

House Engrossed

fingerprinting; criminal history; records checks

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HOUSE BILL 2243

AN ACT

AMENDING SECTIONS 41-619.55, 41-1750, 41-1758, 41-1758.03 AND 41-1758.07,
ARIZONA REVISED STATUTES; RELATING TO FINGERPRINTING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-619.55, Arizona Revised Statutes, is amended
3 to read:

4 41-619.55. Good cause exceptions; expedited review; hearing;
5 revocation

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

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

17 C. When determining whether a person is eligible to receive a good
18 cause exception under an expedited review, the board shall consider
19 whether the person has shown to the board's satisfaction that the person
20 is not awaiting trial on or has not been convicted of committing any of
21 the offenses listed in section 41-1758.03, subsection B or section
22 41-1758.07, subsection B or that the person is successfully rehabilitated
23 and is not a recidivist. Before granting a good cause exception under an
24 expedited review, the board shall consider all of the criteria listed in
25 subsection E of this section.

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

28 1. The board or its hearing officer.

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

31 E. The board may grant a good cause exception at a hearing if the
32 person shows to the board's satisfaction that the person is not awaiting
33 trial on or has not been convicted of committing any of the offenses
34 listed in section 41-1758.03, subsection B or section 41-1758.07,
35 subsection B or that the person is successfully rehabilitated and is not a
36 recidivist. Notwithstanding any other law, the board may require
37 applicants to disclose evidence regarding substantiated allegations of
38 child or vulnerable adult abuse or neglect for consideration in
39 determining an applicant's successful rehabilitation. If the applicant
40 fails to appear at the hearing without good cause, the board may deny a
41 good cause exception. The board shall grant or deny a good cause
42 exception within eighty days after the good cause exception hearing.
43 Before granting a good cause exception at a hearing, the board shall
44 consider all of the following in accordance with board rule:

- 1 1. The extent of the person's criminal record.
- 2 2. The length of time that has elapsed since the offense was
3 committed.
- 4 3. The nature of the offense.
- 5 4. Any applicable mitigating circumstances.
- 6 5. The degree to which the person participated in the offense.
- 7 6. The extent of the person's rehabilitation, including:
 - 8 (a) Completion of probation, parole or community supervision.
 - 9 (b) Whether the person paid restitution or other compensation for
10 the offense.
 - 11 (c) Evidence of positive action to change criminal behavior, such
12 as completion of a drug treatment program or counseling.
 - 13 (d) Personal references attesting to the person's rehabilitation.
- 14 F. If the board grants a good cause exception to a person, the
15 board shall request in writing that the department of public safety issue
16 a fingerprint clearance card to the person.
- 17 G. **WHEN DETERMINING IF A PERSON IS ELIGIBLE TO RECEIVE A GOOD CAUSE**
18 **EXCEPTION**, the board's staff, under the direction of the executive
19 director of the board **AND ONLY IN CONJUNCTION WITH THE PERSON'S**
20 **APPLICATION FOR A GOOD CAUSE EXCEPTION**, shall review reports it receives
21 of the arrest, charging or conviction of ~~a~~ **THE** person for offenses listed
22 in sections 41-1758.03 and 41-1758.07 who previously received **OR WHO WAS**
23 **DENIED** a fingerprint clearance card. ~~Except as provided by subsection j~~
24 ~~of this section, the executive director shall report any arrest, charge or~~
25 ~~conviction of a prohibited crime to the state agencies listed on the~~
26 ~~applicant's fingerprint clearance card application.~~
- 27 H. The board may request in writing that the department of public
28 safety revoke a person's fingerprint clearance card pursuant to section
29 41-1758.04 if the person received a fingerprint clearance card and the
30 person is subsequently convicted of an offense listed in section
31 41-1758.03, subsection B or C or section 41-1758.07, subsection B or C.
- 32 I. Pending the outcome of a good cause exception determination, the
33 board or its hearing officer may issue interim approval in accordance with
34 board rule to continue working to a good cause exception applicant.
- 35 ~~j. If the board's staff, under the direction of the executive~~
36 ~~director, receives a report of an arrest, charging or conviction of a~~
37 ~~prohibited crime for a person who previously received a fingerprint~~
38 ~~clearance card pursuant to section 15-1881, the executive director shall~~
39 ~~not report this information to the state agency that is listed on the~~
40 ~~applicant's fingerprint clearance card application but shall notify the~~
41 ~~person issued the fingerprint clearance card of the report.~~
- 42 ~~k.~~ **J.** The board is exempt from chapter 6, article 10 of this
43 title.

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

4 Sec. 2. Section 41-1750, Arizona Revised Statutes, is amended to
5 read:

6 41-1750. Central state repository; department of public
7 safety; duties; funds; accounts; definitions

8 A. The department is responsible for the effective operation of the
9 central state repository in order to collect, store and disseminate
10 complete and accurate Arizona criminal history records and related
11 criminal justice information. The department may procure criminal history
12 records and related criminal justice information for violations that are
13 not listed in this section. The department shall:

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

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

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

23 (c) An offense listed in:

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

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

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

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

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

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

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

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

40 4. Cooperate with the central state repositories in other states
41 and with the appropriate agency of the federal government in the exchange
42 of information pertinent to violators of the law.

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

1 6. Furnish assistance to peace officers throughout this state in
2 crime scene investigation for the detection of latent fingerprints and in
3 the comparison of latent fingerprints.

4 7. Conduct periodic operational audits of the central state
5 repository and of a representative sample of other agencies that
6 contribute records to or receive criminal justice information from the
7 central state repository or through the Arizona criminal justice
8 information system.

9 8. Establish and enforce the necessary physical and system
10 safeguards to ensure that the criminal justice information maintained and
11 disseminated by the central state repository or through the Arizona
12 criminal justice information system is appropriately protected from
13 unauthorized inquiry, modification, destruction or dissemination as
14 required by this section.

15 9. Aid and encourage coordination and cooperation among criminal
16 justice agencies through the statewide and interstate exchange of criminal
17 justice information.

18 10. Provide training and proficiency testing on the use of criminal
19 justice information to agencies receiving information from the central
20 state repository or through the Arizona criminal justice information
21 system.

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

24 12. Provide criminal history record information to the
25 fingerprinting division for the purpose of screening applicants for
26 fingerprint clearance cards.

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

30 C. Criminal justice agencies may provide criminal history records
31 and related criminal justice information for violations that are not
32 listed in this section. **EXCEPT FOR THE REQUIREMENTS LISTED IN SUBSECTION**
33 **U OF THIS SECTION**, the chief officers of criminal justice agencies of this
34 state or its political subdivisions shall provide to the central state
35 repository fingerprints and information concerning personal identification
36 data, descriptions, crimes for which persons are arrested, process control
37 numbers and dispositions and such other information, **INCLUDING OTHER**
38 **BIOMETRIC DATA**, as may be pertinent to all persons who have been charged
39 with, arrested for, convicted of or summoned to court as criminal
40 defendants for any of the following:

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

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

- 1 3. An offense listed in:
- 2 (a) Section 32-2422, subsection A, paragraph 4.
- 3 (b) Section 32-2441, paragraph 4.
- 4 (c) Section 32-2612, subsection A, paragraph 4.
- 5 (d) Section 32-2622, subsection A, paragraph 4.
- 6 (e) Section 41-1758.03, subsections B and C.
- 7 (f) Section 41-1758.07, subsections B and C.

