to the foster home.

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

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

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

14 Sec. 3. Section 8-802, Arizona Revised Statutes, is amended to read:

15 8-802. Child protective services worker; fingerprint clearance
16 cards; powers and duties; alteration of files;
17 violation; classification

18 A. The department of economic security shall employ child protective
19 services workers. All persons who are employed as child protective services
20 workers shall have a valid fingerprint clearance card that is issued pursuant
21 to ~~title 41, chapter 12, article 3.1~~ SECTION 41-1759.07 or shall apply for a
22 fingerprint clearance card within seven working days of employment. A child
23 protective services worker shall certify on forms that are provided by the
24 department of economic security and that are notarized whether the worker is
25 awaiting trial on or has ever been convicted of any of the criminal offenses
26 listed in section ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or
27 similar offenses in another state or jurisdiction.

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

30 C. A child protective services worker shall:

31 1. Promote the safety and protection of children.

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

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

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

10 (a) The child initiates contact with the worker.

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

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

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

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

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

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

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

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

5 (a) The department's case management information system within
6 twenty-one days after receipt of the initial information except as provided
7 in section 8-811. If the investigation involves allegations regarding a
8 child who at the time of the alleged incident was in the custody of a child
9 welfare agency licensed by the department of economic security under this
10 title, a copy of the report and any additional investigative or other related
11 reports shall be provided to the board of directors of the agency or to the
12 administrative head of the agency unless the incident is alleged to have been
13 committed by the person. The department shall excise all information with
14 regard to the identity of the source of the reports.

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

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

20 D. No child shall remain in temporary custody for a period exceeding
21 seventy-two hours, excluding Saturdays, Sundays and holidays, unless a
22 dependency petition is filed. If no petition is filed and the child is
23 released to the child's parent, guardian or custodian, the worker shall file
24 a report of removal with the central registry within seventy-two hours of the
25 child's release. The report shall include:

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

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

30 E. The department shall provide child protective services workers who
31 investigate allegations of abuse and neglect with training in forensic
32 interviewing and processes, the protocols developed pursuant to section 8-817

1 and relevant law enforcement procedures. All child protective services
2 workers shall be trained in their duty to protect the legal rights of
3 children and families from the time of the initial contact through treatment.
4 The training for child protective services workers shall also include
5 instruction on the legal rights of parents and the requirements for legal
6 search and seizure by law enforcement officers.

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

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

14 Sec. 4. Section 36-594.01, Arizona Revised Statutes, is amended to
15 read:

16 36-594.01. Fingerprinting of contract providers and home and
17 community based service providers

18 A. The following persons shall be fingerprinted pursuant to ~~title 41,~~
19 ~~chapter 12, article 3.1~~ SECTION 41-1759.07:

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

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

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

30 C. A person who is required to be fingerprinted pursuant to subsection
31 A, paragraph 2 of this section shall not be certified unless the person has a
32 valid fingerprint clearance card or provides to the division of developmental

1 disabilities documentation of the person's application for a fingerprint
2 clearance card.

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

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

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

14 1. Is arrested for or charged with an offense listed in section
15 ~~41-1758.03~~ 41-1758.07, subsection B OR C.

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

18 Sec. 5. Section 36-594.02, Arizona Revised Statutes, is amended to
19 read:

20 36-594.02. Fingerprinting of adult developmental home licensees
21 and child developmental foster home licensees

22 If a person who applies for a license for an adult developmental home
23 or a child developmental foster home has not been previously fingerprinted
24 for any other license, certificate or program with the division of
25 developmental disabilities, the person who applies for such a license shall
26 have a valid fingerprint clearance card issued pursuant to ~~title 41, chapter~~
27 ~~12, article 3.1~~ SECTION 41-1759.07 or provide to the division documentation
28 of the person's application for a fingerprint clearance card. ~~Such a~~ THE
29 person shall certify on forms that are provided by the department whether the
30 person is awaiting trial on or has been convicted of any of the offenses
31 listed in section ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or
32 similar offenses in another state or jurisdiction.

1 Sec. 6. Section 41-619.53, Arizona Revised Statutes, is amended to
2 read:

3 41-619.53. Board of fingerprinting; powers and duties;
4 personnel; liability

5 A. The board of fingerprinting shall:

6 1. Determine good cause exceptions pursuant to section 41-619.55. The
7 board may appoint a hearing officer to determine good cause exceptions.

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

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

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

18 5. Establish fees.

19 B. If the board or its hearing officer grants a good cause exception,
20 the board shall request in writing that the department of public safety issue
21 a card to the applicant. If the board grants a good cause exception, the
22 board's decision must be unanimous.

23 C. The board may employ clerical, professional and technical personnel
24 subject to fee monies that are collected and to the budget that is approved
25 by the board members and shall prescribe personnel duties and determine
26 personnel compensation.

