

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 13. PUBLIC SAFETY

CHAPTER 11. BOARD OF FINGERPRINTING

PREAMBLE

1. **Sections Affected**

R13-11-101	<u>Rulemaking Action</u>
R13-11-102	New Section
R13-11-103	New Section
R13-11-104	New Section
R13-11-105	New Section
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

A.R.S. 41-619.53(A)(2) and 41-619.55(A)(1)
3. **The effective date of the rules:**

August 19, 1999
4. **A list of all previous notices appearing in the Register addressing the final rule:**

None.
5. **The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name:	Mike LeHew
Address:	Department of Economic Security 1789 W. Jefferson, Site Code 791A Phoenix, Arizona 85007
Telephone:	(602) 542-7058
Fax:	(602) 542-6870
6. **An explanation of the rule, including the agency's reason for initiating the rule, including the statutory citation to the exemption from the regular rulemaking process:**

Arizona Revised Statutes Title 41, Chapter 3, Article 12 established the Board of Fingerprinting to conduct good cause exception hearings for the issuance of class 1 and class 2 fingerprint clearance cards. The Board of Fingerprinting is required to adopt rules to administer and enforce this article and to establish good cause exceptions.
7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.
8. **The summary of the economic, small business, and consumer impact:**

Because these rules are exempt from the Administrative Procedure Act under Laws 1998, Chapter 270, Section 27, the Board of Fingerprinting did not prepare an economic impact statement.
9. **A description of the changes between the proposed rules, including supplemental notices, and final rules:**

Not applicable.
10. **A summary of the principal comments and the agency response to them:**

Not applicable.

11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
Not applicable.
12. **Incorporations by reference and their location in the rules:**
Not applicable.
13. **Was the rule previously adopted as an emergency rule?**
No.
14. **The full text of the rules follows:**

TITLE 13. PUBLIC SAFETY

CHAPTER 11. BOARD OF FINGERPRINTING

ARTICLE 1. BOARD OF FINGERPRINTING

Sections

- R13-11-101. Applicability
- R13-11-102. Good Cause Exception Hearings
- R13-11-103. Notification of Decisions for Good Cause
- R13-11-104. Requests for Good Cause Exception- No Disposition
- R13-11-105. Confidentiality

ARTICLE 1. BOARD OF FINGERPRINTING

R13-11-101. Applicability

This Article applies to activities and persons identified in Arizona Revised Statutes, Title 41, Chapter 3, Article 12.

R13-11-102. Good Cause Exception Hearings

- A. A person who meets the requirements of A.R.S. § 41-1758.03 and wishes to apply for a good cause exception hearing shall submit a completed application to the Board of Fingerprinting within 30 calendar days of the date notice by the Department of Public Safety of eligibility to apply for a good cause exception hearing.**
- B. The written request for a good cause exception hearing shall:**
 1. Be on forms prescribed by the Board of Fingerprinting; and
 2. Include a copy of the denial letter received from the Department of Public Safety.
- C. Within 15 days of receipt of a written request from an applicant for a good cause exception hearing, the Board of Fingerprinting shall notify the applicant in writing of their eligibility for a hearing.**
- D. The applicant shall submit, when applicable, the following materials to the Board of Fingerprinting for a good cause exception hearing:**
 1. The good cause exception submittal form.
 2. The extent of the person's criminal record.
 3. The length of time that has elapsed since the offense was committed.
 4. The nature of the offense.
 5. The degree to which the person participated in the offense.
 6. Any applicable mitigating circumstances.
 7. The extent of the person's rehabilitation, including:
 - a. Completion of probation, parole or community supervision.
 - b. Whether the person paid restitution or other compensation for the offense.
 - c. Evidence of positive action to change criminal behavior, such as completion of a drug treatment plan or counseling.
 - d. Personal references attesting to the person's rehabilitation.
- E. The Board of Fingerprinting shall schedule and issue a written notice for the good cause exception hearing after receipt from the applicant of the completed good cause exception hearing request submittal form and all applicable documents.**
- F. The Board of Fingerprinting shall send to the individual in writing the date, time, place, and telephone number of the good cause exception hearing.**

R13-11-103. Notification of Decision for Good Cause Exception Hearing

- A. The Board of Fingerprinting shall notify the applicant in writing of the Board's decision.**
- B. When a good cause exception is granted, the Board of Fingerprinting shall request, in writing, the Department of Public Safety to issue a fingerprint clearance card.**

R13-11-104. Requests for Good Cause Exception - No Dispositions

An individual who is denied a fingerprint clearance card pursuant to A.R.S. § 41-1758.03(O) may request a good cause exception hearing. The hearing will be conducted as prescribed in R13-11-102 except that the required documentation shall include information relating to the disposition of the offense.

R13-11-105. Confidentiality

All information relating to an individuals criminal history is confidential and shall not be disseminated or disclosed except as required by law.