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

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

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

22 G. The director shall authorize the exchange of criminal justice
23 information between the central state repository, or through the Arizona
24 criminal justice information system, whether directly or through any
25 intermediary, only as follows:

26 1. With criminal justice agencies of the federal government, Indian
27 tribes, this state or its political subdivisions and other states, on
28 request by the chief officers of such agencies or their designated
29 representatives, specifically for the purposes of the administration of
30 criminal justice and for evaluating the fitness of current and prospective
31 criminal justice employees. **FINGERPRINTS SUBMITTED PURSUANT TO THIS
32 PARAGRAPH MAY BE SEARCHED THROUGH THE DEPARTMENT AND THE FEDERAL BUREAU OF
33 INVESTIGATION TO CONDUCT CRIMINAL HISTORY RECORDS CHECKS.** The department
34 may conduct ~~periodic state and federal~~ criminal history records checks
35 **THROUGH STATE AND FEDERAL RAP BACK SERVICES** for the purpose of updating
36 the status of current criminal justice employees or volunteers and may
37 notify the criminal justice agency of the results of the records check.
38 The department is authorized to submit fingerprints to the federal bureau
39 of investigation to be retained for the purpose of being searched by
40 future submissions to the federal bureau of investigation, including
41 latent fingerprint searches. **THE DEPARTMENT MAY RETAIN FINGERPRINTS
42 SUBMITTED PURSUANT TO THIS PARAGRAPH FOR THE PURPOSE OF BEING SEARCHED BY
43 FUTURE SUBMISSIONS TO THE DEPARTMENT, INCLUDING LATENT FINGERPRINT
44 SEARCHES.**

1 2. With any noncriminal justice agency pursuant to a statute,
2 ordinance or executive order that specifically authorizes the noncriminal
3 justice agency to receive criminal history record information for the
4 purpose of evaluating the fitness of current or prospective licensees,
5 employees, contract employees or volunteers, on submission of the
6 subject's fingerprints and the prescribed fee. Each statute, ordinance,
7 or executive order that authorizes noncriminal justice agencies to receive
8 criminal history record information for these purposes shall identify the
9 specific categories of licensees, employees, contract employees or
10 volunteers, and shall require that fingerprints of the specified
11 individuals be submitted in conjunction with such requests for criminal
12 history record information. **FINGERPRINTS SUBMITTED PURSUANT TO THIS**
13 **PARAGRAPH MAY BE SEARCHED THROUGH THE DEPARTMENT AND THE FEDERAL BUREAU OF**
14 **INVESTIGATION TO CONDUCT CRIMINAL HISTORY RECORDS CHECKS.** The department
15 may conduct ~~periodic state and federal~~ criminal history records checks
16 **THROUGH STATE AND FEDERAL RAP BACK SERVICES** for the purpose of updating
17 the status of current licensees, employees, contract employees or
18 volunteers and may notify the noncriminal justice agency of the results of
19 the records check. The department is authorized to submit fingerprints to
20 the federal bureau of investigation to be retained for the purpose of
21 being searched by future submissions to the federal bureau of
22 investigation, including latent fingerprint searches. **THE DEPARTMENT IS**
23 **AUTHORIZED TO RETAIN FINGERPRINTS SUBMITTED PURSUANT TO THIS PARAGRAPH FOR**
24 **THE PURPOSE OF BEING SEARCHED BY FUTURE SUBMISSIONS TO THE DEPARTMENT,**
25 **INCLUDING LATENT FINGERPRINT SEARCHES.**

26 3. With the board of fingerprinting for the purpose of conducting
27 good cause exceptions pursuant to section 41-619.55 and central registry
28 exceptions pursuant to section 41-619.57.

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

31 5. With the governor, if the governor elects to become actively
32 involved in the investigation of criminal activity or the administration
33 of criminal justice in accordance with the governor's constitutional duty
34 to ensure that the laws are faithfully executed or as needed to carry out
35 the other responsibilities of the governor's office.

36 6. With regional computer centers that maintain authorized
37 computer-to-computer interfaces with the department, that are criminal
38 justice agencies or under the management control of a criminal justice
39 agency and that are established by a statute, ordinance or executive order
40 to provide automated data processing services to criminal justice agencies
41 specifically for the purposes of the administration of criminal justice or
42 evaluating the fitness of regional computer center employees who have
43 access to the Arizona criminal justice information system and the national
44 crime information center system.

1 7. With an individual who asserts a belief that criminal history
2 record information relating to the individual is maintained by an agency
3 or in an information system in this state that is subject to this section.
4 On submission of fingerprints, the individual may review this information
5 for the purpose of determining its accuracy and completeness by making
6 application to the agency operating the system. Rules adopted under this
7 section shall include provisions for administrative review and necessary
8 correction of any inaccurate or incomplete information. The review and
9 challenge process authorized by this paragraph is limited to criminal
10 history record information.

11 8. With individuals and agencies pursuant to a specific agreement
12 with a criminal justice agency to provide services required for the
13 administration of criminal justice pursuant to that agreement if the
14 agreement specifically authorizes access to data, limits the use of data
15 to purposes for which given and ensures the security and confidentiality
16 of the data consistent with this section.

17 9. With individuals and agencies for the express purpose of
18 research, evaluative or statistical activities pursuant to an agreement
19 with a criminal justice agency if the agreement specifically authorizes
20 access to data, limits the use of data to research, evaluative or
21 statistical purposes and ensures the confidentiality and security of the
22 data consistent with this section.

23 10. With the auditor general for audit purposes.

24 11. With central state repositories of other states for noncriminal
25 justice purposes for dissemination in accordance with the laws of those
26 states.

27 12. On submission of the fingerprint card, with the department of
28 child safety and a tribal social services agency to provide criminal
29 history record information on prospective adoptive parents for the purpose
30 of conducting the preadoption certification investigation under title 8,
31 chapter 1, article 1 if the department of economic security is conducting
32 the investigation, or with an agency or a person appointed by the court,
33 if the agency or person is conducting the investigation. Information
34 received under this paragraph shall only be used for the purposes of the
35 preadoption certification investigation.

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

42 (a) The fingerprint card.

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

1 14. On submission of a fingerprint card, provide criminal history
2 record information to the superior court for the purpose of evaluating the
3 fitness of investigators appointed under section 14-5303 or 14-5407,
4 guardians appointed under section 14-5206 or 14-5304 or conservators
5 appointed under section 14-5401.

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

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

10 17. On submission of the fingerprint card, provide criminal history
11 record information to the Arizona peace officer standards and training
12 board or a board certified law enforcement academy to evaluate the fitness
13 of prospective cadets.

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

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

21 20. With the state board of education for the purpose of evaluating
22 the fitness of a certificated educator, an applicant for a teaching or
23 administrative certificate or a noncertificated person as defined in
24 section 15-505 if the state board of education or its employees or agents
25 have reasonable suspicion that the educator or person engaged in conduct
26 that would be a criminal violation of the laws of this state or was
27 involved in immoral or unprofessional conduct or that the applicant
28 engaged in conduct that would warrant disciplinary action if the applicant
29 were certificated at the time of the alleged conduct. The information
30 shall be provided on the submission of either:

31 (a) The fingerprint card.