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

1 Sec. 7. Section 41-619.54, Arizona Revised Statutes, is amended to
2 read:

3 41-619.54. Confidentiality of criminal record information;
4 exception; reporting

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

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

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

15 D. On or before December 1 of each year the board shall report the
16 number of applications for a good cause exception and the number of good
17 cause exceptions that were granted for the twelve month period ending
18 September 30. The report shall itemize the number of applications and the
19 number of applications granted for each of the sections listed in section
20 41-619.51, paragraph ~~6~~ 5. For each of these sections, the report shall
21 further itemize each offense listed in section 41-1758.03, subsections B and
22 C **AND SECTION 41-1758.07, SUBSECTIONS B AND C** for which a good cause
23 exception was applied for and for which a good cause exception was granted.
24 The board shall provide a copy of the report to the governor, the speaker of
25 the house of representatives and the president of the senate.

26 Sec. 8. Section 41-619.55, Arizona Revised Statutes, is amended to
27 read:

28 41-619.55. Good cause exceptions; expedited review; hearing;
29 revocation

30 A. The board or its hearing officer shall determine good cause
31 exceptions. The board or its hearing officer shall determine a good cause
32 exception after an expedited review or after a good cause exception

1 hearing. The board or its hearing officer shall conduct an expedited review
2 within twenty days after receiving an application for a good cause exception.

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

9 C. When determining whether a person is eligible to receive a good
10 cause exception under an expedited review, the board or its hearing officer
11 shall consider whether the person has shown to the board's or its hearing
12 officer's satisfaction that the person is not awaiting trial on or has not
13 been convicted of committing any of the offenses listed in section
14 41-1758.03, subsection B OR SECTION 41-1758.07, SUBSECTION B or that the
15 person is successfully rehabilitated and is not a recidivist. Before
16 granting a good cause exception under an expedited review, the board or its
17 hearing officer shall consider all of the criteria listed in subsection E of
18 this section.

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

- 21 1. The board or its hearing officer.
- 22 2. The person who requested the good cause exception hearing. The
23 person may be accompanied by a representative at the hearing.

24 E. The board or its hearing officer may grant a good cause exception
25 at a hearing if the person shows to the board's or its hearing officer's
26 satisfaction that the person is not awaiting trial on or has not been
27 convicted of committing any of the offenses listed in section 41-1758.03,
28 subsection B OR SECTION 41-1758.07, SUBSECTION B or that the person is
29 successfully rehabilitated and is not a recidivist. The board or its hearing
30 officer shall grant or deny a good cause exception within eighty days after
31 the good cause exception hearing. Before granting a good cause exception at

1 a hearing the board or its hearing officer shall consider all of the
2 following in accordance with board rule:

- 3 1. The extent of the person's criminal record.
- 4 2. The length of time that has elapsed since the offense was
5 committed.
- 6 3. The nature of the offense.
- 7 4. Any applicable mitigating circumstances.
- 8 5. The degree to which the person participated in the offense.
- 9 6. The extent of the person's rehabilitation, including:
 - 10 (a) Completion of probation, parole or community supervision.
 - 11 (b) Whether the person paid restitution or other compensation for the
12 offense.
 - 13 (c) Evidence of positive action to change criminal behavior, such as
14 completion of a drug treatment program or counseling.
 - 15 (d) Personal references attesting to the person's rehabilitation.

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

19 G. The board's staff, under the direction of the executive director of
20 the board, shall review reports it receives of the arrest, charging or
21 conviction of a person for offenses listed in ~~section~~ SECTIONS 41-1758.03 AND
22 41-1758.07 who previously received a fingerprint clearance card. Except as
23 provided by subsection J of this section, the executive director shall report
24 any arrest, charge or conviction of a prohibited crime to the state agencies
25 listed on the applicant's fingerprint clearance card application.

26 H. The board may request in writing that the department of public
27 safety revoke a person's fingerprint clearance card pursuant to section
28 41-1758.04 if the person received a fingerprint clearance card and the person
29 is subsequently convicted of an offense listed in section 41-1758.03,
30 subsection B or C OR SECTION 41-1758.07, SUBSECTION B OR C.

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

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

11 K. The board is exempt from title 41, chapter 6, article 10.

12 Sec. 9. Section 41-1758.01, Arizona Revised Statutes, is amended to
13 read:

14 41-1758.01. Fingerprinting division; duties

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

17 1. Conduct fingerprint background checks for persons and applicants
18 who are seeking employment with licensees, contract providers and state
19 agencies or seeking employment or educational opportunities with agencies
20 that require fingerprint background checks pursuant to sections 8-105, 8-322,
21 8-509, 8-802, 15-183, 15-534, 15-1330, 15-1881, 26-102, 36-411, 36-425.03,
22 36-446.04, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03,
23 36-3008, 41-1964, 41-1967.01, 41-1968, 41-1969 and 41-2814, section 46-141,
24 subsection A and section 46-321.

