

State of Arizona  
House of Representatives  
Forty-sixth Legislature  
First Regular Session  
2003

CHAPTER 214

# HOUSE BILL 2016

AN ACT

AMENDING SECTIONS 8-322, 15-183, 15-203, 15-532, 15-534, 15-763.01, 15-1330, 36-411, 36-425.03, 36-594.01, 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-619.51, 41-619.53, 41-619.55, 41-619.56, 41-1092.02, 41-1758.01, 41-1758.02, 41-1758.03, 41-1758.04, 41-1964, 41-1967, 41-1967.01, 41-2814, 46-141, 46-321, 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 8-322, Arizona Revised Statutes, is amended  
3 effective from and after September 30, 2003, to read:

4 8-322. Juvenile probation services fund; program and contract  
5 requirements

6 A. The juvenile probation services fund is established. The supreme  
7 court shall administer the fund. Monies in the juvenile probation services  
8 fund are exempt from the provisions of section 35-190 relating to lapsing of  
9 appropriations.

10 B. The supreme court shall allocate monies in the fund or appropriated  
11 to the superior court's juvenile probation services fund line based on its  
12 determination of the need for and probable effectiveness of each plan  
13 submitted pursuant to this article. The supreme court shall require that the  
14 presiding juvenile court judge submit in accordance with rules of the supreme  
15 court a plan for the expenditure of monies that are allocated to the juvenile  
16 court pursuant to this section. The supreme court may reject a plan or a  
17 modification of a plan that is submitted pursuant to this subsection.

18 C. Monies shall be used to fund programs, the participation in which  
19 a juvenile probation officer or community based alternative program  
20 administered by the juvenile court has required as a condition of diversion  
21 pursuant to section 8-321. Monies shall also be used to fund programs to  
22 reduce the number of repetitive juvenile offenders and to provide services  
23 for juveniles who are on probation, including treatment, testing, independent  
24 living programs and residential, foster and shelter care, and for children  
25 who are referred to the juvenile court for incorrigibility or delinquency  
26 offenses. Monies may be used to provide the cost of care for persons who are  
27 under twenty-one years of age and who were placed in an independent living  
28 program or in foster care before eighteen years of age, who voluntarily  
29 remain in care and who are currently enrolled in and regularly attending any  
30 high school or certificate of equivalency program. Pursuant to section  
31 8-341, subsection N, monies may also be used to provide services for persons  
32 who are under twenty-one years of age and who voluntarily participate in  
33 treatment. Except pursuant to section 8-341, subsection N, the cost of care  
34 shall not be continued for a person who has received a high school diploma  
35 or certificate of equivalency. These services shall be approved by the  
36 supreme court. The juvenile court may develop and staff such programs, or  
37 the supreme court may enter into the purchase of service contracts with  
38 community youth serving agencies.

39 D. The administrative office of the courts may use monies appropriated  
40 to the fund for the purchase of detention facilities, to expand existing  
41 detention centers or to contract with private and public entities to expand  
42 or operate secure care facilities.

43 E. All monies that are distributed or expended from the fund shall be  
44 used to supplement, not supplant, funding to the juvenile court by the  
45 county.

1 F. The supreme court shall contract for a periodic evaluation to  
2 determine if the provisions of this article reduce the number of repetitive  
3 juvenile offenders. The supreme court shall send a copy of the evaluation  
4 to the speaker of the house of representatives, the president of the senate  
5 and the governor.

6 G. A contract that is entered into between the supreme court or the  
7 county attorney and any contract provider to provide services pursuant to  
8 section 8-321 or this section to juveniles shall provide that, as a condition  
9 of employment, personnel who are employed by any contract provider, whether  
10 paid or not, and who are required or allowed to provide services directly to  
11 juveniles shall have valid ~~class one or class two~~ fingerprint clearance cards  
12 issued pursuant to title 41, chapter 12, article 3.1 or shall apply for a  
13 ~~class one or class two~~ fingerprint clearance card within seven working days  
14 of employment.

15 H. The contractor shall assume the costs of fingerprint checks and may  
16 charge these costs to its fingerprinted personnel.

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

26 J. A contract provider may avoid cancellation or termination of the  
27 contract or license under subsection I of this section if a person who does  
28 not possess or has been denied issuance of a valid fingerprint clearance card  
29 or who certifies pursuant to subsections L and M of this section that the  
30 person has been convicted of or is awaiting trial on any of the offenses  
31 pursuant to LISTED IN section 41-1758.03, subsection F- B is immediately  
32 prohibited from employment or service with the licensee or contract provider  
33 in any capacity requiring or allowing contact with juveniles.

34 K. A contract provider may avoid cancellation or termination of the  
35 contract or license under subsection I of this section if a person who does  
36 not possess or has been denied issuance of a valid fingerprint clearance card  
37 or who certifies pursuant to subsections L and M of this section that the  
38 person has been convicted of or is awaiting trial on any of the offenses  
39 pursuant to LISTED IN section 41-1758.03, subsection G- C is immediately  
40 prohibited from employment or service with the licensee or contract provider  
41 in any capacity requiring or allowing the person to provide direct services  
42 to juveniles unless the person is granted a good cause exception pursuant to  
43 section 41-619.55.

1 L. Personnel who are employed by any contract provider, whether paid  
2 or not, and who are required or allowed to provide services directly to  
3 juveniles shall certify on forms provided by the contracting agency and  
4 notarized whether they are awaiting trial on or have ever been convicted of  
5 any of the criminal offenses pursuant to LISTED IN section 41-1758.03,  
6 subsections ~~F~~ B and ~~G~~ C in this state or similar offenses in another state  
7 or jurisdiction.

8 M. Personnel who are employed by any contract provider, whether paid  
9 or not, and who are required or allowed to provide services directly to  
10 juveniles shall certify on forms provided by the contracting agency and  
11 notarized whether they have ever committed any act of sexual abuse of a  
12 child, including sexual exploitation and commercial sexual exploitation, or  
13 any act of child abuse.

14 N. Federally recognized Indian tribes or military bases may submit and  
15 the supreme court shall accept certifications that state that personnel who  
16 are employed or who will be employed during the contract term and who provide  
17 services directly to juveniles have not been convicted of, have not admitted  
18 committing or are not awaiting trial on any offense under subsection L of  
19 this section.

20 O. Adult clients of a contract provider who are receiving treatment  
21 services are exempt from the requirements of this section, unless they  
22 provide services directly to juveniles without supervision.

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

26 Q. The contracting agency shall notify the department of public safety  
27 if the contracting agency receives credible evidence that a person who  
28 possesses a valid ~~class one or class two~~ fingerprint clearance card either:

29 1. Is arrested for or charged with an offense listed in section  
30 41-1758.03, subsection B ~~or F~~.

31 2. Falsified information on the form required by subsection L of this  
32 section.

33 Sec. 2. Section 15-183, Arizona Revised Statutes, is amended effective  
34 from and after September 30, 2003, to read:

35 15-183. Charter schools; application; requirements; immunity;  
36 exemptions; renewal of application; reprisal

37 A. An applicant seeking to establish a charter school shall submit a  
38 written application to a proposed sponsor as prescribed in subsection C of  
39 this section. The application shall include a detailed business plan for the  
40 charter school and may include a mission statement for the charter school,  
41 a description of the charter school's organizational structure and the  
42 governing body, a financial plan for the first three years of operation of  
43 the charter school, a description of the charter school's hiring policy, the  
44 name of the charter school's applicant or applicants and requested sponsor,  
45 a description of the charter school's facility and the location of the

1 school, a description of the grades being served and an outline of criteria  
2 designed to measure the effectiveness of the school.

3 B. The sponsor of a charter school may contract with a public body,  
4 private person or private organization for the purpose of establishing a  
5 charter school pursuant to this article.

6 C. The sponsor of a charter school may be either a school district  
7 governing board, the state board of education or the state board for charter  
8 schools, subject to the following requirements:

9 1. For charter schools that submit an application for sponsorship to  
10 a school district governing board:

11 (a) An applicant for a charter school may submit its application to  
12 a school district governing board, which shall either accept or reject  
13 sponsorship of the charter school within ninety days. An applicant may  
14 submit a revised application for reconsideration by the governing board. If  
15 the governing board rejects the application, the governing board shall notify  
16 the applicant in writing of the reasons for the rejection. The applicant may  
17 request, and the governing board may provide, technical assistance to improve  
18 the application.

19 (b) In the first year that a school district is determined to be out  
20 of compliance with the uniform system of financial records, within fifteen  
21 days of the determination of noncompliance, the school district shall notify  
22 by certified mail each charter school sponsored by the school district that  
23 the school district is out of compliance with the uniform system of financial  
24 records. The notification shall include a statement that if the school  
25 district is determined to be out of compliance for a second consecutive year,  
26 the charter school will be required to transfer sponsorship to another entity  
27 pursuant to subdivision (c) of this paragraph.

28 (c) In the second consecutive year that a school district is  
29 determined to be out of compliance with the uniform system of financial  
30 records, within fifteen days of the determination of noncompliance, the  
31 school district shall notify by certified mail each charter school sponsored  
32 by the school district that the school district is out of compliance with the  
33 uniform system of financial records. A charter school that receives a  
34 notification of school district noncompliance pursuant to this subdivision  
35 shall file a written sponsorship transfer application within forty-five days  
36 with the state board of education, the state board for charter schools or the  
37 school district governing board if the charter school is located within the  
38 geographic boundaries of that school district. A charter school that  
39 receives a notification of school district noncompliance may request an  
40 extension of time to file a sponsorship transfer application and the state  
41 board of education, the state board for charter schools or a school district  
42 governing board may grant an extension of not more than an additional thirty  
43 days if good cause exists for the extension. The state board of education  
44 and the state board for charter schools shall approve a sponsorship transfer  
45 application pursuant to this paragraph.

1 (d) Beginning July 1, 2000, a school district governing board shall  
2 not grant a charter to a charter school that is located outside the  
3 geographic boundaries of that school district.

4 (e) A school district that has been determined to be out of compliance  
5 with the uniform system of financial records during either of the previous  
6 two fiscal years shall not sponsor a new or transferring charter school.

7 2. The applicant may submit the application to the state board of  
8 education or the state board for charter schools. The state board of  
9 education or the state board for charter schools may approve the application  
10 if the application meets the requirements of this article and may approve the  
11 charter if the proposed sponsor determines, within its sole discretion, that  
12 the applicant is sufficiently qualified to operate a charter school. The  
13 state board of education or the state board for charter schools may approve  
14 any charter schools transferring charters. The state board of education and  
15 the state board for charter schools shall approve any charter schools  
16 transferring charters from a school district that is determined to be out of  
17 compliance with the uniform system of financial records pursuant to this  
18 section, but may require the charter school to sign a new charter that is  
19 equivalent to the charter awarded by the former sponsor. If the state board  
20 of education or the state board for charter schools rejects the preliminary  
21 application, the state board of education or the state board for charter  
22 schools shall notify the applicant in writing of the reasons for the  
23 rejection and of suggestions for improving the application. An applicant may  
24 submit a revised application for reconsideration by the state board of  
25 education or the state board for charter schools. The applicant may request,  
26 and the state board of education or the state board for charter schools may  
27 provide, technical assistance to improve the application.