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

34 21. With each school district and charter school in this state.
35 The department of education and the state board for charter schools shall
36 provide the department of public safety with a current list of email
37 addresses for each school district and charter school in this state and
38 shall periodically provide the department of public safety with updated
39 email addresses. If the department of public safety is notified that a
40 person who is required to have a fingerprint clearance card to be employed
41 by or to engage in volunteer activities at a school district or charter
42 school has been arrested for or convicted of an offense listed in section
43 41-1758.03, subsection B or has been arrested for or convicted of an
44 offense that amounts to unprofessional conduct under section 15-550, the
45 department of public safety shall notify each school district and charter

1 school in this state that the person's fingerprint clearance card has been
2 suspended or revoked.

3 22. With a tribal social services agency and the department of
4 child safety as provided by law, which currently is the Adam Walsh child
5 protection and safety act of 2006 (42 United States Code section 16961),
6 for the purposes of investigating or responding to reports of child abuse,
7 neglect or exploitation. Information received pursuant to this paragraph
8 from the national crime information center, the interstate identification
9 index and the Arizona criminal justice information system network shall
10 only be used for the purposes of investigating or responding as prescribed
11 in this paragraph. The information shall be provided on submission to the
12 department of public safety of either:

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

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

16 23. With a nonprofit organization that interacts with children or
17 vulnerable adults for the lawful purpose of evaluating the fitness of all
18 current and prospective employees, contractors and volunteers of the
19 organization. The criminal history record information shall be provided
20 on submission of the applicant APPLICANT'S fingerprint card and the
21 prescribed fee. FINGERPRINTS SUBMITTED PURSUANT TO THIS PARAGRAPH MAY BE
22 SEARCHED BY THE DEPARTMENT TO CONDUCT STATE CRIMINAL HISTORY RECORDS
23 CHECKS.

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

27 25. With the governor to provide criminal history record
28 information on prospective gubernatorial nominees, appointees and
29 employees as provided by law.

30 H. The director shall adopt rules necessary to execute this
31 section.

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

35 J. The director shall establish a fee in an amount necessary to
36 cover the cost of federal noncriminal justice fingerprint processing for
37 criminal history record information checks that are authorized by law for
38 noncriminal justice employment, licensing or other lawful purposes. An
39 additional fee may be charged by the department for state noncriminal
40 justice fingerprint processing. Fees submitted to the department for
41 state noncriminal justice fingerprint processing are not refundable.

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

1 L. Except as provided in subsection O of this section, each agency
2 authorized by this section may charge a fee, in addition to any other fees
3 prescribed by law, in an amount necessary to cover the cost of state and
4 federal noncriminal justice fingerprint processing for criminal history
5 record information checks that are authorized by law for noncriminal
6 justice employment, licensing or other lawful purposes.

7 M. A fingerprint account within the records processing fund is
8 established for the purpose of separately accounting for the collection
9 and payment of fees for noncriminal justice fingerprint processing by the
10 department. Monies collected for this purpose shall be credited to the
11 account, and payments by the department to the United States for federal
12 noncriminal justice fingerprint processing shall be charged against the
13 account. Monies in the account not required for payment to the United
14 States shall be used by the department in support of the department's
15 noncriminal justice fingerprint processing duties. At the end of each
16 fiscal year, any balance in the account not required for payment to the
17 United States or to support the department's noncriminal justice
18 fingerprint processing duties reverts to the state general fund.

19 N. A records processing fund is established for the purpose of
20 separately accounting for the collection and payment of fees for
21 department reports and photographs of traffic accident scenes processed by
22 the department. Monies collected for this purpose shall be credited to
23 the fund and shall be used by the department in support of functions
24 related to providing copies of department reports and photographs. At the
25 end of each fiscal year, any balance in the fund not required for support
26 of the functions related to providing copies of department reports and
27 photographs reverts to the state general fund.

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

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

- 35 1. The collection and disposition of fees pursuant to this section.
36 2. The refusal of service to those agencies that are delinquent in
37 paying these fees.

38 Q. The director shall ensure that the following limitations are
39 observed regarding dissemination of criminal justice information obtained
40 from the central state repository or through the Arizona criminal justice
41 information system:

- 42 1. Any criminal justice agency that obtains criminal justice
43 information from the central state repository or through the Arizona
44 criminal justice information system assumes responsibility for the
45 security of the information and shall not secondarily disseminate this

1 information to any individual or agency not authorized to receive this
2 information directly from the central state repository or originating
3 agency.

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

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

12 4. The existence or nonexistence of criminal history record
13 information shall not be confirmed to any individual or agency not
14 authorized to receive the information itself.

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

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

22 R. This section and the rules adopted under this section apply to
23 all agencies and individuals collecting, storing or disseminating criminal
24 justice information processed by manual or automated operations if the
25 collection, storage or dissemination is funded in whole or in part with
26 monies made available by the law enforcement assistance administration
27 after July 1, 1973, pursuant to title I of the crime control act of 1973,
28 and to all agencies that interact with or receive criminal justice
29 information from or through the central state repository and through the
30 Arizona criminal justice information system.

31 S. This section does not apply to criminal history record
32 information contained in:

33 1. Posters, arrest warrants, announcements or lists for identifying
34 or apprehending fugitives or wanted persons.

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

39 3. Transcripts or records of judicial proceedings if released by a
40 court or legislative or administrative proceedings.

41 4. Announcements of executive clemency or pardon.

42 5. Computer databases, other than the Arizona criminal justice
43 information system, that are specifically designed for community
44 notification of an offender's presence in the community pursuant to

1 section 13-3825 or for public informational purposes authorized by section
2 13-3827.

3 T. ~~Nothing in~~ This section ~~prevents~~ DOES NOT PREVENT a criminal
4 justice agency from disclosing to the public criminal history record
5 information that is reasonably contemporaneous to the event for which an
6 individual is currently within the criminal justice system, including
7 information noted on traffic accident reports concerning citations, blood
8 alcohol tests or arrests made in connection with the traffic accident
9 being investigated.

10 U. In order to ensure that complete and accurate criminal history
11 record information is maintained and disseminated by the central state
12 repository:

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

19 2. Except as provided in paragraph 3 of this subsection, if a
20 person is summoned to court as a result of an indictment or complaint for
21 an offense listed in subsection C of this section, the court shall order
22 the person to appear before the county sheriff and provide legible
23 ten-print fingerprints. The county sheriff shall obtain a process control
24 number and provide a document to the person fingerprinted that indicates
25 proof of the fingerprinting and that informs the person that the document
26 must be presented to the court. For the purposes of this paragraph,
27 "summoned" includes a written promise to appear by the defendant on a
28 uniform traffic ticket and complaint.

29 3. If a person is arrested for a misdemeanor offense listed in
30 subsection C of this section by a city or town law enforcement agency, the
31 person shall appear before the law enforcement agency that arrested the
32 defendant and provide legible ten-print fingerprints. The law enforcement
33 agency shall obtain a process control number and provide a document to the
34 person fingerprinted that indicates proof of the fingerprinting and that
35 informs the person that the document must be presented to the court.