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

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

1 RECORD DOES NOT CONTAIN ANY OF THE OFFENSES LISTED IN SUBSECTIONS B AND C OF
2 THIS SECTION, THE FINGERPRINTING DIVISION SHALL ISSUE THE PERSON A LEVEL I
3 FINGERPRINT CLEARANCE CARD.

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

- 10 1. SEXUAL ABUSE OF A VULNERABLE ADULT.
- 11 2. INCEST.
- 12 3. HOMICIDE, INCLUDING FIRST OR SECOND DEGREE MURDER, MANSLAUGHTER AND
13 NEGLIGENT HOMICIDE.
- 14 4. SEXUAL ASSAULT.
- 15 5. SEXUAL EXPLOITATION OF A MINOR.
- 16 6. SEXUAL EXPLOITATION OF A VULNERABLE ADULT.
- 17 7. COMMERCIAL SEXUAL EXPLOITATION OF A MINOR.
- 18 8. COMMERCIAL SEXUAL EXPLOITATION OF A VULNERABLE ADULT.
- 19 9. CHILD PROSTITUTION AS PRESCRIBED IN SECTION 13-3212.
- 20 10. CHILD ABUSE.
- 21 11. FELONY CHILD NEGLECT.
- 22 12. ABUSE OF A VULNERABLE ADULT.
- 23 13. SEXUAL CONDUCT WITH A MINOR.
- 24 14. MOLESTATION OF A CHILD.
- 25 15. MOLESTATION OF A VULNERABLE ADULT.
- 26 16. DANGEROUS CRIMES AGAINST CHILDREN AS DEFINED IN SECTION 13-604.01.
- 27 17. EXPLOITATION OF MINORS INVOLVING DRUG OFFENSES.
- 28 18. TAKING A CHILD FOR THE PURPOSES OF PROSTITUTION AS PRESCRIBED IN
29 SECTION 13-3206.
- 30 19. NEGLECT OR ABUSE OF A VULNERABLE ADULT.
- 31 20. SEX TRAFFICKING.
- 32 21. SEXUAL ABUSE.

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

3 23. FURNISHING HARMFUL ITEMS TO MINORS AS PRESCRIBED IN SECTION
4 13-3506.

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

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

9 26. LURING A MINOR FOR SEXUAL EXPLOITATION.

10 27. ENTICEMENT OF PERSONS FOR PURPOSES OF PROSTITUTION.

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

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

14 30. RECEIVING EARNINGS OF A PROSTITUTE.

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

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

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

19 34. PANDERING.

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

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

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

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

27 39. UNLAWFUL SALE OR PURCHASE OF CHILDREN.

28 40. CHILD BIGAMY.

29 41. ANY FELONY OFFENSE INVOLVING DOMESTIC VIOLENCE AS DEFINED IN
30 SECTION 13-3601.

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

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

6 44. FELONY INDECENT EXPOSURE.

7 45. FELONY PUBLIC SEXUAL INDECENCY.

8 46. TERRORISM.

9 47. ANY OFFENSE INVOLVING A VIOLENT CRIME AS DEFINED IN SECTION
10 13-604.04.

11 C. A PERSON WHO IS AWAITING TRIAL ON OR WHO HAS BEEN CONVICTED OF
12 COMMITTING OR ATTEMPTING, SOLICITING, FACILITATING OR CONSPIRING TO COMMIT
13 ONE OR MORE OF THE FOLLOWING OFFENSES IN THIS STATE OR THE SAME OR SIMILAR
14 OFFENSES IN ANOTHER STATE OR JURISDICTION IS PRECLUDED FROM RECEIVING A
15 FINGERPRINT CLEARANCE CARD, EXCEPT THAT THE PERSON MAY PETITION THE BOARD OF
16 FINGERPRINTING FOR A GOOD CAUSE EXCEPTION PURSUANT TO SECTION 41-619.55:

17 1. ANY MISDEMEANOR OFFENSE IN VIOLATION OF TITLE 13, CHAPTER 12.

18 2. MISDEMEANOR INDECENT EXPOSURE.

19 3. MISDEMEANOR PUBLIC SEXUAL INDECENCY.

20 4. AGGRAVATED CRIMINAL DAMAGE.

21 5. THEFT.

22 6. THEFT BY EXTORTION.

23 7. SHOPLIFTING.

24 8. FORGERY.

25 9. CRIMINAL POSSESSION OF A FORGERY DEVICE.

26 10. OBTAINING A SIGNATURE BY DECEPTION.

27 11. CRIMINAL IMPERSONATION.

28 12. THEFT OF A CREDIT CARD OR OBTAINING A CREDIT CARD BY FRAUDULENT
29 MEANS.

30 13. RECEIPT OF ANYTHING OF VALUE OBTAINED BY FRAUDULENT USE OF A CREDIT
31 CARD.

32 14. FORGERY OF A CREDIT CARD.

1 15. FRAUDULENT USE OF A CREDIT CARD.

2 16. POSSESSION OF ANY MACHINERY, PLATE OR OTHER CONTRIVANCE OR
3 INCOMPLETE CREDIT CARD.