28 3. Each applicant seeking to establish a charter school shall submit  
29 a full set of fingerprints to the approving agency for the purpose of  
30 obtaining a state and federal criminal records check pursuant to section  
31 41-1750 and Public Law 92-544. If an applicant will have direct contact with  
32 students, the applicant shall possess a valid ~~class one or class two~~  
33 fingerprint clearance card that is issued pursuant to title 41, chapter 12,  
34 article 3.1. The department of public safety may exchange this fingerprint  
35 data with the federal bureau of investigation. The criminal records check  
36 shall be completed before the issuance of a charter.

37 4. All persons engaged in instructional work directly as a classroom,  
38 laboratory or other teacher or indirectly as a supervisory teacher, speech  
39 therapist or principal shall have a valid ~~class one or class two~~ fingerprint  
40 clearance card that is issued pursuant to title 41, chapter 12, article 3.1.  
41 A charter school shall not employ a teacher whose certificate has been  
42 revoked for a violation of section 15-507 or 15-550 or for any offense that  
43 placed a pupil in danger. All other personnel shall be fingerprint checked  
44 pursuant to section 15-512. Before employment, the charter school shall make  
45 documented, good faith efforts to contact previous employers of a person to

1 obtain information and recommendations that may be relevant to a person's  
2 fitness for employment as prescribed in section 15-512, subsection F. The  
3 charter school shall notify the department of public safety if the charter  
4 school or sponsor receives credible evidence that a person who possesses a  
5 valid ~~class one or class two~~ fingerprint clearance card is arrested for or  
6 is charged with an offense listed in section 41-1758.03, subsection B ~~or F~~.

7 5. If a charter school operator is not already subject to a public  
8 meeting or hearing by the municipality in which the charter school is  
9 located, the operator of a charter school shall conduct a public meeting at  
10 least thirty days before the charter school operator opens a site or sites  
11 for the charter school. The charter school operator shall post notices of  
12 the public meeting in at least three different locations that are within  
13 three hundred feet of the proposed charter school site.

14 D. A board that is authorized to sponsor charter schools pursuant to  
15 this article has no legal authority over or responsibility for a charter  
16 school sponsored by a different board. This subsection does not apply to the  
17 state board of education's duty to exercise general supervision over the  
18 public school system pursuant to section 15-203, subsection A, paragraph 1.

19 E. The charter of a charter school shall ensure the following:

20 1. Compliance with federal, state and local rules, regulations and  
21 statutes relating to health, safety, civil rights and insurance. The  
22 department of education shall publish a list of relevant rules, regulations  
23 and statutes to notify charter schools of their responsibilities under this  
24 paragraph.

25 2. That it is nonsectarian in its programs, admission policies and  
26 employment practices and all other operations.

27 3. That it provides a comprehensive program of instruction for at  
28 least a kindergarten program or any grade between grades one and twelve,  
29 except that a school may offer this curriculum with an emphasis on a specific  
30 learning philosophy or style or certain subject areas such as mathematics,  
31 science, fine arts, performance arts or foreign language.

32 4. That it designs a method to measure pupil progress, toward the  
33 pupil outcomes adopted by the state board of education pursuant to section  
34 15-741.01 including participation in the Arizona instrument to measure  
35 standards test and the nationally standardized norm-referenced achievement  
36 test as designated by the state board and the completion and distribution of  
37 an annual report card as prescribed in chapter 7, article 3 of this title.

38 5. That, except as provided in this article and in its charter, it is  
39 exempt from all statutes and rules relating to schools, governing boards and  
40 school districts.

41 6. That, except as provided in this article, it is subject to the same  
42 financial and electronic data submission requirements as a school district  
43 including the uniform system of financial records as prescribed in chapter  
44 2, article 4 of this title, procurement rules as prescribed in section 15-213  
45 and audit requirements. The auditor general shall conduct a comprehensive

1 review and revision of the uniform system of financial records to ensure that  
2 the provisions of the uniform system of financial records that relate to  
3 charter schools are in accordance with commonly accepted accounting  
4 principles used by private business. A school's charter may include  
5 exceptions to the requirements of this paragraph that are necessary as  
6 determined by the district governing board, the state board of education or  
7 the state board for charter schools. The department of education or the  
8 office of the auditor general may conduct financial, program or compliance  
9 audits.

10 7. Compliance with all federal and state laws relating to the  
11 education of children with disabilities in the same manner as a school  
12 district.

13 8. That it provides for a governing body for the charter school that  
14 is responsible for the policy decisions of the charter school.

15 9. That it provides a minimum of one hundred seventy-five  
16 instructional days before June 30 of each fiscal year unless it is operating  
17 on an alternative calendar approved by its sponsor. The superintendent of  
18 public instruction shall adjust the apportionment schedule accordingly to  
19 accommodate a charter school utilizing an alternative calendar.

20 F. The charter of a charter school shall include a description of the  
21 charter school's personnel policies, personnel qualifications and method of  
22 school governance and the specific role and duties of the sponsor of the  
23 charter school. A charter school shall keep on file the resumes of all  
24 current and former employees who provide instruction to pupils at the charter  
25 school. Resumes shall include an individual's educational and teaching  
26 background and experience in a particular academic content subject area. A  
27 charter school shall inform parents and guardians of the availability of the  
28 resume information and shall make the resume information available for  
29 inspection on request of parents and guardians of pupils enrolled at the  
30 charter school. Nothing in this subsection shall be construed to require any  
31 charter school to release personally identifiable information in relation to  
32 any teacher or employee including the teacher's or employee's address,  
33 salary, social security number or telephone number.

34 G. The charter of a charter school may be amended at the request of  
35 the governing body of the charter school and on the approval of the sponsor.

36 H. Charter schools may contract, sue and be sued.

37 I. An approved plan to establish a charter school is effective for  
38 fifteen years from the first day of operation. At the conclusion of the  
39 first fourteen years of operation, the charter school may apply for renewal.  
40 In addition to any other requirements, the application for renewal shall  
41 include a detailed business plan for the charter school. The sponsor may  
42 deny the request for renewal if, in its judgment, the charter school has  
43 failed to complete the obligations of the contract or has failed to comply  
44 with this article. A sponsor shall give written notice of its intent not to  
45 renew the charter school's request for renewal to the charter school at least

1 twelve months before the expiration of the approved plan to allow the charter  
2 school an opportunity to apply to another sponsor to transfer the operation  
3 of the charter school. If the operation of the charter school is transferred  
4 to another sponsor, the fifteen year period of the current charter shall be  
5 maintained. A sponsor shall review a charter at five year intervals and may  
6 revoke a charter at any time if the charter school breaches one or more  
7 provisions of its charter. At least ninety days before the effective date  
8 of the proposed revocation the sponsor shall give written notice to the  
9 operator of the charter school of its intent to revoke the charter. Notice  
10 of the sponsor's intent to revoke the charter shall be delivered personally  
11 to the operator of the charter school or sent by certified mail, return  
12 receipt requested, to the address of the charter school. The notice shall  
13 incorporate a statement of reasons for the proposed revocation of the  
14 charter. The sponsor shall allow the charter school at least ninety days to  
15 correct the problems associated with the reasons for the proposed revocation  
16 of the charter. The final determination of whether to revoke the charter  
17 shall be made at a public hearing called for such purpose.

18 J. After renewal of the charter at the end of the fifteen year period  
19 described in subsection I of this section, the charter may be renewed for  
20 successive periods of fifteen years if the charter school and its sponsor  
21 deem that the school is in compliance with its own charter and the provisions  
22 of this article.

23 K. A charter school that is sponsored by the state board of education  
24 or the state board for charter schools may not be located on the property of  
25 a school district unless the district governing board grants this authority.

26 L. A governing board or a school district employee who has control  
27 over personnel actions shall not take unlawful reprisal against another  
28 employee of the school district because the employee is directly or  
29 indirectly involved in an application to establish a charter school. A  
30 governing board or a school district employee shall not take unlawful  
31 reprisal against an educational program of the school or the school district  
32 because an application to establish a charter school proposes the conversion  
33 of all or a portion of the educational program to a charter school. As used  
34 in this subsection, "unlawful reprisal" means an action that is taken by a  
35 governing board or a school district employee as a direct result of a lawful  
36 application to establish a charter school and that is adverse to another  
37 employee or an education program and:

38 1. With respect to a school district employee, results in one or more  
39 of the following:

- 40 (a) Disciplinary or corrective action.
- 41 (b) Detail, transfer or reassignment.
- 42 (c) Suspension, demotion or dismissal.
- 43 (d) An unfavorable performance evaluation.
- 44 (e) A reduction in pay, benefits or awards.

1 (f) Elimination of the employee's position without a reduction in  
2 force by reason of lack of monies or work.

3 (g) Other significant changes in duties or responsibilities that are  
4 inconsistent with the employee's salary or employment classification.

5 2. With respect to an educational program, results in one or more of  
6 the following:

7 (a) Suspension or termination of the program.

8 (b) Transfer or reassignment of the program to a less favorable  
9 department.

10 (c) Relocation of the program to a less favorable site within the  
11 school or school district.

12 (d) Significant reduction or termination of funding for the program.

13 M. Charter schools shall secure insurance for liability and property  
14 loss. The governing body of a charter school that is sponsored by the state  
15 board of education or the state board for charter schools may enter into an  
16 intergovernmental agreement or otherwise contract to participate in an  
17 insurance program offered by a risk retention pool established pursuant to  
18 section 11-952.01 or 41-621.01 or the charter school may secure its own  
19 insurance coverage. The pool may charge the requesting charter school  
20 reasonable fees for any services it performs in connection with the insurance  
21 program.

22 N. Charter schools do not have the authority to acquire property by  
23 eminent domain.

24 O. A sponsor, including members, officers and employees of the  
25 sponsor, is immune from personal liability for all acts done and actions  
26 taken in good faith within the scope of its authority.

27 P. Charter school sponsors and this state are not liable for the debts  
28 or financial obligations of a charter school or persons who operate charter  
29 schools.

30 Q. The sponsor of a charter school shall establish procedures to  
31 conduct administrative hearings upon determination by the sponsor that  
32 grounds exist to revoke a charter. Procedures for administrative hearings  
33 shall be similar to procedures prescribed for adjudicative proceedings in  
34 title 41, chapter 6, article 10. Except as provided in section 41-1092.08,  
35 subsection H, final decisions of the state board of education and the state  
36 board for charter schools from hearings conducted pursuant to this subsection  
37 are subject to judicial review pursuant to title 12, chapter 7, article 6.

38 R. The sponsoring entity of a charter school shall have oversight and  
39 administrative responsibility for the charter schools that it sponsors.

40 S. Charter schools may pledge, assign or encumber their assets to be  
41 used as collateral for loans or extensions of credit.