36 4. The mandatory fingerprint compliance form shall contain the
37 following information:

38 (a) Whether ten-print fingerprints have been obtained from the
39 person.

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

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

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

1 (e) Instructions on reporting for ten-print fingerprinting,
2 including available times and locations for reporting for ten-print
3 fingerprinting.

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

6 5. Within ten days after a person is fingerprinted, the arresting
7 authority or agency that took the fingerprints shall forward the
8 fingerprints to the department in the manner or form required by the
9 department.

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

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

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

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

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

41 11. The state department of corrections or the department of
42 juvenile corrections, within forty days, shall advise the central state
43 repository that it has assumed supervision of a person convicted of an
44 offense specified in subsection C of this section or section 8-341,
45 subsection Q, paragraph 3. The state department of corrections or the

1 department of juvenile corrections shall also report dispositions that
2 occur thereafter to the central state repository within forty days of the
3 date of the dispositions. This information shall be submitted on a form
4 or in a manner required by the department of public safety.

5 12. Each criminal justice agency shall query the central state
6 repository before dissemination of any criminal history record information
7 to ensure the completeness of the information. Inquiries shall be made
8 before any dissemination except in those cases in which time is of the
9 essence and the repository is technically incapable of responding within
10 the necessary time period. If time is of the essence, the inquiry shall
11 still be made and the response shall be provided as soon as possible.

12 V. The director shall adopt rules specifying that any agency that
13 collects, stores or disseminates criminal justice information that is
14 subject to this section shall establish effective security measures to
15 protect the information from unauthorized access, disclosure, modification
16 or dissemination. The rules shall include reasonable safeguards to
17 protect the affected information systems from fire, flood, wind, theft,
18 sabotage or other natural or man-made hazards or disasters.

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

24 X. ~~Nothing in~~ This section ~~creates~~ DOES NOT CREATE a cause of
25 action or a right to bring an action including an action based on
26 discrimination due to sexual orientation.

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

31 Z. For the purposes of this section:

32 1. "Administration of criminal justice" means performance of the
33 detection, apprehension, detention, pretrial release, posttrial release,
34 prosecution, adjudication, correctional supervision or rehabilitation of
35 criminal offenders. Administration of criminal justice includes
36 enforcement of criminal traffic offenses and civil traffic violations,
37 including parking violations, when performed by a criminal justice agency.
38 Administration of criminal justice also includes criminal identification
39 activities and the collection, storage and dissemination of criminal
40 history record information.

41 2. "Administrative records" means records that contain adequate and
42 proper documentation of the organization, functions, policies, decisions,
43 procedures and essential transactions of the agency and that are designed
44 to furnish information to protect the rights of this state and of persons
45 directly affected by the agency's activities.

1 3. "Antisemitism" includes the definition of antisemitism that was
2 adopted by the international holocaust remembrance alliance on May 26,
3 2016 and that has been adopted by the United States department of state,
4 including the contemporary examples of antisemitism identified in the
5 adopted definition.

6 4. "Arizona criminal justice information system" or "system" means
7 the statewide information system managed by the director for the
8 collection, processing, preservation, dissemination and exchange of
9 criminal justice information and includes the electronic equipment,
10 facilities, procedures and agreements necessary to exchange this
11 information.

12 5. "BIOMETRIC DATA" MEANS ANY PHYSICAL CHARACTERISTICS, INCLUDING
13 FINGERPRINTS AND PALM PRINTS AND FACE, TATTOO AND IRIS IMAGES.

14 ~~5.~~ 6. "Booking agency" means the county sheriff or, if a person is
15 booked into a municipal jail, the municipal law enforcement agency.

16 ~~6.~~ 7. "Central state repository" means the central location within
17 the department for the collection, storage and dissemination of Arizona
18 criminal history records and related criminal justice information.

19 ~~7.~~ 8. "Criminal history record information" and "criminal history
20 record" means information that is collected by criminal justice agencies
21 on individuals and that consists of identifiable descriptions and
22 notations of arrests, detentions, indictments and other formal criminal
23 charges, and any disposition arising from those actions, sentencing,
24 formal correctional supervisory action and release. Criminal history
25 record information and criminal history record do not include
26 identification information to the extent that the information does not
27 indicate involvement of the individual in the criminal justice system or
28 information relating to juveniles unless they have been adjudicated as
29 adults.

30 ~~8.~~ 9. "Criminal justice agency" means either:

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

34 (b) A government agency or subunit of a government agency that is
35 specifically authorized to perform as its principal function the
36 administration of criminal justice pursuant to a statute, ordinance or
37 executive order and that allocates more than fifty percent of its annual
38 budget to the administration of criminal justice. This subdivision
39 includes agencies of any foreign sovereignty duly recognized by the
40 federal government.

41 ~~9.~~ 10. "Criminal justice information" means information that is
42 collected by criminal justice agencies and that is needed for the
43 performance of their legally authorized and required functions, such as
44 criminal history record information, citation information, stolen property
45 information, traffic accident reports, wanted persons information and

1 system network log searches. Criminal justice information does not
2 include the administrative records of a criminal justice agency.

3 ~~10.~~ 11. "Disposition" means information disclosing that a decision
4 has been made not to bring criminal charges or that criminal proceedings
5 have been concluded or information relating to sentencing, correctional
6 supervision, release from correctional supervision, the outcome of an
7 appellate review of criminal proceedings or executive clemency.

8 ~~11.~~ 12. "Dissemination" means the written, oral or electronic
9 communication or transfer of criminal justice information to individuals
10 and agencies other than the criminal justice agency that maintains the
11 information. Dissemination includes the act of confirming the existence
12 or nonexistence of criminal justice information.

13 ~~12.~~ 13. "Management control":

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

15 (i) Priorities regarding development and operation of criminal
16 justice information systems and programs.

17 (ii) Standards for the selection, supervision and termination of
18 personnel involved in the development of criminal justice information
19 systems and programs and in the collection, maintenance, analysis and
20 dissemination of criminal justice information.

21 (iii) Policies governing the operation of computers, circuits and
22 telecommunications terminals used to process criminal justice information
23 to the extent that the equipment is used to process, store or transmit
24 criminal justice information.

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

28 ~~13.~~ 14. "Process control number" means the Arizona automated
29 fingerprint identification system number that attaches to each arrest
30 event at the time of fingerprinting and that is assigned to the arrest
31 fingerprint card, disposition form and other pertinent documents.

32 15. "RAP BACK SERVICES" MEANS REAL-TIME OR NEAR REAL-TIME
33 NOTIFICATIONS OF ACTIVITY, SUCH AS ARRESTS ON AN INDIVIDUAL, FOR
34 AUTHORIZED CRIMINAL JUSTICE OR NONCRIMINAL JUSTICE PURPOSES IN WHICH
35 CONTINUOUS EVALUATION OF THE INDIVIDUAL'S CRIMINAL HISTORY IS REQUIRED.

36 ~~14.~~ 16. "Secondary dissemination" means the dissemination of
37 criminal justice information from an individual or agency that originally
38 obtained the information from the central state repository or through the
39 Arizona criminal justice information system to another individual or
40 agency.

41 ~~15.~~ 17. "Sexual orientation" means consensual homosexuality or
42 heterosexuality.