4 17. FALSE STATEMENT AS TO FINANCIAL CONDITION OR IDENTITY TO OBTAIN A
5 CREDIT CARD.

6 18. FRAUD BY PERSONS AUTHORIZED TO PROVIDE GOODS OR SERVICES.

7 19. CREDIT CARD TRANSACTION RECORD THEFT.

8 20. MISCONDUCT INVOLVING WEAPONS.

9 21. MISCONDUCT INVOLVING EXPLOSIVES.

10 22. DEPOSITING EXPLOSIVES.

11 23. MISCONDUCT INVOLVING SIMULATED EXPLOSIVE DEVICES.

12 24. CONCEALED WEAPON VIOLATION.

13 25. MISDEMEANOR POSSESSION AND MISDEMEANOR SALE OF PEYOTE.

14 26. FELONY POSSESSION AND FELONY SALE OF PEYOTE IF COMMITTED MORE THAN
15 FIVE YEARS BEFORE THE DATE OF APPLYING FOR A FINGERPRINT CLEARANCE CARD.

16 27. MISDEMEANOR POSSESSION AND MISDEMEANOR SALE OF A VAPOR-RELEASING
17 SUBSTANCE CONTAINING A TOXIC SUBSTANCE.

18 28. FELONY POSSESSION AND FELONY SALE OF A VAPOR-RELEASING SUBSTANCE
19 CONTAINING A TOXIC SUBSTANCE IF COMMITTED MORE THAN FIVE YEARS BEFORE THE
20 DATE OF APPLYING FOR A FINGERPRINT CLEARANCE CARD.

21 29. MISDEMEANOR SALE OF PRECURSOR CHEMICALS.

22 30. FELONY SALE OF PRECURSOR CHEMICALS IF COMMITTED MORE THAN FIVE YEARS
23 BEFORE THE DATE OF APPLYING FOR A FINGERPRINT CLEARANCE CARD.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 50. MISDEMEANOR OFFENSES INVOLVING CHILD NEGLECT.

10 51. MISDEMEANOR OFFENSES INVOLVING CONTRIBUTING TO THE DELINQUENCY OF A
11 MINOR.

12 52. MISDEMEANOR OFFENSES INVOLVING DOMESTIC VIOLENCE AS DEFINED IN
13 SECTION 13-3601.

14 53. ARSON.

15 54. FELONY OFFENSES INVOLVING SALE, DISTRIBUTION OR TRANSPORTATION OF,
16 OFFER TO SELL, TRANSPORT OR DISTRIBUTE OR CONSPIRACY TO SELL, TRANSPORT OR
17 DISTRIBUTE MARIJUANA, DANGEROUS DRUGS OR NARCOTIC DRUGS IF COMMITTED MORE
18 THAN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A FINGERPRINT CLEARANCE CARD.

19 55. CRIMINAL DAMAGE.

20 56. MISAPPROPRIATION OF CHARTER SCHOOL MONIES AS PRESCRIBED IN SECTION
21 13-1818.

22 57. TAKING IDENTITY OF ANOTHER PERSON OR ENTITY.

23 58. AGGRAVATED TAKING IDENTITY OF ANOTHER PERSON OR ENTITY.

24 59. TRAFFICKING IN THE IDENTITY OF ANOTHER PERSON OR ENTITY.

25 60. CRUELTY TO ANIMALS.

26 61. PROSTITUTION, AS PRESCRIBED IN SECTION 13-3214.

27 62. SALE OR DISTRIBUTION OF MATERIAL HARMFUL TO MINORS THROUGH VENDING
28 MACHINES AS PRESCRIBED IN SECTION 13-3513.

29 63. WELFARE FRAUD.

30 64. ANY FELONY OFFENSE IN VIOLATION OF TITLE 13, CHAPTER 12 IF
31 COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A FINGERPRINT
32 CLEARANCE CARD.

1 65. KIDNAPPING.

2 66. ROBBERY, AGGRAVATED ROBBERY OR ARMED ROBBERY.

3 D. A PERSON WHO IS AWAITING TRIAL ON OR WHO HAS BEEN CONVICTED OF
4 COMMITTING OR ATTEMPTING OR CONSPIRING TO COMMIT A MISDEMEANOR VIOLATION OF
5 SECTION 28-1381, 28-1382 OR 28-1383 IN THIS STATE OR THE SAME OR SIMILAR
6 OFFENSE IN ANOTHER STATE OR JURISDICTION WITHIN FIVE YEARS AFTER THE DATE OF
7 APPLYING FOR A FINGERPRINT CLEARANCE CARD IS PRECLUDED FROM DRIVING ANY
8 VEHICLE TO TRANSPORT EMPLOYEES OR CLIENTS OF THE EMPLOYING AGENCY AS PART OF
9 THE PERSON'S EMPLOYMENT. THE DIVISION SHALL PLACE A NOTATION ON THE
10 FINGERPRINT CLEARANCE CARD THAT INDICATES THIS DRIVING RESTRICTION. THIS
11 SUBSECTION DOES NOT PRECLUDE A PERSON FROM DRIVING A VEHICLE ALONE AS PART OF
12 THE PERSON'S EMPLOYMENT.