42 T. All property accumulated by a charter school shall remain the  
43 property of the charter school.

1 U. Charter schools may not locate a school on property that is less  
2 than one-fourth mile from agricultural land regulated pursuant to section  
3 3-365, except that the owner of the agricultural land may agree to comply  
4 with the buffer zone requirements of section 3-365. If the owner agrees in  
5 writing to comply with the buffer zone requirements and records the agreement  
6 in the office of the county recorder as a restrictive covenant running with  
7 the title to the land, the charter school may locate a school within the  
8 affected buffer zone. The agreement may include any stipulations regarding  
9 the charter school, including conditions for future expansion of the school  
10 and changes in the operational status of the school that will result in a  
11 breach of the agreement.

12 V. A transfer of a charter to another sponsor, a transfer of a charter  
13 school site to another sponsor or a transfer of a charter school site to a  
14 different charter shall be completed before the beginning of the fiscal year  
15 that the transfer is scheduled to become effective. An entity that sponsors  
16 charter schools may accept a transferring school after the beginning of the  
17 fiscal year if the transfer is approved by the superintendent of public  
18 instruction. The superintendent of public instruction shall have the  
19 discretion to consider each transfer during the fiscal year on a case by case  
20 basis. If a charter school is sponsored by a school district that is  
21 determined to be out of compliance with this title, the uniform system of  
22 financial records or any other state or federal law, the charter school may  
23 transfer to another sponsoring entity at any time during the fiscal year.

24 Sec. 3. Section 15-203, Arizona Revised Statutes, is amended effective  
25 from and after September 30, 2003, to read:

26 15-203. Powers and duties

27 A. The state board of education shall:

- 28 1. Exercise general supervision over and regulate the conduct of the  
29 public school system.
- 30 2. Keep a record of its proceedings.
- 31 3. Make rules for its own government.
- 32 4. Determine the policy and work undertaken by it.
- 33 5. Appoint its employees, on the recommendation of the superintendent  
34 of public instruction.
- 35 6. Prescribe the duties of its employees if not prescribed by statute.
- 36 7. Delegate to the superintendent of public instruction the execution  
37 of board policies.
- 38 8. Recommend to the legislature changes or additions to the statutes  
39 pertaining to schools.
- 40 9. Prepare, publish and distribute reports concerning the educational  
41 welfare of this state.
- 42 10. Prepare a budget for expenditures necessary for proper maintenance  
43 of the board and accomplishment of its purposes and present the budget to the  
44 legislature.
- 45 11. Aid in the enforcement of laws relating to schools.

1           12. Prescribe a minimum course of study in the common schools, minimum  
2 competency requirements for the promotion of pupils from the third grade and  
3 minimum course of study and competency requirements for the promotion of  
4 pupils from the eighth grade. The state board of education shall prepare a  
5 fiscal impact statement of any proposed changes to the minimum course of  
6 study or competency requirements and, on completion, shall send a copy to the  
7 director of the joint legislative budget committee and the executive director  
8 of the school facilities board. The state board of education shall not adopt  
9 any changes in the minimum course of study or competency requirements in  
10 effect on July 1, 1998 that will have a fiscal impact on school capital  
11 costs.

12           13. Prescribe minimum course of study and competency requirements for  
13 the graduation of pupils from high school. The state board of education  
14 shall prepare a fiscal impact statement of any proposed changes to the  
15 minimum course of study or competency requirements and, on completion, shall  
16 send a copy to the director of the joint legislative budget committee and the  
17 executive director of the school facilities board. The state board of  
18 education shall not adopt any changes in the minimum course of study or  
19 competency requirements in effect on July 1, 1998 that will have a fiscal  
20 impact on school capital costs.

21           14. Supervise and control the certification of persons engaged in  
22 instructional work directly as any classroom, laboratory or other teacher or  
23 indirectly as a supervisory teacher, speech therapist, principal or  
24 superintendent in a school district, including school district preschool  
25 programs, or any other educational institution below the community college,  
26 college or university level, and prescribe rules for certification, including  
27 rules for certification of teachers who have teaching experience and who are  
28 trained in other states, which are not unnecessarily restrictive and are  
29 substantially similar to the rules prescribed for the certification of  
30 teachers trained in this state. Until July 1, 2006, the rules shall require  
31 applicants for all certificates for common school instruction to complete a  
32 minimum of forty-five classroom hours or three college level credit hours,  
33 or the equivalent, of training in research based systematic phonics  
34 instruction from a public or private provider. The rules shall not require  
35 a teacher to obtain a master's degree or to take any additional graduate  
36 courses as a condition of certification or recertification. The rules shall  
37 allow a general equivalency diploma to be substituted for a high school  
38 diploma in the certification of emergency substitute teachers.

39           15. Adopt a list of approved tests for determining special education  
40 assistance to gifted students as defined in section 15-761 and as provided  
41 in section 15-764. The adopted tests shall provide separate scores for  
42 quantitative reasoning, verbal reasoning and nonverbal reasoning and shall  
43 be capable of providing reliable and valid scores at the highest ranges of  
44 the score distribution.

1           16. Adopt rules governing the methods for the administration of all  
2 proficiency examinations.

3           17. Adopt proficiency examinations for its use. The state board of  
4 education shall determine the passing score for the proficiency examination.

5           18. Include within its budget the cost of contracting for the  
6 purchase, distribution and scoring of the examinations as provided in  
7 paragraphs 16 and 17 of this subsection.

8           19. Supervise and control the qualifications of professional  
9 nonteaching school personnel and prescribe standards relating to  
10 qualifications.

11           20. Impose such disciplinary action, including the issuance of a  
12 letter of censure, suspension, suspension with conditions or revocation of  
13 a certificate, upon a finding of immoral or unprofessional conduct.

14           21. Establish an assessment, data gathering and reporting system for  
15 pupil performance as prescribed in chapter 7, article 3 of this title.

16           22. Adopt a rule to promote braille literacy pursuant to section  
17 15-214.

18           23. Adopt rules prescribing procedures for the investigation by the  
19 department of education of every written complaint alleging that a  
20 certificated person has engaged in immoral conduct.

21           24. For purposes of federal law, serve as the state board for  
22 vocational and technological education and meet at least four times each year  
23 solely to execute the powers and duties of the state board for vocational and  
24 technological education.

25           25. Develop and maintain a handbook for use in the schools of this  
26 state that provides guidance for the teaching of moral, civic and ethical  
27 education. The handbook shall promote existing curriculum frameworks and  
28 shall encourage school districts to recognize moral, civic and ethical values  
29 within instructional and programmatic educational development programs for  
30 the general purpose of instilling character and ethical principles in pupils  
31 in kindergarten programs and grades one through twelve.

32           26. Require pupils to recite the following passage from the  
33 declaration of independence for pupils in grades four through six at the  
34 commencement of the first class of the day in the schools, except that a  
35 pupil shall not be required to participate if the pupil or the pupil's parent  
36 or guardian objects:

37                   We hold these truths to be self-evident, that all men are  
38 created equal, that they are endowed by their creator with  
39 certain unalienable rights, that among these are life, liberty  
40 and the pursuit of happiness. That to secure these rights,  
41 governments are instituted among men, deriving their just powers  
42 from the consent of the governed. . . .

43           27. ~~By July 1, 2000,~~ Adopt rules which THAT provide for teacher  
44 certification reciprocity. The rules shall provide for a one year reciprocal  
45 teaching certificate with minimum requirements including valid teacher

1 certification from a state with substantially similar criminal history or  
2 teacher fingerprinting requirements and proof of the submission of an  
3 application for a ~~class one or class two~~ fingerprint clearance card pursuant  
4 to title 41, chapter 12, article 3.1.

5 28. Adopt rules that will be in effect until December 31, 2006 and  
6 that provide for the presentation of an honorary high school diploma to a  
7 person who has never obtained a high school diploma and who meets each of the  
8 following requirements:

9 (a) Is at least sixty-five years of age.

10 (b) Currently resides in this state.

11 (c) Provides documented evidence from the Arizona department of  
12 veterans' services that the person enlisted in the armed forces of the United  
13 States before completing high school in a public or private school.

14 (d) Was honorably discharged from service with the armed forces of  
15 the United States.

16 29. Cooperate with the Arizona-Mexico commission in the governor's  
17 office and with researchers at universities in this state to collect data and  
18 conduct projects in the United States and Mexico on issues that are within  
19 the scope of the duties of the department of education and that relate to  
20 quality of life, trade and economic development in this state in a manner  
21 that will help the Arizona-Mexico commission to assess and enhance the  
22 economic competitiveness of this state and of the Arizona-Mexico region.

23 30. ~~By December 1, 2001,~~ Adopt rules to define and provide guidance to  
24 schools as to the activities that would constitute immoral or unprofessional  
25 conduct of certificated persons.

26 B. The state board of education may:

27 1. Contract.

28 2. Sue and be sued.

29 3. Distribute and score the tests prescribed in chapter 7, article 3  
30 of this title.

31 4. Provide for an advisory committee to conduct hearings and  
32 screenings to determine whether grounds exist to impose disciplinary action  
33 against a certificated person, whether grounds exist to reinstate a revoked  
34 or surrendered certificate and whether grounds exist to approve or deny an  
35 initial application for certification or a request for renewal of a  
36 certificate. The board may delegate its responsibility to conduct hearings  
37 and screenings to its advisory committee. Hearings shall be conducted  
38 pursuant to title 41, chapter 6, article 6.

39 5. Proceed with the disposal of any complaint requesting disciplinary  
40 action or with any disciplinary action against a person holding a certificate  
41 as prescribed in subsection A, paragraph 14 of this section after the  
42 suspension or expiration of the certificate or surrender of the certificate  
43 by the holder.

44 6. Assess costs and reasonable attorney fees against a person who  
45 files a frivolous complaint or who files a complaint in bad faith. Costs

1 assessed pursuant to this paragraph shall not exceed the expenses incurred  
2 by the state board in the investigation of the complaint.

3 Sec. 4. Section 15-532, Arizona Revised Statutes, is amended to read:  
4 15-532. Examination on state and United States constitutions;  
5 exemption; intergovernmental agreement or contract  
6 for administration and evaluation

7 A. A person applying for a certificate authorizing him THE PERSON to  
8 become superintendent, principal or teacher in a school shall, in addition  
9 to FINGERPRINTING AND other requirements, EITHER COMPLETE THE REQUIRED  
10 CLASSES OR pass a satisfactory examination upon the provisions and principles  
11 of the Constitutions of the United States and Arizona.

12 B. A person who has not met the requirements of this section at the  
13 time application is made but who has met all other requirements may SHALL be  
14 granted a certificate for not to exceed one year MORE THAN THREE YEARS,  
15 EXCEPT THAT A PERSON WHO HAS NOT MET THE REQUIREMENTS OF THIS SECTION BUT WHO  
16 HAS MET ALL OTHER REQUIREMENTS AND WHO APPLIES FOR A CERTIFICATE AUTHORIZING  
17 THE PERSON TO TEACH AN ACADEMIC COURSE THAT FOCUSES PREDOMINANTLY ON HISTORY,  
18 GOVERNMENT, SOCIAL STUDIES, CITIZENSHIP, LAW OR CIVICS SHALL BE GRANTED A  
19 CERTIFICATE FOR NOT MORE THAN ONE YEAR. No additional certificate may be  
20 granted until all requirements have been fulfilled as provided by the  
21 regulations of the state board of education governing certification of  
22 teachers.