43 ~~16.~~ 18. "Subject of record" means the person who is the primary
44 subject of a criminal justice record.

1 Sec. 3. Section 41-1758, Arizona Revised Statutes, is amended to
2 read:

3 41-1758. Definitions

4 In this article, unless the context otherwise requires:

5 1. "Agency" means the supreme court, the department of economic
6 security, the department of child safety, the department of education, the
7 department of health services, the department of juvenile corrections, the
8 department of emergency and military affairs, the department of public
9 safety, the department of transportation, the state real estate
10 department, the department of insurance and financial institutions, the
11 board of fingerprinting, the Arizona game and fish department, the Arizona
12 department of agriculture, the board of examiners of nursing care
13 institution administrators and assisted living facility managers, the
14 state board of dental examiners, the Arizona state board of pharmacy, the
15 board of physical therapy, the state board of psychologist examiners, the
16 board of athletic training, the board of occupational therapy examiners,
17 the state board of podiatry examiners, the acupuncture board of examiners,
18 the state board of technical registration, ~~or~~ the board of massage therapy
19 or the Arizona department of housing.

20 2. "Division" means the fingerprinting division in the department
21 of public safety.

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

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

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

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

- 1 (n) Section 15-1881.
- 2 (o) Section 17-215.
- 3 (p) Section 28-3228.
- 4 (q) Section 28-3413.
- 5 (r) Section 32-122.02.
- 6 (s) Section 32-122.05.
- 7 (t) Section 32-122.06.
- 8 (u) Section 32-823.
- 9 (v) Section 32-1232.
- 10 (w) Section 32-1276.01.
- 11 (x) Section 32-1284.
- 12 (y) Section 32-1297.01.
- 13 (z) Section 32-1904.
- 14 (aa) Section 32-1941.
- 15 (bb) Section 32-1982.
- 16 (cc) Section 32-2022.
- 17 (dd) Section 32-2063.
- 18 (ee) Section 32-2108.01.
- 19 (ff) Section 32-2123.
- 20 (gg) Section 32-2371.
- 21 (hh) Section 32-3430.
- 22 (ii) Section 32-3620.
- 23 (jj) Section 32-3668.
- 24 (kk) Section 32-3669.
- 25 (ll) Section 32-3922.
- 26 (mm) Section 32-3924.
- 27 (nn) Section 32-4128.
- 28 (oo) Section 32-4222.
- 29 (pp) Section 36-113.
- 30 (qq) Section 36-207.
- 31 (rr) Section 36-411.
- 32 (ss) Section 36-425.03.
- 33 (tt) Section 36-446.04.
- 34 (uu) Section 36-594.01.
- 35 (vv) Section 36-594.02.
- 36 (ww) Section 36-766.01.
- 37 (xx) Section 36-882.
- 38 (yy) Section 36-883.02.
- 39 (zz) Section 36-897.01.
- 40 (aaa) Section 36-897.03.
- 41 (bbb) Section 36-3008.
- 42 (ccc) Section 41-619.52.
- 43 (ddd) Section 41-619.53.
- 44 (eee) Section 41-1964.
- 45 (fff) Section 41-1967.01.

- 1 (ggg) Section 41-1968.
- 2 (hhh) Section 41-1969.
- 3 (iii) Section 41-2814.
- 4 (jjj) Section 41-4025.
- 5 (kkk) Section 46-141, subsection A or B.
- 6 (lll) Section 46-321.

7 6. "RAP BACK SERVICES" HAS THE SAME MEANING PRESCRIBED IN SECTION
8 41-1750.

9 ~~6.~~ 7. "Vulnerable adult" has the same meaning prescribed in
10 section 13-3623.

11 Sec. 4. Section 41-1758.03, Arizona Revised Statutes, is amended to
12 read:

13 41-1758.03. Fingerprint clearance cards; issuance; immunity

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

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

- 27 1. Sexual abuse of a vulnerable adult.
- 28 2. Incest.
- 29 3. First or second degree murder.
- 30 4. Sexual assault.
- 31 5. Sexual exploitation of a minor.
- 32 6. Sexual exploitation of a vulnerable adult.
- 33 7. Commercial sexual exploitation of a minor.
- 34 8. Commercial sexual exploitation of a vulnerable adult.
- 35 9. Child sex trafficking as prescribed in section 13-3212.
- 36 10. Child abuse.
- 37 11. Abuse of a vulnerable adult.
- 38 12. Sexual conduct with a minor.
- 39 13. Molestation of a child.
- 40 14. Molestation of a vulnerable adult.
- 41 15. A dangerous crime against children as defined in section
42 13-705.
- 43 16. Exploitation of minors involving drug offenses.

- 1 17. Taking a child for the purpose of prostitution as prescribed in
2 section 13-3206.
- 3 18. Neglect or abuse of a vulnerable adult.
- 4 19. Sex trafficking.
- 5 20. Sexual abuse.
- 6 21. Production, publication, sale, possession and presentation of
7 obscene items as prescribed in section 13-3502.
- 8 22. Furnishing harmful items to minors as prescribed in section
9 13-3506.
- 10 23. Furnishing harmful items to minors by internet activity as
11 prescribed in section 13-3506.01.
- 12 24. Obscene or indecent telephone communications to minors for
13 commercial purposes as prescribed in section 13-3512.
- 14 25. Luring a minor for sexual exploitation.
- 15 26. Enticement of persons for purposes of prostitution.
- 16 27. Procurement by false pretenses of person for purposes of
17 prostitution.
- 18 28. Procuring or placing persons in a house of prostitution.
- 19 29. Receiving earnings of a prostitute.
- 20 30. Causing one's spouse to become a prostitute.
- 21 31. Detention of persons in a house of prostitution for debt.
- 22 32. Keeping or residing in a house of prostitution or employment in
23 prostitution.
- 24 33. Pandering.
- 25 34. Transporting persons for the purpose of prostitution, polygamy
26 and concubinage.
- 27 35. Portraying adult as a minor as prescribed in section 13-3555.
- 28 36. Admitting minors to public displays of sexual conduct as
29 prescribed in section 13-3558.
- 30 37. Unlawful sale or purchase of children.
- 31 38. Child bigamy.
- 32 39. Trafficking of persons for forced labor or services.
- 33 C. A person who is awaiting trial on or who has been convicted of
34 committing or attempting, soliciting, facilitating or conspiring to commit
35 one or more of the following offenses in this state or the same or similar
36 offenses in another state or jurisdiction is precluded from receiving a
37 fingerprint clearance card, except that the person may petition the board
38 of fingerprinting for a good cause exception pursuant to section
39 41-619.55:
 - 40 1. Manslaughter.
 - 41 2. Endangerment.
 - 42 3. Threatening or intimidating.
 - 43 4. Assault.
 - 44 5. Unlawfully administering intoxicating liquors, narcotic drugs or
45 dangerous drugs.