13 E. NOTWITHSTANDING SUBSECTION C OF THIS SECTION, ON RECEIVING WRITTEN
14 NOTICE FROM THE BOARD OF FINGERPRINTING THAT A GOOD CAUSE EXCEPTION WAS
15 GRANTED PURSUANT TO SECTION 41-619.55, THE FINGERPRINTING DIVISION SHALL
16 ISSUE A FINGERPRINT CLEARANCE CARD TO THE APPLICANT.

17 F. IF THE FINGERPRINTING DIVISION DENIES A PERSON'S APPLICATION FOR A
18 FINGERPRINT CLEARANCE CARD PURSUANT TO SUBSECTION C OF THIS SECTION AND A
19 GOOD CAUSE EXCEPTION IS REQUESTED PURSUANT TO SECTION 41-619.55, THE
20 FINGERPRINTING DIVISION SHALL RELEASE, ON REQUEST BY THE BOARD OF
21 FINGERPRINTING, THE PERSON'S CRIMINAL HISTORY RECORD TO THE BOARD OF
22 FINGERPRINTING.

23 G. A PERSON SHALL BE GRANTED A FINGERPRINT CLEARANCE CARD PURSUANT TO
24 THIS SECTION IF EITHER OF THE FOLLOWING APPLIES:

25 1. AN AGENCY GRANTED A GOOD CAUSE EXCEPTION BEFORE AUGUST 16, 1999 AND
26 NO NEW PRECLUDING OFFENSE IS IDENTIFIED. THE FINGERPRINT CLEARANCE CARD
27 SHALL SPECIFY ONLY THE PROGRAM THAT GRANTED THE GOOD CAUSE EXCEPTION. ON THE
28 REQUEST OF THE APPLICANT, THE AGENCY THAT GRANTED THE PRIOR GOOD CAUSE
29 EXCEPTION SHALL NOTIFY THE FINGERPRINTING DIVISION IN WRITING OF THE DATE ON
30 WHICH THE PRIOR GOOD CAUSE EXCEPTION WAS GRANTED AND THE DATE OF THE
31 CONVICTION AND THE NAME OF THE OFFENSE FOR WHICH THE GOOD CAUSE EXCEPTION WAS
32 GRANTED.

1 2. THE BOARD GRANTED A GOOD CAUSE EXCEPTION AND NO NEW PRECLUDING
2 OFFENSE IS IDENTIFIED. THE FINGERPRINT CLEARANCE CARD SHALL SPECIFY THE
3 PROGRAMS FOR WHICH THE BOARD GRANTED THE GOOD CAUSE EXCEPTION.

4 H. THE LICENSEE OR CONTRACT PROVIDER SHALL ASSUME THE COSTS OF
5 FINGERPRINT CHECKS CONDUCTED PURSUANT TO THIS SECTION AND MAY CHARGE THESE
6 COSTS TO PERSONS REQUIRED TO BE FINGERPRINTED.

7 I. A PERSON WHO IS UNDER EIGHTEEN YEARS OF AGE OR WHO IS AT LEAST
8 NINETY-NINE YEARS OF AGE IS EXEMPT FROM THE FINGERPRINT CLEARANCE CARD
9 REQUIREMENTS OF THIS SECTION. AT ALL TIMES THE PERSON SHALL BE UNDER THE
10 DIRECT VISUAL SUPERVISION OF PERSONNEL WHO HAVE VALID FINGERPRINT CLEARANCE
11 CARDS.

12 J. THE FINGERPRINTING DIVISION MAY CONDUCT PERIODIC STATE CRIMINAL
13 HISTORY RECORDS CHECKS FOR THE PURPOSE OF UPDATING THE CLEARANCE STATUS OF
14 CURRENT FINGERPRINT CLEARANCE CARD HOLDERS PURSUANT TO THIS SECTION AND MAY
15 NOTIFY THE BOARD OF FINGERPRINTING AND THE AGENCY OF THE RESULTS OF THE
16 RECORDS CHECK.

17 K. THE FINGERPRINTING DIVISION SHALL REVOKE A PERSON'S FINGERPRINT
18 CLEARANCE CARD ON RECEIPT OF A WRITTEN REQUEST FOR REVOCATION FROM THE BOARD
19 OF FINGERPRINTING PURSUANT TO SECTION 41-619.55.