23 C. A noncertified person, qualified under the federal and state plans  
24 for vocational education, shall be exempt from the provisions of this section  
25 for the purpose of acting as an instructor for special adult and evening  
26 classes.

27 D. The state board of education may enter into intergovernmental  
28 agreements or contracts pursuant to title 11, chapter 7, article 3 for the  
29 administration and evaluation of the examination on the provisions and  
30 principles of the Constitutions of the United States and Arizona.  
31 Notwithstanding section 15-531, the intergovernmental agreement or contract  
32 shall specify the fee for the administration and evaluation of the  
33 examination and may provide for the retention of all or part of the monies  
34 by the contractor administering and evaluating the examination.

35 E. A UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS  
36 SHALL ADMINISTER THE EXAMINATION REQUIRED BY THIS SECTION TO STUDENTS WHO ARE  
37 PURSUING A BACHELOR OF ARTS DEGREE IN EDUCATION OR A BACHELOR OF SCIENCE  
38 DEGREE IN EDUCATION AT THAT UNIVERSITY.

39 Sec. 5. Section 15-534, Arizona Revised Statutes, is amended effective  
40 from and after September 30, 2003, to read:

41 15-534. Fingerprinting; review and disciplinary action;  
42 violation; classification

43 A. A person who applies for a certificate as prescribed in section  
44 15-203 shall have a valid ~~class one or class two~~ fingerprint clearance card  
45 that is issued pursuant to title 41, chapter 12, article 3.1. Applicants WHO

1 POSSESS A CERTIFICATE PURSUANT TO SECTION 15-203 AND WHO APPLY FOR ADDITIONAL  
2 CERTIFICATES OR WHO APPLY for renewal of any certificate shall meet one of  
3 the following requirements:

4 1. Have a valid ~~class one or class two~~ fingerprint clearance card  
5 issued pursuant to title 41, chapter 12, article 3.1.

6 2. Provide proof of the submission of an application for a ~~class one~~  
7 ~~or class two~~ fingerprint clearance card. APPLICANTS WHO HAVE BEEN DENIED A  
8 FINGERPRINT CLEARANCE CARD SHALL ALSO PROVIDE PROOF THAT THE APPLICANT  
9 QUALIFIES FOR A GOOD CAUSE EXCEPTION HEARING PURSUANT TO SECTION 41-619.55.

10 3. ~~Have a class one or class two fingerprint clearance card issued~~  
11 ~~pursuant to title 41, chapter 12, article 3.1, for the purposes of~~  
12 ~~certification by the state board of education.~~

13 B. ~~A person who already holds a certificate as provided in section~~  
14 ~~15-203 and who applies for additional certificates shall not be required to~~  
15 ~~be fingerprinted.~~

16 B. A PERSON WHO IS CERTIFIED PURSUANT TO SECTION 15-203 SHALL  
17 MAINTAIN A VALID FINGERPRINT CLEARANCE CARD DURING THE VALID PERIOD OF THE  
18 PERSON'S CERTIFICATE OR CERTIFICATES.

19 C. The state board of education may review and determine whether to  
20 renew or not issue a certificate to an applicant for certification on a  
21 finding that the applicant engaged in conduct that is immoral or  
22 unprofessional or engaged in conduct that would warrant disciplinary action  
23 if the person had been certified at the time that the alleged conduct  
24 occurred. The board shall prescribe guidelines for this process.

25 D. The state board of education may take disciplinary action against  
26 or not renew the certificate of a person on a finding that the certificated  
27 person engaged in conduct that is immoral or unprofessional or engaged in  
28 conduct that would warrant disciplinary action if the person had been  
29 certified at the time that the alleged conduct occurred. The board shall  
30 prescribe guidelines for this process.

31 E. The department of education may issue conditional certification  
32 before an applicant has obtained a valid ~~class one or class two~~ fingerprint  
33 clearance card. A CONDITIONAL CERTIFICATE MAY BE USED ONLY FOR EMPLOYMENT  
34 IN THE SCHOOL DISTRICT THAT SUBMITS AN APPLICATION TO THE DEPARTMENT OF  
35 EDUCATION FOR CONDITIONAL CERTIFICATION PURSUANT TO THIS SUBSECTION. The  
36 state board of education may revoke conditional certification if the  
37 information on the application for a conditional certificate is false or  
38 incomplete, or the applicant is denied a ~~class one or class two~~ fingerprint  
39 clearance card OR THE CONDITIONAL CERTIFICATE IS USED FOR EMPLOYMENT IN A  
40 SCHOOL DISTRICT OTHER THAN THE SCHOOL DISTRICT THAT IS INDICATED ON THE  
41 APPLICATION FOR CONDITIONAL CERTIFICATION. In addition to any other  
42 conditions or requirements deemed necessary by the superintendent of public  
43 instruction to protect the health and safety of pupils, conditional  
44 certification shall be issued before the applicant obtains a ~~class one or~~

1 ~~class two~~ fingerprint clearance card if all of the following conditions are  
2 met:

3 1. The school district that is seeking to hire the applicant verifies  
4 in writing on a form developed by the department of education the necessity  
5 for hiring and placement of the applicant before a fingerprint check is  
6 completed.

7 2. The school district that is seeking to hire the applicant performs  
8 all of the following:

9 (a) Ensures that the department of public safety completes a  
10 statewide criminal ~~history record information~~ RECORDS check on the  
11 applicant. A statewide criminal ~~history record information~~ RECORDS check  
12 shall be completed by the department of public safety every one hundred  
13 twenty days until the date that the fingerprint check is completed.

14 (b) Completes a search of criminal records in all local jurisdictions  
15 outside of this state in which the applicant has lived in the previous five  
16 years.

17 (c) Obtains references from the applicant's current employer and two  
18 most recent previous employers except for applicants who have been employed  
19 for at least five years by the applicant's most recent employer.

20 (d) Provides general supervision of the applicant until the applicant  
21 receives permanent certification from the department of education.

22 F. BEFORE EMPLOYMENT, SCHOOLS OR SCHOOL DISTRICTS SHALL VERIFY THE  
23 CERTIFICATION AND FINGERPRINT STATUS OF APPLICANTS WHO APPLY FOR SCHOOL OR  
24 SCHOOL DISTRICT POSITIONS THAT REQUIRE CERTIFICATION.

25 ~~F.~~ G. The state board of education shall notify the department of  
26 public safety if the state board of education receives credible evidence that  
27 a person who possesses a valid ~~class one or class two~~ fingerprint clearance  
28 card either:

29 1. Is arrested for or charged with an offense listed in section  
30 41-1758.03, subsection B ~~or F~~.

31 2. Falsified information on the form required by subsection B ~~A~~ of  
32 this section.

33 ~~G.~~ H. A person who makes a false statement, representation or  
34 certification in any application for certification is guilty of a class 3  
35 misdemeanor.

36 Sec. 6. Section 15-763.01, Arizona Revised Statutes, is amended  
37 effective from and after September 30, 2003, to read:

38 15-763.01. Surrogate parent; appointment

39 A. A petition for the appointment of a surrogate parent for a child  
40 with a disability shall be made to a court of competent jurisdiction if any  
41 of the following conditions have been met:

42 1. No parent can be identified.

43 2. A public agency cannot determine the whereabouts of a parent, after  
44 having made three documented and reasonable attempts.

45 3. The child is a ward of the state.

1           B. In order for a person to be eligible to receive an appointment as  
2 a surrogate parent for a child with a disability all of the following must  
3 be true:

4           1. The person shall be determined by the court to possess knowledge  
5 and skills that will ensure adequate representation of the child.

6           2. The person may not be an employee of a state agency if that agency  
7 is involved in the education or care of the child.

8           3. The person may not have any interests that would conflict with the  
9 best interests of the child.

10           4. The person shall have a valid ~~class one~~ fingerprint clearance card  
11 issued pursuant to title 41, chapter 12, article 3.1. ~~Persons currently~~  
12 ~~-serving as surrogate parents shall obtain a class one fingerprint clearance~~  
13 ~~card by January 1, 2002.~~

14           C. A person who is appointed as a surrogate parent for a child with  
15 a disability shall not be deemed to be an employee of the state solely as a  
16 result of serving as a surrogate parent and receiving compensation for that  
17 service.

18           Sec. 7. Section 15-1330, Arizona Revised Statutes, is amended  
19 effective from and after September 30, 2003, to read:

20           15-1330. Fingerprinting personnel; affidavit

21           A. Certificated personnel employed by the schools shall have valid  
22 ~~class one or class two~~ fingerprint clearance cards issued pursuant to title  
23 41, chapter 12, article 3.1 or shall apply for a ~~class one or class two~~  
24 fingerprint clearance card within seven working days of employment.

25           B. In addition to the fingerprint requirement in subsection A of this  
26 section, certificated employees shall submit a second set of fingerprints to  
27 the school for the purposes of obtaining state and federal criminal records  
28 checks. Employment with the schools is conditioned on the results of the  
29 fingerprint check required under this subsection and the maintenance of the  
30 certificate or license required for employment. Fingerprint checks shall be  
31 conducted pursuant to section 41-1750 and Public Law 92-544. The  
32 fingerprints shall be submitted on the form prescribed by the school.

33           C. Noncertificated personnel employed by the schools and nonpaid  
34 personnel working in the schools shall be fingerprinted as a condition of  
35 employment for the purpose of obtaining state and federal criminal records  
36 checks. Noncertificated employees and nonpaid personnel shall submit  
37 fingerprints on the form prescribed by the school to the superintendent  
38 within twenty days after the date an employee begins work. Employment with  
39 the schools is conditioned on the results of the fingerprint check.  
40 Fingerprint checks shall be conducted pursuant to section 41-1750 and Public  
41 Law 92-544.

42           D. The department of public safety may exchange the fingerprint data  
43 collected pursuant to subsections B and C of this section with the federal  
44 bureau of investigation.

1 E. The schools may charge the employee or nonpaid personnel for the  
2 costs of the fingerprint checks.

3 F. Personnel employed by the schools shall certify on forms that are  
4 provided by the schools and notarized that they are not awaiting trial on and  
5 have never been convicted of or admitted in open court or pursuant to a plea  
6 agreement of committing any criminal offenses in this state or similar  
7 offenses in another state or jurisdiction as specified in section 41-1758.03,  
8 subsections B, ~~AND C and F.~~

9 G. Before employment, the schools shall make documented, good faith  
10 efforts to contact previous employers of personnel to obtain information and  
11 recommendations which THAT may be relevant to a person's fitness for  
12 employment. For certificated personnel, the schools may also contact the  
13 department of education to obtain information that is contained in the  
14 person's certification record and that may be relevant to the person's  
15 fitness for employment. For persons in other positions that require  
16 licensing, the schools may also contact the agency that issued the license  
17 for information relevant to the person's fitness for employment. Agencies  
18 and previous employers that provide information pursuant to this subsection  
19 are immune from civil liability unless the information provided is false and  
20 is acted on to the detriment of the employment applicant by the schools and  
21 the previous employer or agency knows the information is false or acts with  
22 reckless disregard of the truth or falsity of the information. Employees who  
23 rely on information obtained pursuant to this subsection in making employment  
24 decisions are immune from civil liability unless the information obtained is  
25 false and the employee knows the information is false or acts with reckless  
26 disregard of the truth or falsity of the information.