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

- 1 41. Possession or possession with intent to use an imitation
2 prescription-only drug.
- 3 42. Possession or possession with intent to use an imitation
4 over-the-counter drug.
- 5 43. Manufacture of certain substances and drugs by certain means.
- 6 44. Adding poison or other harmful substance to food, drink or
7 medicine.
- 8 45. A criminal offense involving criminal trespass under title 13,
9 chapter 15.
- 10 46. A criminal offense involving burglary under title 13,
11 chapter 15.
- 12 47. A criminal offense under title 13, chapter 23.
- 13 48. Child neglect.
- 14 49. Misdemeanor offenses involving contributing to the delinquency
15 of a minor.
- 16 50. Offenses involving domestic violence.
- 17 51. Arson.
- 18 52. Kidnapping.
- 19 53. Felony offenses involving sale, distribution or transportation
20 of, offer to sell, transport or distribute or conspiracy to sell,
21 transport or distribute marijuana, dangerous drugs or narcotic drugs.
- 22 54. Robbery.
- 23 55. Aggravated assault.
- 24 56. Felony offenses involving contributing to the delinquency of a
25 minor.
- 26 57. Negligent homicide.
- 27 58. Criminal damage.
- 28 59. Misappropriation of charter school monies as prescribed in
29 section 13-1818.
- 30 60. Taking identity of another person or entity.
- 31 61. Aggravated taking identity of another person or entity.
- 32 62. Trafficking in the identity of another person or entity.
- 33 63. Cruelty to animals.
- 34 64. Prostitution.
- 35 65. Sale or distribution of material harmful to minors through
36 vending machines as prescribed in section 13-3513.
- 37 66. Welfare fraud.
- 38 D. A person who is awaiting trial on or who has been convicted of
39 committing or attempting to commit a misdemeanor or felony violation of
40 section 28-1381, 28-1382 or 28-1383 in this state or the same or similar
41 offense in another state or jurisdiction within five years ~~from~~ AFTER the
42 date of applying for a fingerprint clearance card is precluded from
43 driving any vehicle to transport employees or clients of the employing
44 agency as part of the person's employment. The division shall place a
45 notation on the fingerprint clearance card that indicates this driving

1 restriction. This subsection does not preclude a person from driving a
2 vehicle alone as part of the person's employment. This subsection does
3 not apply to a person who is licensed pursuant to title 32, chapter 20,
4 except if the person is employed by an agency as defined in section
5 41-1758.

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

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

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

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

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

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

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

35 J. The division ~~shall conduct periodic state criminal history~~
36 ~~records checks and~~ may conduct ~~federal~~ criminal history records checks
37 ~~when authorized pursuant to federal law~~ THROUGH STATE AND FEDERAL RAP BACK
38 SERVICES PURSUANT TO SECTION 41-1750, SUBSECTION G for the purpose of
39 updating the clearance status of current fingerprint clearance card
40 holders and may notify ~~the board of fingerprinting and~~ the agency
41 employing the person OR THE LICENSING AGENCY of the results of the records
42 check. IF THE DIVISION SUSPENDS A PERSON'S FINGERPRINT CLEARANCE CARD AND
43 THE PERSON REQUESTS A GOOD CAUSE EXCEPTION PURSUANT TO SECTION 41-619.55,
44 THE DIVISION SHALL RELEASE, ON REQUEST BY THE BOARD OF FINGERPRINTING, THE
45 PERSON'S CRIMINAL HISTORY RECORD TO THE BOARD OF FINGERPRINTING.

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

4 L. If a person's criminal history record contains an offense listed
5 in subsection B or C of this section and the final disposition is not
6 recorded on the record, the division shall conduct research to obtain the
7 disposition within thirty business days after receipt of the record. If
8 the division cannot determine, within thirty business days after receipt
9 of the person's state and federal criminal history record information,
10 whether the person is awaiting trial on or has been convicted of
11 committing or attempting, soliciting, facilitating or conspiring to commit
12 any of the offenses listed in subsection B or C of this section in this
13 state or the same or a similar offense in another state or jurisdiction,
14 the division shall not issue a fingerprint clearance card to the person.
15 If the division is unable to make the determination required by this
16 ~~section~~ SUBSECTION and does not issue a fingerprint clearance card to a
17 person, the person may request a good cause exception pursuant to section
18 41-619.55.

19 M. Except as provided in subsection N of this section, if after
20 conducting a state and federal criminal history records check the division
21 determines that it is not authorized to issue a fingerprint clearance card
22 to a person, the division shall notify the agency that licenses or employs
23 the person that the division is not authorized to issue a fingerprint
24 clearance card. This notice shall include the criminal history
25 information on which the denial was based. This criminal history
26 information is subject to dissemination restrictions pursuant to section
27 41-1750 and Public Law 92-544.

28 N. If, after conducting a state and federal criminal history
29 records check on a person who requests a fingerprint clearance card
30 pursuant to section 15-1881, the division determines that it is not
31 authorized to issue a fingerprint clearance card to the person, the
32 division shall not notify the agency. The division shall notify the
33 person who requested the card that the division is not authorized to issue
34 a fingerprint clearance card. The notice shall include the criminal
35 history information on which the denial was based. This criminal history
36 information is subject to dissemination restrictions pursuant to section
37 41-1750 and Public Law 92-544.

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

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

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

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

3 Q. Notwithstanding any law to the contrary, a person may apply for
4 and receive a level I fingerprint clearance card pursuant to section
5 41-1758.07 to satisfy a requirement that the person have a valid
6 fingerprint clearance card issued pursuant to this section.

7 Sec. 5. Section 41-1758.07, Arizona Revised Statutes, is amended to
8 read:

9 41-1758.07. Level I fingerprint clearance cards; definitions

10 A. On receiving the state and federal criminal history record of a
11 person who is required to be fingerprinted pursuant to this section, the
12 ~~fingerprinting division in the department of public safety~~ shall compare
13 the record with the list of criminal offenses that preclude the person
14 from receiving a level I fingerprint clearance card. If the person's
15 criminal history record does not contain any of the offenses listed in
16 subsections B and C of this section, the ~~fingerprinting~~ division shall
17 issue the person a level I fingerprint clearance card.

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

- 24 1. Sexual abuse of a vulnerable adult.
- 25 2. Incest.
- 26 3. Homicide, including first or second degree murder, manslaughter
27 and negligent homicide.
- 28 4. Sexual assault.
- 29 5. Sexual exploitation of a minor.
- 30 6. Sexual exploitation of a vulnerable adult.
- 31 7. Commercial sexual exploitation of a minor.
- 32 8. Commercial sexual exploitation of a vulnerable adult.
- 33 9. Child sex trafficking as prescribed in section 13-3212.
- 34 10. Child abuse.
- 35 11. Felony child neglect.
- 36 12. Abuse of a vulnerable adult.
- 37 13. Sexual conduct with a minor.
- 38 14. Molestation of a child.
- 39 15. Molestation of a vulnerable adult.
- 40 16. Dangerous crimes against children as defined in section 13-705.
- 41 17. Exploitation of minors involving drug offenses.
- 42 18. Taking a child for the purpose of prostitution as prescribed in
43 section 13-3206.
- 44 19. Neglect or abuse of a vulnerable adult.
- 45 20. Sex trafficking.