20 L. THE FINGERPRINTING DIVISION SHALL NOT ISSUE A FINGERPRINT CLEARANCE
21 CARD TO AN APPLICANT IF THE DIVISION CANNOT DETERMINE, WITHIN THIRTY BUSINESS
22 DAYS AFTER RECEIPT OF THE PERSON'S STATE AND FEDERAL CRIMINAL HISTORY RECORD
23 INFORMATION, WHETHER THE PERSON IS AWAITING TRIAL ON OR HAS BEEN CONVICTED OF
24 COMMITTING ANY OF THE OFFENSES LISTED IN SUBSECTION B OR C OF THIS SECTION.
25 IF THE DIVISION IS UNABLE TO MAKE THE DETERMINATION REQUIRED BY THIS SECTION
26 AND DOES NOT ISSUE A FINGERPRINT CLEARANCE CARD TO A PERSON, THE PERSON MAY
27 REQUEST A GOOD CAUSE EXCEPTION PURSUANT TO SECTION 41-619.55.

28 M. IF AFTER CONDUCTING A STATE AND FEDERAL CRIMINAL HISTORY RECORDS
29 CHECK THE FINGERPRINTING DIVISION DETERMINES THAT IT IS NOT AUTHORIZED TO
30 ISSUE A FINGERPRINT CLEARANCE CARD TO AN APPLICANT, THE DIVISION SHALL NOTIFY
31 THE AGENCY THAT THE FINGERPRINTING DIVISION IS NOT AUTHORIZED TO ISSUE A
32 FINGERPRINT CLEARANCE CARD. THIS NOTICE SHALL INCLUDE THE CRIMINAL HISTORY

1 INFORMATION ON WHICH THE DENIAL WAS BASED. THIS CRIMINAL HISTORY INFORMATION
2 IS SUBJECT TO DISSEMINATION RESTRICTIONS PURSUANT TO SECTION 41-1750 AND
3 PUBLIC LAW 92-544.

4 N. THE FINGERPRINTING DIVISION IS NOT LIABLE FOR DAMAGES RESULTING
5 FROM:

6 1. THE ISSUANCE OF A FINGERPRINT CLEARANCE CARD TO AN APPLICANT WHO IS
7 LATER FOUND TO HAVE BEEN INELIGIBLE TO RECEIVE A FINGERPRINT CLEARANCE CARD
8 AT THE TIME THE CARD WAS ISSUED.

9 2. THE DENIAL OF A FINGERPRINT CLEARANCE CARD TO AN APPLICANT WHO IS
10 LATER FOUND TO HAVE BEEN ELIGIBLE TO RECEIVE A FINGERPRINT CLEARANCE CARD AT
11 THE TIME ISSUANCE OF THE CARD WAS DENIED.

12 O. NOTWITHSTANDING ANY LAW TO THE CONTRARY, AN INDIVIDUAL MAY OBTAIN A
13 FINGERPRINT CLEARANCE CARD PURSUANT TO THIS SECTION TO SATISFY A REQUIREMENT
14 THAT THE PERSON HAVE A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO
15 SECTION 41-1758.03.

16 P. NOTWITHSTANDING ANY LAW TO THE CONTRARY, AN INDIVIDUAL WHO RECEIVES
17 A FINGERPRINT CLEARANCE CARD PURSUANT TO THIS SECTION SATISFIES THE
18 FINGERPRINTING REQUIREMENTS OF ANY AGENCY OF THIS STATE.

19 Q. AN AGENCY MAY REQUIRE ITS EMPLOYEES, CONTRACTORS AND VENDORS TO
20 HAVE A FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO THIS SECTION INSTEAD OF
21 SECTION 41-1758.03.

22 R. UNLESS A CARDHOLDER COMMITS AN OFFENSE LISTED IN SUBSECTION B OR C
23 OF THIS SECTION AFTER THE EFFECTIVE DATE OF THIS SECTION, A FINGERPRINT
24 CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.03 BEFORE THE EFFECTIVE
25 DATE OF THIS SECTION IS VALID FOR ALL PURPOSES EXCEPT THOSE RELATING TO THE
26 REQUIREMENTS OF SECTION 8-105 OR 8-509. A FINGERPRINT CLEARANCE CARD ISSUED
27 BEFORE THE EFFECTIVE DATE OF THIS SECTION TO MEET THE REQUIREMENTS OF SECTION
28 8-105 OR 8-509 IS VALID AFTER THE EFFECTIVE DATE OF THIS SECTION TO MEET THE
29 REQUIREMENTS OF SECTION 8-105 OR 8-509.

30 S. THE ISSUANCE OF A FINGERPRINT CLEARANCE CARD DOES NOT ENTITLE A
31 PERSON TO EMPLOYMENT.

1 T. FOR THE PURPOSES OF THIS SECTION, "PERSON" MEANS A PERSON WHO IS
2 FINGERPRINTED PURSUANT TO:

3 1. SECTION 8-105, 8-509, 8-802, 36-594.01, 36-594.02, 41-1964,
4 41-1967, 41-1967.01, 41-1968, 41-1969 OR 46-141.

5 2. SUBSECTIONS O OR Q OF THIS SECTION.