27 H. The superintendent shall notify the department of public safety if  
28 the superintendent receives credible evidence that a person who possesses a  
29 valid ~~class one or class two~~ fingerprint clearance card either:

30 1. Is arrested for or charged with an offense listed in section  
31 41-1758.03, subsection B ~~or F.~~

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

34 Sec. 8. Section 36-411, Arizona Revised Statutes, is amended effective  
35 from and after September 30, 2003, to read:

36 36-411. Residential care institutions; home health agencies;  
37 fingerprinting; definitions

38 A. Subject to legislative appropriations, as a condition of licensure  
39 or continued licensure of a residential care institution, a nursing care  
40 institution or a home health agency and as a condition of employment in a  
41 residential care institution, a nursing care institution or a home health  
42 agency, employees and owners of residential care institutions, nursing care  
43 institutions or home health agencies or contracted persons who provide direct  
44 care, home health services or supportive services and who have not been  
45 subject to the fingerprinting requirements of a health professional's

1 regulatory board pursuant to title 32 shall have valid ~~class one or class two~~  
2 fingerprint clearance cards that are issued pursuant to title 41, chapter 12,  
3 article 3.1 or shall apply for a ~~class one or class two~~ fingerprint clearance  
4 card within twenty working days of employment or beginning volunteer work  
5 except as provided in subsections F, G and H of this section.

6 B. A health professional who has complied with the fingerprinting  
7 requirements of the health professional's regulatory board as a condition of  
8 licensure or certification pursuant to title 32 is not required to submit an  
9 additional set of fingerprints to the department of public safety pursuant  
10 to this section.

11 C. Owners shall make documented, good faith efforts to:

12 1. Contact previous employers to obtain information or recommendations  
13 that may be relevant to a person's fitness to work in a residential care  
14 institution, nursing care institution or home health agency.

15 2. VERIFY THE CURRENT STATUS OF A PERSON'S FINGERPRINT CLEARANCE CARD.

16 D. An employee, an owner or a contracted person or a facility on  
17 behalf of the employee, the owner or the contracted person shall submit a  
18 completed application that is provided by the department of public safety  
19 within twenty days after the date the person begins work.

20 E. A residential care institution, nursing care institution or home  
21 health agency shall not allow a person or contracted person to continue to  
22 provide direct care, home health services or supportive services if the  
23 person has been denied a ~~class two~~ fingerprint clearance card pursuant to  
24 title 41, chapter 12, article 3.1, has been denied approval pursuant to this  
25 section before the ~~effective date of this amendment to this section~~ MAY 7,  
26 2001 or has not received an interim approval from the board of fingerprinting  
27 pursuant to section 41-619.55, subsection ~~H~~ I.

28 F. Volunteers who provide services to residents under the direct  
29 visual supervision of a previously screened owner or employee are exempt from  
30 the fingerprint clearance card requirements of this section.

31 G. Notwithstanding the requirements of section 41-1758.02, subsection  
32 B, a person who provides direct care, home health services or supportive  
33 services for a residential care institution, home health agency or nursing  
34 care institution after meeting the fingerprinting and criminal records check  
35 requirements of this section is not required to meet the fingerprint and  
36 criminal records check requirements of this section again if that person  
37 remains employed by the same employer or changes employment within two years  
38 after satisfying the requirements of this section.

39 H. Notwithstanding the requirements of section 41-1758.02, subsection  
40 B, a person who has received approval pursuant to this section before the  
41 ~~effective date of this amendment to this section~~ MAY 7, 2001 and who remains  
42 employed by the same employer is not required to apply for a ~~class one or~~  
43 ~~class two~~ fingerprint clearance card.

44 I. IF A PERSON'S EMPLOYMENT RECORD CONTAINS A SIX-MONTH OR LONGER TIME  
45 FRAME WHERE THE PERSON WAS NOT EMPLOYED BY ANY EMPLOYER, A COMPLETED

1 APPLICATION WITH A NEW SET OF FINGERPRINTS SHALL BE SUBMITTED TO THE  
2 DEPARTMENT OF PUBLIC SAFETY.

3 ~~I.~~ J. For the purposes of this section:

4 1. "Home health services" has the same meaning prescribed in section  
5 36-151.

6 2. "Supportive services" has the same meaning prescribed in section  
7 36-151.

8 Sec. 9. Section 36-425.03, Arizona Revised Statutes, is amended  
9 effective from and after September 30, 2003, to read:

10 36-425.03. Children's behavioral health programs; personnel;  
11 fingerprinting; definitions

12 A. Except as provided in subsections B and C of this section,  
13 children's behavioral health program personnel, including volunteers, shall  
14 submit the form prescribed in subsection D of this section to the employer  
15 and shall have a valid ~~class one or class two~~ fingerprint clearance card  
16 issued pursuant to title 41, chapter 12, article 3.1 or, within seven working  
17 days after employment OR BEGINNING VOLUNTEER WORK, shall apply for a ~~class~~  
18 ~~one or class two~~ fingerprint clearance card.

19 B. Parents, including foster parents and guardians, who participate  
20 in activities with their children under the supervision of and in the  
21 presence of children's behavioral health program personnel are exempt from  
22 the fingerprinting requirements of subsection A of this section if the  
23 parents are not employees of the children's behavioral health program.

24 C. Applicants and employees who are fingerprinted pursuant to section  
25 15-512 or 15-534 are exempt from the fingerprinting requirements of  
26 subsection A of this section.

27 D. Children's behavioral health program personnel shall certify on  
28 forms that are provided by the department and notarized that they are not  
29 awaiting trial on or have ever NEVER been convicted of or admitted in open  
30 court or pursuant to a plea agreement to committing any of the following  
31 criminal offenses LISTED IN SECTION 41-1758.03, SUBSECTION B OR C in this  
32 state or similar offenses in another state or jurisdiction:

33 ~~1. Sexual abuse of a minor.~~

34 ~~2. Incest.~~

35 ~~3. First or second degree murder.~~

36 ~~4. Kidnapping.~~

37 ~~5. Arson.~~

38 ~~6. Sexual assault.~~

39 ~~7. Sexual exploitation of a minor.~~

40 ~~8. Felony offenses involving contributing to the delinquency of a~~  
41 ~~minor.~~

42 ~~9. Commercial sexual exploitation of a minor.~~

43 ~~10. Felony offense involving sale, distribution or transportation of,~~  
44 ~~offer to sell, transport or distribute or conspiracy to sell, transport or~~  
45 ~~distribute marijuana, dangerous drugs or narcotic drugs.~~

1 ~~11. Felony offenses involving the possession or use of marijuana,~~  
2 ~~dangerous drugs or narcotic drugs.~~

3 ~~12. Burglary.~~

4 ~~13. Aggravated or armed robbery.~~

5 ~~14. Robbery.~~

6 ~~15. A dangerous crime against children as defined in section 13-604.01.~~

7 ~~16. Child abuse.~~

8 ~~17. Sexual conduct with a minor.~~

9 ~~18. Molestation of a child.~~

10 ~~19. Manslaughter.~~

11 ~~20. Assault or aggravated assault.~~

12 ~~21. Exploitation of minors involving drug offenses.~~

13 ~~22. A violation of section 28-1381, 28-1382 or 28-1383.~~

14 ~~23. Offenses involving domestic violence.~~

15 E. Forms submitted pursuant to subsection D of this section are  
16 confidential.

17 F. Employers of children's behavioral health program personnel shall  
18 make documented, good faith efforts to contact previous employers of  
19 children's behavioral health program personnel to obtain information or  
20 recommendations that may be relevant to an individual's fitness for  
21 employment in a children's behavioral health program.

22 G. A person who is awaiting trial on or who has been convicted of or  
23 who has admitted in open court or pursuant to a plea agreement to committing  
24 a criminal offense listed in subsection D, paragraph 1, 2, 3, 4, 6, 7, 9, 15,  
25 16, 17, 18 or 21 of this section 41-1758.03, SUBSECTION B is prohibited from  
26 working in any capacity in a children's behavioral health program that  
27 requires or allows contact with children.

28 H. A person who is awaiting trial on or who has been convicted of or  
29 who has admitted in open court or pursuant to a plea agreement to committing  
30 a criminal offense listed in subsection D, paragraph 5, 8, 10, 11, 12, 13,  
31 14, 19, 20, 22 or 23 of this section 41-1758.03, SUBSECTION C shall not work  
32 in a children's behavioral health program in any capacity that requires or  
33 allows the employee to provide direct services to children unless the person  
34 has applied for and received the required fingerprint clearance card pursuant  
35 to title 41, chapter 12, article 3.1.

36 I. The department of health services shall accept a certification  
37 submitted by a United States military base or a federally recognized Indian  
38 tribe that either:

39 1. Personnel who are employed or who will be employed and who provide  
40 services directly to children have not been convicted of, have not admitted  
41 committing or are not awaiting trial on any offense prescribed in subsection  
42 G of this section.

43 2. Personnel who are employed or who will be employed to provide  
44 services directly to children have been convicted of, have admitted  
45 committing or are awaiting trial on any offense prescribed in subsection H

1 of this section if the personnel provide these services while under direct  
2 visual supervision.

3 J. The employer shall notify the department of public safety if the  
4 employer receives credible evidence that a person who possesses a valid class  
5 ~~one or class two~~ fingerprint clearance card either:

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

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

10 K. For the purposes of this section:

11 1. "Children's behavioral health program" means a program that  
12 provides children's behavioral health services and that is licensed by the  
13 department as a behavioral health service agency or that contracts with the  
14 department to provide children's behavioral health services.

15 2. "Children's behavioral health program personnel" means an owner,  
16 employee or volunteer who works at a children's behavioral health program.

17 Sec. 10. Section 36-594.01, Arizona Revised Statutes, is amended  
18 effective from and after September 30, 2003, to read:

19 36-594.01. Fingerprinting of contract providers and home and  
20 community based service providers

21 A. The following persons shall be fingerprinted pursuant to title 41,  
22 chapter 12, article 3.1:

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

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

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

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

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

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

1 F. The division of developmental disabilities in the department of  
2 economic security shall notify the department of public safety if the  
3 division receives credible evidence that a person who possesses a valid ~~class~~  
4 ~~one or class two~~ fingerprint clearance card either:

5 1. Is arrested for or charged with an offense listed in section  
6 41-1758.03, subsection B ~~or F~~.