- 1 21. Sexual abuse.
- 2 22. Production, publication, sale, possession and presentation of
3 obscene items as prescribed in section 13-3502.
- 4 23. Furnishing harmful items to minors as prescribed in section
5 13-3506.
- 6 24. Furnishing harmful items to minors by internet activity as
7 prescribed in section 13-3506.01.
- 8 25. Obscene or indecent telephone communications to minors for
9 commercial purposes as prescribed in section 13-3512.
- 10 26. Luring a minor for sexual exploitation.
- 11 27. Enticement of persons for purposes of prostitution.
- 12 28. Procurement by false pretenses of person for purposes of
13 prostitution.
- 14 29. Procuring or placing persons in a house of prostitution.
- 15 30. Receiving earnings of a prostitute.
- 16 31. Causing one's spouse to become a prostitute.
- 17 32. Detention of persons in a house of prostitution for debt.
- 18 33. Keeping or residing in a house of prostitution or employment in
19 prostitution.
- 20 34. Pandering.
- 21 35. Transporting persons for the purpose of prostitution, polygamy
22 and concubinage.
- 23 36. Portraying adult as a minor as prescribed in section 13-3555.
- 24 37. Admitting minors to public displays of sexual conduct as
25 prescribed in section 13-3558.
- 26 38. Any felony offense involving contributing to the delinquency of
27 a minor.
- 28 39. Unlawful sale or purchase of children.
- 29 40. Child bigamy.
- 30 41. Any felony offense involving domestic violence as defined in
31 section 13-3601 except for a felony offense only involving criminal damage
32 in an amount of more than \$250 but less than \$1,000 if the offense was
33 committed before June 29, 2009.
- 34 42. Any felony offense in violation of title 13, chapter 12 if
35 committed within five years before the date of applying for a level I
36 fingerprint clearance card.
- 37 43. Felony drug or alcohol related offenses if committed within
38 five years before the date of applying for a level I fingerprint clearance
39 card.
- 40 44. Felony indecent exposure.
- 41 45. Felony public sexual indecency.
- 42 46. Terrorism.
- 43 47. Any offense involving a violent crime as defined in section
44 13-901.03.
- 45 48. Trafficking of persons for forced labor or services.

- 1 C. A person who is awaiting trial on or who has been convicted of
2 committing or attempting, soliciting, facilitating or conspiring to commit
3 one or more of the following offenses in this state or the same or similar
4 offenses in another state or jurisdiction is precluded from receiving a
5 level I fingerprint clearance card, except that the person may petition
6 the board of fingerprinting for a good cause exception pursuant to section
7 41-619.55:
- 8 1. Any misdemeanor offense in violation of title 13, chapter 12.
 - 9 2. Misdemeanor indecent exposure.
 - 10 3. Misdemeanor public sexual indecency.
 - 11 4. Aggravated criminal damage.
 - 12 5. Theft.
 - 13 6. Theft by extortion.
 - 14 7. Shoplifting.
 - 15 8. Forgery.
 - 16 9. Criminal possession of a forgery device.
 - 17 10. Obtaining a signature by deception.
 - 18 11. Criminal impersonation.
 - 19 12. Theft of a credit card or obtaining a credit card by fraudulent
20 means.
 - 21 13. Receipt of anything of value obtained by fraudulent use of a
22 credit card.
 - 23 14. Forgery of a credit card.
 - 24 15. Fraudulent use of a credit card.
 - 25 16. Possession of any machinery, plate or other contrivance or
26 incomplete credit card.
 - 27 17. False statement as to financial condition or identity to obtain
28 a credit card.
 - 29 18. Fraud by persons authorized to provide goods or services.
 - 30 19. Credit card transaction record theft.
 - 31 20. Misconduct involving weapons.
 - 32 21. Misconduct involving explosives.
 - 33 22. Depositing explosives.
 - 34 23. Misconduct involving simulated explosive devices.
 - 35 24. Concealed weapon violation.
 - 36 25. Misdemeanor possession and misdemeanor sale of peyote.
 - 37 26. Felony possession and felony sale of peyote if committed more
38 than five years before the date of applying for a level I fingerprint
39 clearance card.
 - 40 27. Misdemeanor possession and misdemeanor sale of a
41 vapor-releasing substance containing a toxic substance.
 - 42 28. Felony possession and felony sale of a vapor-releasing
43 substance containing a toxic substance if committed more than five years
44 before the date of applying for a level I fingerprint clearance card.
 - 45 29. Misdemeanor sale of precursor chemicals.

- 1 30. Felony sale of precursor chemicals if committed more than five
2 years before the date of applying for a level I fingerprint clearance
3 card.
- 4 31. Misdemeanor possession, misdemeanor use or misdemeanor sale of
5 marijuana, dangerous drugs or narcotic drugs.
- 6 32. Felony possession, felony use or felony sale of marijuana,
7 dangerous drugs or narcotic drugs if committed more than five years before
8 the date of applying for a level I fingerprint clearance card.
- 9 33. Misdemeanor manufacture or misdemeanor distribution of an
10 imitation controlled substance.
- 11 34. Felony manufacture or felony distribution of an imitation
12 controlled substance if committed more than five years before the date of
13 applying for a level I fingerprint clearance card.
- 14 35. Misdemeanor manufacture or misdemeanor distribution of an
15 imitation prescription-only drug.
- 16 36. Felony manufacture or felony distribution of an imitation
17 prescription-only drug if committed more than five years before the date
18 of applying for a level I fingerprint clearance card.
- 19 37. Misdemeanor manufacture or misdemeanor distribution of an
20 imitation over-the-counter drug.
- 21 38. Felony manufacture or felony distribution of an imitation
22 over-the-counter drug if committed more than five years before the date of
23 applying for a level I fingerprint clearance card.
- 24 39. Misdemeanor possession or misdemeanor possession with intent to
25 use an imitation controlled substance.
- 26 40. Felony possession or felony possession with intent to use an
27 imitation controlled substance if committed more than five years before
28 the date of applying for a level I fingerprint clearance card.
- 29 41. Misdemeanor possession or misdemeanor possession with intent to
30 use an imitation prescription-only drug.
- 31 42. Felony possession or felony possession with intent to use an
32 imitation prescription-only drug if committed more than five years before
33 the date of applying for a level I fingerprint clearance card.
- 34 43. Misdemeanor possession or misdemeanor possession with intent to
35 use an imitation over-the-counter drug.
- 36 44. Felony possession or felony possession with intent to use an
37 imitation over-the-counter drug if committed more than five years before
38 the date of applying for a level I fingerprint clearance card.
- 39 45. Misdemeanor manufacture of certain substances and drugs by
40 certain means.
- 41 46. Felony manufacture of certain substances and drugs by certain
42 means if committed more than five years before the date of applying for a
43 level I fingerprint clearance card.
- 44 47. Adding poison or other harmful substance to food, drink or
45 medicine.