6 Sec. 12. Section 41-1964, Arizona Revised Statutes, is amended to
7 read:

8 41-1964. Day care homes; child care personnel; fingerprints;
9 definition

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

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

20 1. They are awaiting trial on or have been convicted of or admitted
21 committing any of the criminal offenses listed in section ~~41-1758.03~~
22 41-1758.07, subsections B and C in this state or similar offenses in another
23 state or jurisdiction.

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

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

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

1 D. The notarized forms are confidential.

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

6 1. Is arrested for or charged with an offense listed in section
7 ~~41-1758.03~~ 41-1758.07, subsection B OR C.

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

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

15 Sec. 13. Section 41-1967, Arizona Revised Statutes, is amended to
16 read:

17 41-1967. Child care resource and referral system; immunity

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

21 1. Provide families with:

22 (a) Information on all types of child care.

23 (b) Referrals to child care providers and programs.

24 (c) Information about child care resources and services.

25 (d) Information about choosing child care.

26 (e) Information about registered child care home providers.

27 2. Assist child care providers and programs with:

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

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

31 (c) Parent referrals.

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

- 1 3. Coordinate with the community to:
- 2 (a) Develop statistics of the demand for and supply of child care.
- 3 (b) Maintain ongoing relationships with all local groups interested in
- 4 child care.
- 5 B. The child care resource and referral system shall:
- 6 1. Identify all available child care providers and programs through
- 7 coordination with public and private agencies.
- 8 2. Collect in a uniform method provider information for the referral
- 9 database that includes:
- 10 (a) The type of program.
- 11 (b) The hours of service.
- 12 (c) The ages of children served.
- 13 (d) Fees for service.
- 14 (e) The licensure, certification and registration status of providers.
- 15 (f) Other significant provider and program information.
- 16 3. Establish and maintain a referral process that responds to parental
- 17 need for information. The child care resource and referral system shall make
- 18 referrals to child care providers and programs that:
- 19 (a) Promote parental choice and meet the needs of families.
- 20 (b) Are included in the resource and referral database.
- 21 4. Collect in a uniform method family information for the referral
- 22 database that includes the:
- 23 (a) Number of calls and contacts.
- 24 (b) Ages of children in need of care.
- 25 (c) Days and times of care requested.
- 26 (d) Type of care requested.
- 27 (e) Special needs and requests made by the family.
- 28 (f) Reason that the care is needed.
- 29 5. Provide outreach services that include:
- 30 (a) Efforts to reach parents and providers in local communities.
- 31 (b) Involvement in the local communities.

1 (c) Publication of services through all available media sources,
2 agencies and other appropriate channels.

3 (d) Public awareness information to parents and providers about the
4 child care home provider registry and the benefits of using the registry or
5 becoming registered.

6 6. Provide technical assistance to existing and prospective child care
7 providers and programs that include:

8 (a) Information on all aspects of initiating new child care services
9 including child care regulations, zoning, program and budget development and
10 assistance in finding information from other sources.

11 (b) Educational information and resources that assist existing child
12 care providers and programs to better serve the children and parents in their
13 community.

14 (c) Local coordination of existing child care and child related
15 services.

16 7. Establish and maintain a child care home provider registry that
17 includes:

18 (a) Child care home providers that are registered pursuant to section
19 41-1967.01.

20 (b) A complaint tracking system that contains written complaints
21 concerning providers and written provider responses. The complaints and
22 responses are available to the public.

23 (c) A system for notifying a provider that is excluded or removed from
24 the registry that the provider may appeal directly to the entity making the
25 determination resulting in the exclusion or removal.

26 (d) Information provided by registered providers relating to the
27 services provided and child care environment.

28 C. The following child care providers are eligible to be considered
29 for inclusion in the child care resource and referral database, unless barred
30 by other provisions of law:

1 1. Child care providers licensed or certified by a government agency
2 ~~which~~ THAT is authorized by law to license, certify or approve child care
3 providers.

4 2. Child care home providers that are registered pursuant to section
5 41-1967.01. These providers shall submit and amend when necessary sworn,
6 written statements to the department or its designees, on forms approved by
7 the department, attesting that the provider is not subject to exclusion or
8 removal from the child care resource and referral database under any of the
9 grounds specified in subsection E of this section.

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

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

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

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

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

29 4. The provider, the provider's employees or any person who resides in
30 the provider's child care facility has been the subject of an investigation
31 where a report of child abuse or neglect has been substantiated by a child

1 protective services agency or a law enforcement agency in this state or in
2 any other state or jurisdiction.

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

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

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

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

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

17 H. Neither a child care resource and referral agency nor its officers
18 and employees, acting within the scope of their employment, are liable for
19 any damage or injury caused by their conduct pursuant to this section or
20 section 41-1967.01, except for gross negligence or conduct intended to cause
21 injury.

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

24 Sec. 14. Section 41-1967.01, Arizona Revised Statutes, is amended to
25 read:

26 41-1967.01. Child care home provider; registration;
27 fingerprints; definition

28 A. A child care home provider who receives compensation to care for
29 four or fewer children and who has not been certified by the department of
30 economic security pursuant to section 46-807 or licensed or certified by the
31 department of health services pursuant to section 36-883 or 36-897.01 shall
32 register with the department of economic security if the child care home

1 provider wishes to be listed with the child care resource and referral
2 system.