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

9 Sec. 11. Section 36-882, Arizona Revised Statutes, is amended  
10 effective from and after September 30, 2003, to read:

11 36-882. License; posting; transfer prohibited; fee

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

15 B. An application for a license shall be made on a form prescribed by  
16 the department and shall include all information required by the department  
17 including:

18 1. The name and business or residential address of each controlling  
19 person and an affirmation by the applicant that no controlling person has  
20 been denied a certificate to operate a child care group home or a license to  
21 operate a child care facility for the care of children in this state or  
22 another state or has had a license to operate a child care facility or a  
23 certificate to operate a child care group home revoked for reasons that  
24 relate to the endangerment of the health and safety of children.

25 2. The names and addresses of the owners and lessees of any  
26 agricultural land within one-fourth mile of the facility. Within ten days  
27 of receipt of an application for a license, the department shall notify the  
28 owners and lessees of agricultural land, ~~as listed on the application.~~

29 C. On application for a license the department shall investigate the  
30 applicant's physical space, activities and standards of care. If the  
31 department is satisfied that the applicant and the applicant's facility are  
32 in substantial compliance with the requirements of this article and the  
33 facility agrees to carry out a plan acceptable to the director to eliminate  
34 any deficiencies, the department shall issue a regular license. If the  
35 facility's director changes, the department may require the regular license  
36 to revert to a provisional license for a period of not to exceed six  
37 months. The department shall issue a regular license on satisfactory  
38 completion of the provisional period for the remainder of the licensure  
39 period. The department may issue a provisional license for a period not to  
40 exceed six months to a child care facility that is temporarily unable to  
41 maintain substantial compliance to WITH the established standards and does  
42 not threaten the health or safety of children. A provisional license shall  
43 state the reason for provisional status.

44 D. The department shall deny any license that affects agricultural  
45 land regulated pursuant to section 3-365, except that the owner of the

1 agricultural land may agree to comply with the buffer zone requirements of  
2 section 3-365. If the owner agrees in writing to comply with the buffer zone  
3 requirements and records the agreement in the office of the county recorder  
4 as a restrictive covenant running with the title to the land, the department  
5 may license the child care facility to be located within the affected buffer  
6 zone. The agreement may include any stipulations regarding the child care  
7 facility, including conditions for future expansion of the facility and  
8 changes in the operational status of the facility that will result in a  
9 breach of the agreement. This subsection shall not apply to the issuance or  
10 renewal of a license for a child care facility located in the same location  
11 for which a child care facility license was previously issued.

12 E. An applicant for a license shall submit the notarized form required  
13 pursuant to section 36-883.02 with the application and shall have a valid  
14 ~~class one or class two~~ fingerprint clearance card issued pursuant to title  
15 41, chapter 12, article 3.1.

16 F. The fee for an initial application for licensure is one hundred  
17 fifty dollars and is not refundable. The application fee is for the first  
18 full licensure period including any provisional period. The application fee  
19 for renewal of a license is one hundred fifty dollars and is not refundable.  
20 An applicant for renewal who fails to submit the application forty-five days  
21 before the expiration of the license is subject to a fifty dollar late filing  
22 fee. The department shall deposit, pursuant to sections 35-146 and 35-147,  
23 late filing fees in the state general fund.

24 G. A license is valid for three years from the date of issuance and  
25 shall specify the following:

- 26 1. The name of the applicant.
- 27 2. The exact address where the applicant will locate the facility.
- 28 3. The maximum number and age limitations of children that shall be  
29 cared for at any one time.
- 30 4. The classification of services that the facility is licensed to  
31 provide.

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

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

36 J. The license shall be conspicuously posted in the child care  
37 facility.

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

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

1 M. The department of health services shall notify the department of  
2 public safety if the department of health services receives credible evidence  
3 that a licensee who possesses a valid ~~class one or class two~~ fingerprint  
4 clearance card either:

5 1. Is arrested for or charged with an offense listed in section  
6 41-1758.03, subsection B ~~or F~~.

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

9 Sec. 12. Section 36-883.02, Arizona Revised Statutes, is amended  
10 effective from and after September 30, 2003, to read:

11 36-883.02. Child care personnel; fingerprints; exemptions;  
12 definition

13 A. Except as provided in subsection B of this section, child care  
14 personnel, including volunteers, shall submit the form prescribed in  
15 subsection C of this section to the employer and shall have valid ~~class one~~  
16 ~~or class two~~ fingerprint clearance cards issued pursuant to title 41, chapter  
17 12, article 3.1 or shall apply for a ~~class one or class two~~ fingerprint  
18 clearance card within seven working days of employment or beginning volunteer  
19 work.

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

25 C. Child care personnel shall certify on forms that are provided by  
26 the department and notarized that:

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

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

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

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

41 E. The notarized forms are confidential.

42 F. A child care facility shall not allow a person to be employed or  
43 volunteer in the facility in any capacity if the person has been denied a  
44 ~~class two~~ fingerprint clearance card pursuant to title 41, chapter 12,

1 article 3.1 or has not received an interim approval from the board of  
2 fingerprinting pursuant to section 41-619.55, subsection H- I.

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

5 1. Is arrested for or charged with an offense listed in section  
6 41-1758.03, subsection B or F.

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

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

11 Sec. 13. Section 36-897.01, Arizona Revised Statutes, is amended  
12 effective from and after September 30, 2003, to read:

13 36-897.01. Certification; application; fees; rules;  
14 fingerprinting

15 A. A child care group home shall be certified by the department.

16 B. An application for certification shall be made on a form prescribed  
17 by the department and shall contain all information required by the  
18 department.

19 C. An application shall be accompanied by a nonrefundable application  
20 fee of thirty dollars.

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

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

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

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

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

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

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

1 K. An applicant for a child care group home certificate shall submit  
2 the notarized form required pursuant to section 36-897.03, subsection B with  
3 the application and shall have a valid ~~class one or class two~~ fingerprint  
4 clearance card issued pursuant to title 41, chapter 12, article 3.1.  
5 Certification of the home and registration of the applicant are conditioned  
6 on receipt of the notarized form and possession of a valid ~~class one or class~~  
7 ~~two~~ fingerprint clearance card by the applicant.

8 L. The department of health services shall notify the department of  
9 public safety if the department of health services receives credible evidence  
10 that a person who possesses a valid ~~class one or class two~~ fingerprint  
11 clearance card either:

12 1. Is arrested for or charged with an offense listed in section  
13 41-1758.03, subsection B ~~or f~~.

14 2. Falsified information on the form required by subsection K of this  
15 section.

16 Sec. 14. Section 36-897.03, Arizona Revised Statutes, is amended  
17 effective from and after September 30, 2003, to read:

18 36-897.03. Child care group homes; child care personnel;  
19 fingerprints; definition

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

26 B. Child care personnel shall certify on forms that are provided by  
27 the department and notarized that:

28 1. They are not awaiting trial on or have never been convicted of or  
29 admitted in open court or pursuant to a plea agreement committing any of the  
30 following ~~criminal~~ offenses LISTED IN SECTION 41-1758.03, SUBSECTION B OR C  
31 in this state or similar offenses in another state or jurisdiction:

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

33 ~~(b) Incest.~~

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

35 ~~(d) Kidnapping.~~

36 ~~(e) Arson.~~

37 ~~(f) Sexual assault.~~

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

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

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

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

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

3           ~~(l) Burglary.~~

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

5           ~~(n) Robbery.~~

6           ~~(o) A dangerous crime against children as defined in section~~  
7 ~~13-604.01.~~

8           ~~(p) Child abuse.~~

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

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

11          ~~(s) Manslaughter.~~

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

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

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

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

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

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

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

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

30          E. The notarized forms are confidential.

31          F. A person who is awaiting trial on or who has been convicted of or  
32 who has admitted in open court or pursuant to a plea agreement to committing  
33 a criminal offense listed in SECTION 41-1758.03, SUBSECTION B OR subsection  
34 B, paragraph 1, subdivision (a), (b), (c), (d), (f), (g), (i), (o), (p), (q),  
35 (r) or (u) or paragraph 2 or 3 of this section is prohibited from being  
36 registered as child care personnel and from being employed in any capacity  
37 in a child care group home.

38          G. A person who is awaiting trial on or who has been convicted of or  
39 who has admitted in open court or pursuant to a plea agreement to committing  
40 a criminal offense listed in subsection B, paragraph 1, subdivision (e), (h),  
41 (j), (k), (l), (m), (n), (s), (t), (v) or (w) of this section 41-1758.03,  
42 SUBSECTION C shall not work in a child care group home without direct visual  
43 supervision unless the person has applied for and received the required  
44 fingerprint clearance card pursuant to section 41-1758 and is registered as  
45 child care personnel. A person who is subject to this subsection shall not

1 be employed in any capacity in a child care group home if that person is  
2 denied the required fingerprint clearance card.

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

5 1. Is arrested for or charged with an offense listed in section  
6 41-1758.03, subsection B ~~or F~~.

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

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

12 Sec. 15. Section 36-3008, Arizona Revised Statutes, is amended  
13 effective from and after September 30, 2003, to read:

14 36-3008. Shelters for victims of domestic violence; personnel;  
15 fingerprinting

16 A. Employees and volunteers of a shelter for victims of domestic  
17 violence, as defined in section 36-3001, shall have valid ~~class one or class~~  
18 ~~two~~ fingerprint clearance cards that are issued pursuant to title 41, chapter  
19 12, article 3.1 or shall apply for a ~~class one or class two~~ fingerprint  
20 clearance card within seven working days of employment or beginning volunteer  
21 work. Federally recognized Indian tribes or military bases may submit and  
22 the department shall accept certifications that state that employees of a  
23 shelter for victims of domestic violence who are employed by a shelter and  
24 who provide services directly to victims of domestic violence have not been  
25 convicted of, have not admitted committing or are not awaiting trial on any  
26 offense under subsection B, paragraph 1 of this section.

27 B. Personnel shall certify on forms that are provided by the  
28 department and notarized that:

29 1. They are not awaiting trial on and have never been convicted of or  
30 admitted committing any of the criminal offenses ~~pursuant to~~ LISTED IN  
31 section 41-1758.03, subsections ~~F~~ B and ~~G~~ C in this state or similar  
32 offenses in another state or jurisdiction.

33 2. They have not been denied a license to operate a shelter for cause  
34 in this state or another state or had a license to operate a shelter revoked.

35 C. The notarized forms are confidential.

36 D. The shelter shall make good faith efforts to contact previous  
37 employers to obtain information or recommendations that may be relevant to  
38 an individual's fitness to work in the shelter.

39 E. The department of health services shall notify the department of  
40 public safety if the department of health services receives credible evidence  
41 that a person who possesses a ~~valid class one or class two~~ fingerprint  
42 clearance card either:

43 1. Is arrested for or charged with an offense listed in section  
44 41-1758.03, subsection B ~~or F~~.



1 clearance cards pursuant to section 41-1758.03. This rule making is exempt  
2 from the requirements of chapter 6 of this title.

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

5 4. Furnish a copy of its rules, ON REQUEST, to all applicants who  
6 petition the board for a good cause exception pursuant to section 41-1758.03  
7 and, on request, to licensees, contract providers and state agencies.

8 5. ESTABLISH FEES.