- 1 48. A criminal offense involving criminal trespass under title 13,
2 chapter 15.
- 3 49. A criminal offense involving burglary under title 13,
4 chapter 15.
- 5 50. A criminal offense under title 13, chapter 23, except
6 terrorism.
- 7 51. Misdemeanor offenses involving child neglect.
- 8 52. Misdemeanor offenses involving contributing to the delinquency
9 of a minor.
- 10 53. Misdemeanor offenses involving domestic violence as defined in
11 section 13-3601.
- 12 54. Felony offenses involving domestic violence if the offense only
13 involved criminal damage in an amount of more than \$250 but less than
14 \$1,000 and the offense was committed before June 29, 2009.
- 15 55. Arson.
- 16 56. Felony offenses involving sale, distribution or transportation
17 of, offer to sell, transport or distribute or conspiracy to sell,
18 transport or distribute marijuana, dangerous drugs or narcotic drugs if
19 committed more than five years before the date of applying for a level I
20 fingerprint clearance card.
- 21 57. Criminal damage.
- 22 58. Misappropriation of charter school monies as prescribed in
23 section 13-1818.
- 24 59. Taking identity of another person or entity.
- 25 60. Aggravated taking identity of another person or entity.
- 26 61. Trafficking in the identity of another person or entity.
- 27 62. Cruelty to animals.
- 28 63. Prostitution, ~~as~~ as prescribed in section 13-3214.
- 29 64. Sale or distribution of material harmful to minors through
30 vending machines as prescribed in section 13-3513.
- 31 65. Welfare fraud.
- 32 66. Any felony offense in violation of title 13, chapter 12 if
33 committed more than five years before the date of applying for a level I
34 fingerprint clearance card.
- 35 67. Kidnapping.
- 36 68. Robbery, aggravated robbery or armed robbery.
- 37 D. A person who is awaiting trial on or who has been convicted of
38 committing or attempting to commit a misdemeanor violation of section
39 28-1381, 28-1382 or 28-1383 in this state or the same or a similar offense
40 in another state or jurisdiction within five years ~~from~~ AFTER the date of
41 applying for a level I fingerprint clearance card is precluded from
42 driving any vehicle to transport employees or clients of the employing
43 agency as part of the person's employment. The division shall place a
44 notation on the level I fingerprint clearance card that indicates this

1 driving restriction. This subsection does not preclude a person from
2 driving a vehicle alone as part of the person's employment.

3 E. Notwithstanding subsection C of this section, on receiving
4 written notice from the board of fingerprinting that a good cause
5 exception was granted pursuant to section 41-619.55, the ~~fingerprinting~~
6 division shall issue a level I fingerprint clearance card to the
7 applicant.

8 F. If the ~~fingerprinting~~ division denies a person's application for
9 a level I fingerprint clearance card pursuant to subsection C of this
10 section and a good cause exception is requested pursuant to section
11 41-619.55, the ~~fingerprinting~~ division shall release, on request by the
12 board of fingerprinting, the person's criminal history record to the board
13 of fingerprinting.

14 G. A person shall be granted a level I fingerprint clearance card
15 pursuant to this section if either of the following applies:

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

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

26 H. The licensee or contract provider shall assume the costs of
27 fingerprint checks conducted pursuant to this section and may charge these
28 costs to persons who are required to be fingerprinted.

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

34 J. The ~~fingerprinting~~ division ~~shall conduct periodic state~~
35 ~~criminal history records checks and~~ may conduct ~~federal~~ criminal history
36 records checks ~~when authorized pursuant to federal law~~ THROUGH STATE AND
37 FEDERAL RAP BACK SERVICES PURSUANT TO SECTION 41-1750, SUBSECTION G for
38 the purpose of updating the clearance status of current level I
39 fingerprint clearance cardholders pursuant to this section and may notify
40 ~~the board of fingerprinting and~~ the EMPLOYING OR LICENSING agency of the
41 results of the records check. IF THE DIVISION SUSPENDS A PERSON'S
42 FINGERPRINT CLEARANCE CARD AND THE PERSON REQUESTS A GOOD CAUSE EXCEPTION
43 PURSUANT TO SECTION 41-619.55, THE DIVISION SHALL RELEASE, ON REQUEST BY
44 THE BOARD OF FINGERPRINTING, THE PERSON'S CRIMINAL HISTORY RECORD TO THE
45 BOARD OF FINGERPRINTING.

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

4 L. If a person's criminal history record contains an offense listed
5 in subsection B or C of this section and the final disposition is not
6 recorded on the record, the division shall conduct research to obtain the
7 disposition within thirty business days after receipt of the record. If
8 the division cannot determine, within thirty business days after receipt
9 of the person's state and federal criminal history record information,
10 whether the person is awaiting trial on or has been convicted of
11 committing or attempting, soliciting, facilitating or conspiring to commit
12 any of the offenses listed in subsection B or C of this section in this
13 state or the same or a similar offense in another state or jurisdiction,
14 the division shall not issue a level I fingerprint clearance card to the
15 person. If the division is unable to make the determination required by
16 this **section SUBSECTION** and does not issue a level I fingerprint clearance
17 card to a person, the person may request a good cause exception pursuant
18 to section 41-619.55.

19 M. If after conducting a state and federal criminal history records
20 check the **fingerprinting** division determines that it is not authorized to
21 issue a level I fingerprint clearance card to an applicant, the division
22 shall notify the agency that the **fingerprinting** division is not authorized
23 to issue a level I fingerprint clearance card. This notice shall include
24 the criminal history information on which the denial was based. This
25 criminal history information is subject to dissemination restrictions
26 pursuant to section 41-1750 and Public Law 92-544.

27 N. The **fingerprinting** division is not liable for damages resulting
28 from:

29 1. The issuance of a level I fingerprint clearance card to an
30 applicant who is later found to have been ineligible to receive a level I
31 fingerprint clearance card at the time the card was issued.

32 2. The denial of a level I fingerprint clearance card to an
33 applicant who is later found to have been eligible to receive a level I
34 fingerprint clearance card at the time issuance of the card was denied.

35 O. Notwithstanding any law to the contrary, an individual may apply
36 for and receive a level I fingerprint clearance card pursuant to this
37 section to satisfy a requirement that the person have a valid fingerprint
38 clearance card issued pursuant to section 41-1758.03.

39 P. Notwithstanding any law to the contrary, except as prescribed
40 pursuant to subsection Q of this section, an individual who receives a
41 level I fingerprint clearance card pursuant to this section also satisfies
42 a requirement that the individual have a valid fingerprint clearance card
43 issued pursuant to section 41-1758.03.

1 Q. Unless a cardholder commits an offense listed in subsection B or
2 C of this section after June 29, 2009, a fingerprint clearance card issued
3 pursuant to section 41-1758.03 before June 29, 2009 and its renewals are
4 valid for all requirements for a level I fingerprint clearance card except
5 those relating to the requirements of section 8-105 or 8-509. A
6 fingerprint clearance card issued before June 29, 2009 to meet the
7 requirements of section 8-105 or 8-509 and its renewals are valid after
8 June 29, 2009 to meet all requirements for a level I fingerprint clearance
9 card, including the requirements of section 8-105 or 8-509, if the
10 cardholder has been certified by the court to adopt or has been issued a
11 foster home license before June 29, 2009.

12 R. The issuance of a level I fingerprint clearance card does not
13 entitle a person to employment.

14 S. For the purposes of this section:

15 1. "Person" means a person who is fingerprinted pursuant to:

16 (a) Section 3-314, 8-105, 8-463, 8-509, 8-802, 17-215, 36-207,
17 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 36-2819,
18 36-2855, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 or
19 46-141.

20 (b) Subsection 0 of this section.

21 2. "Renewal" means the issuance of a fingerprint clearance card to
22 an existing fingerprint clearance cardholder who applies before the
23 person's existing fingerprint clearance card expires.

24 Sec. 6. Emergency

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