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

8 C. Child care providers shall have a valid fingerprint clearance card
9 issued pursuant to ~~chapter 12, article 3.1 of this title~~ SECTION 41-1759.07
10 or shall apply for a fingerprint clearance card by the date of registration
11 with the department.

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

14 1. They are awaiting trial on or have been convicted of or admitted
15 committing any of the ~~following~~ criminal offenses LISTED IN SECTION 41-
16 1758.07, SUBSECTION B OR C in this state or similar offenses in another state
17 or jurisdiction~~:-~~.

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

19 ~~(b) Incest.~~

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

21 ~~(d) Kidnapping.~~

22 ~~(e) Arson.~~

23 ~~(f) Sexual assault.~~

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

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

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

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

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

1 ~~(l) Burglary.~~

2 ~~(m) Aggravated or armed robbery.~~

3 ~~(n) Robbery.~~

4 ~~(o) A dangerous crime against children as defined in section~~
5 ~~13-604.01.~~

6 ~~(p) Child abuse.~~

7 ~~(q) Sexual conduct with a minor.~~

8 ~~(r) Molestation of a child.~~

9 ~~(s) Manslaughter.~~

10 ~~(t) Assault or aggravated assault.~~

11 ~~(u) Exploitation of minors involving drug offenses.~~

12 ~~(v) A violation of section 28-1381, 28-1382 or 28-1383.~~

13 ~~(w) Offenses involving domestic violence.~~

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

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

19 E. The notarized forms are confidential.

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

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

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

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

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

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

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

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

5 Sec. 15. Section 41-1968, Arizona Revised Statutes, is amended to
6 read:

7 41-1968. DES employees; fingerprint requirement; definition

8 Each employee of the department who has contact with children or
9 vulnerable adults shall have a valid fingerprint clearance card issued
10 pursuant to ~~chapter 12, article 3.1 of this title~~ SECTION 41-1759.07 or
11 provide to the department documentation of the person's application for a
12 fingerprint clearance card. The employee shall certify on forms that are
13 provided by the department and that are notarized whether the employee is
14 awaiting trial on or has ever been convicted of any of the criminal offenses
15 listed in section ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or
16 similar offenses in another state or jurisdiction. For the purposes of this
17 section, "vulnerable adult" has the same meaning prescribed in section
18 13-3623.

19 Sec. 16. Section 41-1969, Arizona Revised Statutes, is amended to
20 read:

21 41-1969. Information technology personnel; criminal history
22 records

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

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

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

5 46-141. Criminal record information checks: fingerprinting
6 employees and applicants

7 A. Each license granted by the department of economic security and
8 each contract entered into between the department of economic security and
9 any contract provider for the provision of services to juveniles shall
10 provide that, as a condition of employment, personnel who are employed by the
11 licensee or contractor, whether paid or not, and who are required or allowed
12 to provide services directly to juveniles shall have a valid fingerprint
13 clearance card issued pursuant to ~~title 41, chapter 12, article 3.1~~ SECTION
14 41-1759.07 or shall apply for a fingerprint clearance card within seven
15 working days of employment.

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

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

28 D. A contract provider or licensee may avoid cancellation or
29 termination of the contract or license under subsection C of this section if
30 a person who does not possess or has been denied issuance of a valid
31 fingerprint clearance card or who certifies pursuant to subsections F and G
32 of this section that the person has been convicted of or is awaiting trial on

1 any of the offenses listed in section ~~41-1758.03~~ 41-1758.07, subsection B is
2 immediately prohibited from employment or service with the contract provider
3 or licensee in any capacity requiring or allowing contact with juveniles.

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

13 F. Personnel who are employed by any contract provider or licensee,
14 whether paid or not, and who are required or allowed to provide services
15 directly to juveniles shall certify on forms provided by the department of
16 economic security and notarized whether they are awaiting trial on or have
17 ever been convicted of any of the criminal offenses listed in section
18 ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or similar offenses
19 in another state or jurisdiction.

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

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

31 I. A person who applies to the department of economic security for a
32 license or certificate or for paid or unpaid employment, including contract

1 services, and who will provide direct services to juveniles or vulnerable
2 adults shall submit a full set of fingerprints to the department for the
3 purpose of obtaining a state and federal criminal records check pursuant to
4 section 41-1750 and Public Law 92-544. The department of public safety may
5 exchange this fingerprint data with the federal bureau of investigation.
6 This subsection does not apply to those persons who are subject to section
7 8-105, 8-509, 8-802 or 41-1968.

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

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

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

23 1. Is arrested for or charged with an offense listed in section
24 ~~41-1758.03~~ 41-1758.07, subsection B OR C.

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

27 Amend title to conform

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S: rbc