9 B. ~~If the board members unanimously agree to grant OR ITS HEARING~~  
10 ~~OFFICER GRANTS a good cause exception, the board shall request in writing~~  
11 ~~that the department of public safety issue a card to the applicant. If the~~  
12 ~~board does not make a unanimous decision, a card shall not be issued to the~~  
13 ~~applicant. IF THE BOARD GRANTS A GOOD CAUSE EXCEPTION, THE BOARD'S DECISION~~  
14 ~~MUST BE UNANIMOUS.~~

15 C. ~~Each board member shall determine on behalf of the member's~~  
16 ~~respective agency or division whether a person should be granted a good cause~~  
17 ~~exception.~~

18 D. ~~If a person is required to be fingerprinted as a condition of~~  
19 ~~employment by more than one agency and the person would not serve a common~~  
20 ~~population and no common good cause exception standard exists, each board~~  
21 ~~member shall determine for the purposes of the member's agency alone whether~~  
22 ~~a good cause exception should be granted and shall notify the department of~~  
23 ~~public safety to issue the person a card. The board shall request in writing~~  
24 ~~that the department of public safety designate on the fingerprint clearance~~  
25 ~~card the agency or agencies that approve a good cause exception.~~

26 E. C. The board may employ clerical, professional and technical  
27 personnel subject to appropriated FEE monies THAT ARE COLLECTED AND TO THE  
28 BUDGET THAT IS APPROVED BY THE BOARD MEMBERS and shall prescribe their  
29 PERSONNEL duties and determine their PERSONNEL compensation.

30 F. D. Members AND EMPLOYEES of the board are not liable for acts done  
31 or actions taken by any board member OR EMPLOYEE if the members OR EMPLOYEES  
32 act in good faith following the requirements of this article.

33 Sec. 18. Section 41-619.55, Arizona Revised Statutes, is amended to  
34 read:

35 41-619.55. Good cause exceptions; revocation

36 A. The board OR ITS HEARING OFFICER shall determine good cause  
37 exceptions.

38 B. ~~The board shall hold a good cause exception hearing if the board~~  
39 ~~determines that it either:~~

40 1. ~~Will deny a good cause exception.~~

41 2. ~~Does not have enough information to make a final determination.~~

42 B. THE BOARD OR ITS HEARING OFFICER SHALL HOLD A GOOD CAUSE EXCEPTION  
43 HEARING IF THE BOARD OR ITS HEARING OFFICER DETERMINES THAT THE APPLICANT  
44 DOES NOT QUALIFY FOR A GOOD CAUSE EXCEPTION UNDER AN EXPEDITED REVIEW BUT IS

1 QUALIFIED TO APPLY FOR A GOOD CAUSE EXCEPTION AND THE APPLICANT SUBMITS AN  
2 APPLICATION FOR GOOD CAUSE WITHIN THE TIME LIMITS PRESCRIBED BY RULE.

3 C. WHEN DETERMINING WHETHER A PERSON IS ELIGIBLE TO RECEIVE A GOOD  
4 CAUSE EXCEPTION UNDER AN EXPEDITED REVIEW, THE BOARD OR ITS HEARING OFFICER  
5 SHALL CONSIDER WHETHER THE PERSON HAS SHOWN TO THE BOARD'S OR ITS HEARING  
6 OFFICER'S SATISFACTION THAT THE PERSON IS NOT AWAITING TRIAL ON OR HAS NOT  
7 BEEN CONVICTED OF COMMITTING ANY OF THE OFFENSES LISTED IN SECTION  
8 41-1758.03, SUBSECTION B OR THAT THE PERSON IS SUCCESSFULLY REHABILITATED AND  
9 IS NOT A RECIDIVIST. BEFORE GRANTING A GOOD CAUSE EXCEPTION UNDER AN  
10 EXPEDITED REVIEW, THE BOARD OR ITS HEARING OFFICER SHALL CONSIDER ALL OF THE  
11 CRITERIA LISTED IN SUBSECTION E OF THIS SECTION.

12 ~~E.~~ D. The following persons shall be present during good cause  
13 exception hearings:

14 ~~1. A representative of any state agency that requires a person to have~~  
15 ~~a valid fingerprint clearance card.~~

16 1. THE BOARD OR ITS HEARING OFFICER.

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

19 ~~D.~~ E. The board OR ITS HEARING OFFICER may grant a good cause  
20 exception AT A HEARING if the person shows to the board's OR ITS HEARING  
21 OFFICER'S satisfaction that the person is not awaiting trial on or has not  
22 been convicted of committing any of the offenses listed in section  
23 41-1758.03, subsection B, ~~C, F or G~~ or that the person is successfully  
24 rehabilitated and is not a recidivist. Before granting a good cause  
25 exception AT A HEARING the board OR ITS HEARING OFFICER shall consider all  
26 of the following IN ACCORDANCE WITH BOARD RULE:

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

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

30 3. The nature of the offense.

31 4. Any applicable mitigating circumstances.

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

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

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

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

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

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

40 ~~E.~~ F. If the board OR ITS HEARING OFFICER grants a good cause  
41 exception to a person, the board shall request in writing that the department  
42 of public safety issue a ~~class one or class two~~ fingerprint clearance card  
43 to the person.

44 ~~F.~~ G. The ~~board~~ BOARD'S STAFF, UNDER THE DIRECTION OF THE EXECUTIVE  
45 DIRECTOR OF THE BOARD, shall review reports it receives of the arrest,

1 charging or conviction of a person for offenses listed in section 41-1758.03  
2 who previously received a fingerprint clearance card. THE EXECUTIVE DIRECTOR  
3 SHALL REPORT ANY ARREST, CHARGE OR CONVICTION OF A PROHIBITED CRIME TO THE  
4 STATE AGENCIES LISTED ON THE APPLICANT'S FINGERPRINT CLEARANCE CARD  
5 APPLICATION.

6 ~~G.~~ H. The board may request in writing that the department of public  
7 safety revoke a person's fingerprint clearance card pursuant to section  
8 41-1758.04 if the person received a ~~class one or class two~~ fingerprint  
9 clearance card and the person is subsequently convicted of an offense listed  
10 in section 41-1758.03, subsection B or ~~F~~ C.

11 ~~H.~~ I. Pending the outcome of a good cause exception determination,  
12 the board OR ITS HEARING OFFICER may issue interim approval IN ACCORDANCE  
13 WITH BOARD RULE to continue working to a good cause exception applicant.

14 J. THE BOARD IS EXEMPT FROM TITLE 41, CHAPTER 6, ARTICLE 10.

15 Sec. 19. Section 41-619.56, Arizona Revised Statutes, is amended to  
16 read:

17 41-619.56. Board of fingerprinting fund

18 A. The board of fingerprinting fund is established consisting of  
19 monies appropriated by the legislature AND FEES ESTABLISHED BY THE BOARD  
20 PURSUANT TO SECTION 41-619.53. The board shall administer the fund subject  
21 to legislative appropriation. MONIES IN THE FUND ARE CONTINUOUSLY  
22 APPROPRIATED for the purposes provided in this article.

23 B. Monies deposited in the fingerprinting fund are ~~subject to~~ EXEMPT  
24 FROM THE PROVISIONS OF section 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

25 Sec. 20. Section 41-1092.02, Arizona Revised Statutes, is amended to  
26 read:

27 41-1092.02. Appealable agency actions; application of  
28 procedural rules; exemption from article

29 A. This article applies to all contested cases as defined in section  
30 41-1001 and all appealable agency actions, except contested cases with or  
31 appealable agency actions of:

- 32 1. The state department of corrections.
- 33 2. The board of executive clemency.
- 34 3. The industrial commission of Arizona.
- 35 4. The Arizona corporation commission.
- 36 5. The Arizona board of regents and institutions under its  
37 jurisdiction.
- 38 6. The state personnel board.
- 39 7. The department of juvenile corrections.
- 40 8. The department of transportation.
- 41 9. The department of economic security except as provided in sections  
42 8-506.01 and 8-811.

43 10. The department of revenue regarding income tax, withholding tax or  
44 estate tax or any tax issue related to information associated with the  
45 reporting of income tax, withholding tax or estate tax.

- 1           11. The board of tax appeals.
- 2           12. The state board of equalization.
- 3           13. The state board of education.
- 4           14. THE BOARD OF FINGERPRINTING.

5           B. Unless waived by all parties, an administrative law judge shall  
6 conduct all hearings under this article, and the procedural rules set forth  
7 in this article and rules made by the director apply.

8           C. Except as provided in subsection A of this section:

9           1. A contested case heard by the office of administrative hearings  
10 regarding taxes administered under title 42 shall be subject to the  
11 provisions under section 42-1251.

12           2. A final decision of the office of administrative hearings regarding  
13 taxes administered under title 42 may be appealed by either party to the  
14 director of the department of revenue, or a taxpayer may file and appeal  
15 directly to the board of tax appeals pursuant to section 42-1253.

16           D. Except as provided in subsections A, B, E, F and G of this section  
17 and notwithstanding any other administrative proceeding or judicial review  
18 process established in statute or administrative rule, this article applies  
19 to all appealable agency actions and to all contested cases.

20           E. Except for a contested case or an appealable agency action  
21 regarding unclaimed property, sections 41-1092.03, 41-1092.08 and 41-1092.09  
22 do not apply to the department of revenue.

23           F. The board of appeals established by section 37-213 is exempt from:

24           1. The time frames for hearings and decisions provided in section  
25 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09.

26           2. The requirement in section 41-1092.06, subsection A to hold an  
27 informal settlement conference at the appellant's request if the sole subject  
28 of an appeal pursuant to section 37-215 is the estimate of value reported in  
29 an appraisal of lands or improvements.

30           G. Auction protest procedures pursuant to title 37, chapter 2, article  
31 4.1 are exempt from this article.

32           Sec. 21. Section 41-1758.01, Arizona Revised Statutes, is amended to  
33 read:

34           41-1758.01. Fingerprinting division; duties

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

37           1. Conduct fingerprint background checks for persons and applicants  
38 who are seeking employment with licensees, contract providers and state  
39 agencies that require fingerprint background checks pursuant to sections  
40 8-322, 15-183, 15-534, 15-1330, 36-411, 36-425.03, 36-594.01, 36-882,  
41 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-1964, 41-1967.01 and 41-2814,  
42 section 46-141, subsection A and section 46-321.

43           2. Issue fingerprint clearance cards. ON ISSUANCE, A FINGERPRINT  
44 CLEARANCE CARD BECOMES THE PERSONAL PROPERTY OF THE CARDHOLDER AND THE  
45 CARDHOLDER SHALL RETAIN POSSESSION OF THE FINGERPRINT CLEARANCE CARD.

1           3. ON SUBMISSION OF AN APPLICATION FOR A FINGERPRINT CLEARANCE CARD,  
2 COLLECT THE FEES ESTABLISHED BY THE BOARD OF FINGERPRINTING PURSUANT TO  
3 SECTION 41-619.53 AND DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, THE  
4 MONIES COLLECTED IN THE BOARD OF FINGERPRINTING FUND.

5           ~~3.~~ 4. Inform in writing each person who submits fingerprints for a  
6 fingerprint background check of the person's right to petition the board of  
7 fingerprinting for a good cause exception pursuant to section 41-1758.03.

8           ~~4.~~ 5. Administer and enforce this article.

9           Sec. 22. Section 41-1758.02, Arizona Revised Statutes, is amended  
10 effective from and after September 30, 2003, to read:

11           41-1758.02. Fingerprint checks; registration

12           A. The person, provider or agency shall submit a full set of  
13 fingerprints to the division for the purpose of obtaining a state and federal  
14 criminal history records check pursuant to section 41-1750 and Public Law  
15 92-544. If the person can present a valid fingerprint clearance card or  
16 credible documentation that the person's application for a fingerprint  
17 clearance card is pending, the person, provider or agency is not required to  
18 submit another application for a fingerprint clearance card. The division  
19 may exchange this fingerprint data with the federal bureau of investigation.

20           B. The person shall submit a new set of fingerprints to the division  
21 for a fingerprint background check every ~~three~~ SIX years. The division shall  
22 conduct a new state and federal criminal history records check on application  
23 for a new card. ALL CLASS ONE OR CLASS TWO FINGERPRINT CLEARANCE CARDS THAT  
24 WERE ISSUED BEFORE OCTOBER 1, 2003 PURSUANT TO THIS ARTICLE SHALL REMAIN  
25 VALID UNTIL THEIR NORMAL EXPIRATION DATES AT WHICH TIME THE CARDHOLDER SHALL  
26 APPLY FOR A NEW FINGERPRINT CLEARANCE CARD.

27           C. In order to obtain a fingerprint clearance card, a person shall  
28 submit a completed application for a fingerprint clearance card provided by  
29 the division.

30           D. The person, provider or agency shall submit the application  
31 required by subsection C of this section along with the fingerprints to the  
32 division for a criminal history records check.

33           Sec. 23. Section 41-1758.03, Arizona Revised Statutes, is amended  
34 effective from and after September 30, 2003, to read:

35           41-1758.03. Fingerprint clearance cards; issuance; immunity

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

42           B. A person who is SUBJECT TO REGISTRATION AS A SEX OFFENDER IN THIS  
43 STATE OR ANY OTHER JURISDICTION OR WHO IS awaiting trial on or who has been  
44 convicted of committing or attempting OR CONSPIRING to commit one or more of  
45 the following offenses in this state or the same or similar offenses in

1 another state or jurisdiction is precluded from receiving a ~~class one~~  
2 fingerprint clearance card:

- 3 1. Sexual abuse of a minor.
- 4 2. Sexual abuse of a vulnerable adult.
- 5 3. Incest.
- 6 4. First or second degree murder.
- 7 ~~5. Kidnapping.~~
- 8 ~~6.~~ 5. Sexual assault.
- 9 ~~7.~~ 6. Sexual exploitation of a minor.
- 10 ~~8.~~ 7. Sexual exploitation of a vulnerable adult.
- 11 ~~9.~~ 8. Commercial sexual exploitation of a minor.
- 12 ~~10.~~ 9. Commercial sexual exploitation of a vulnerable adult.
- 13 ~~11. Felony offenses involving sale, distribution or transportation of,~~  
14 ~~offer to sell, transport or distribute or conspiracy to sell, transport or~~  
15 ~~distribute marijuana, dangerous drugs or narcotic drugs.~~
- 16 ~~12. Robbery.~~
- 17 ~~13.~~ 10. Child prostitution as prescribed in section 13-3212.
- 18 ~~14.~~ 11. Child abuse.
- 19 ~~15.~~ 12. Abuse of a vulnerable adult.
- 20 ~~16.~~ 13. Sexual conduct with a minor.
- 21 ~~17.~~ 14. Molestation of a child.
- 22 ~~18.~~ 15. Molestation of a vulnerable adult.
- 23 ~~19. Aggravated assault.~~
- 24 ~~20.~~ 16. A dangerous crime against children as defined in section  
25 13-604.01.
- 26 ~~21.~~ 17. Exploitation of minors involving drug offenses.
- 27 ~~22. Felony offenses involving contributing to the delinquency of a~~  
28 ~~minor.~~
- 29 ~~23.~~ 18. Taking a child for the purposes of prostitution as defined  
30 PRESCRIBED in section 13-3206.
- 31 ~~24.~~ 19. Neglect or abuse of a vulnerable adult.

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

- 38 1. Manslaughter.
- 39 2. Endangerment.
- 40 3. Threatening or intimidating.
- 41 4. Assault.
- 42 5. Unlawfully administering intoxicating liquors, narcotic drugs or  
43 dangerous drugs.
- 44 6. Assault by vicious animals.
- 45 7. Drive by shooting.

- 1           8. Assaults on officers or fire fighters.
- 2           9. Discharging a firearm at a structure.
- 3           10. Indecent exposure.
- 4           11. Public sexual indecency.
- 5           12. Aggravated criminal damage.
- 6           13. Theft.
- 7           14. Theft by extortion.
- 8           15. Shoplifting.
- 9           16. Forgery.
- 10          17. Criminal possession of a forgery device.
- 11          18. Obtaining a signature by deception.
- 12          19. Criminal impersonation.
- 13          20. Theft of a credit card or obtaining a credit card by fraudulent
- 14 means.
- 15          21. Receipt of anything of value obtained by fraudulent use of a
- 16 credit card.
- 17          22. Forgery of a credit card.
- 18          23. Fraudulent use of a credit card.
- 19          24. Possession of any machinery, plate or other contrivance or
- 20 incomplete credit card.
- 21          25. False statement as to financial condition or identity to obtain a
- 22 credit card.
- 23          26. Fraud by persons authorized to provide goods or services.
- 24          27. Credit card transaction record theft.
- 25          28. Misconduct involving weapons.
- 26          29. Misconduct involving explosives.
- 27          30. Depositing explosives.
- 28          31. Misconduct involving simulated explosive devices.
- 29          32. Concealed weapon violation.
- 30          33. Enticement of any persons for purposes of prostitution.
- 31          34. Procurement by false pretenses of any person for purposes of
- 32 prostitution.
- 33          35. Procuring or placing persons in a house of prostitution.
- 34          36. Receiving earnings of a prostitute.
- 35          37. Causing one's spouse to become a prostitute.
- 36          38. Detention of persons in a house of prostitution for debt.
- 37          39. Keeping or residing in a house of prostitution or employment in
- 38 prostitution.
- 39          40. Pandering.
- 40          41. Transporting persons for the purpose of prostitution or other
- 41 immoral purposes.
- 42          42. Possession and sale of peyote.
- 43          43. Possession and sale of a vapor-releasing substance containing a
- 44 toxic substance.
- 45          44. Sale of precursor chemicals.

- 1           45. Possession, use or sale of marijuana, dangerous drugs or narcotic  
2 drugs.  
3           46. Manufacture or distribution of an imitation controlled substance.  
4           47. Manufacture or distribution of an imitation prescription-only  
5 drug.  
6           48. Manufacture or distribution of an imitation over-the-counter drug.  
7           49. Possession or possession with intent to use an imitation  
8 controlled substance.  
9           50. Possession or possession with intent to use an imitation  
10 prescription-only drug.  
11           51. Possession or possession with intent to use an imitation  
12 over-the-counter drug.  
13           52. Manufacture of certain substances and drugs by certain means.  
14           53. Adding poison or other harmful substance to food, drink or  
15 medicine.  
16           54. A criminal offense involving criminal trespass and burglary under  
17 title 13, chapter 15.  
18           55. A criminal offense involving organized crime and fraud under title  
19 13, chapter 23.  
20           56. Child neglect.  
21           57. Misdemeanor offenses involving contributing to the delinquency of  
22 a minor.  
23           ~~58. A violation of section 28-1381, 28-1382 or 28-1383.~~  
24           ~~59.~~ 58. Offenses involving domestic violence.  
25           ~~60.~~ 59. Arson.  
26           60. KIDNAPPING.  
27           61. FELONY OFFENSES INVOLVING SALE, DISTRIBUTION OR TRANSPORTATION OF,  
28 OFFER TO SELL, TRANSPORT OR DISTRIBUTE OR CONSPIRACY TO SELL, TRANSPORT OR  
29 DISTRIBUTE MARIJUANA, DANGEROUS DRUGS OR NARCOTIC DRUGS.  
30           62. ROBBERY.  
31           63. AGGRAVATED ASSAULT.  
32           64. FELONY OFFENSES INVOLVING CONTRIBUTING TO THE DELINQUENCY OF A  
33 MINOR.  
34           D. A PERSON WHO IS AWAITING TRIAL ON OR WHO HAS BEEN CONVICTED OF  
35 COMMITTING OR ATTEMPTING OR CONSPIRING TO COMMIT A VIOLATION OF SECTION  
36 28-1381, 28-1382 OR 28-1383 IN THIS STATE OR THE SAME OR SIMILAR OFFENSE IN  
37 ANOTHER STATE OR JURISDICTION WITHIN FIVE YEARS FROM THE DATE OF APPLYING FOR  
38 A FINGERPRINT CLEARANCE CARD IS PRECLUDED FROM DRIVING ANY VEHICLE TO  
39 TRANSPORT EMPLOYEES OR CLIENTS OF THE EMPLOYING AGENCY AS PART OF THE  
40 PERSON'S EMPLOYMENT. THE DIVISION SHALL PLACE A NOTATION ON THE FINGERPRINT  
41 CLEARANCE CARD THAT INDICATES THIS DRIVING RESTRICTION. THIS SUBSECTION DOES  
42 NOT PRECLUDE A PERSON FROM DRIVING A VEHICLE ALONE AS PART OF THE PERSON'S  
43 EMPLOYMENT.  
44           ~~D.~~ E. Notwithstanding subsection C of this section, on receiving  
45 written notice from the board of fingerprinting that a good cause exception

1 was granted pursuant to section 41-619.55, the division shall issue a class  
2 one fingerprint clearance card to the person.

3 ~~E. If a person is precluded from receiving a class one fingerprint  
4 clearance card pursuant to subsection B or C of this section, the division  
5 shall compare the employee's criminal history record with the list of  
6 criminal offenses that preclude the person from receiving a class two  
7 fingerprint clearance card. If the person's criminal history record does not  
8 contain any of the offenses listed in subsections F and G of this section,  
9 the division shall issue the person a class two fingerprint clearance card.~~

10 ~~F. A person who is awaiting trial on or who has been convicted of  
11 committing or attempting to commit one or more of the following offenses in  
12 this state or the same or similar offenses in another state or jurisdiction  
13 is precluded from receiving a class two fingerprint clearance card:~~

- 14 ~~1. Sexual abuse of a minor.~~
- 15 ~~2. Incest.~~
- 16 ~~3. First or second degree murder.~~
- 17 ~~4. Sexual assault.~~
- 18 ~~5. Sexual exploitation of a minor.~~
- 19 ~~6. Commercial sexual exploitation of a minor.~~
- 20 ~~7. A dangerous crime against children as defined in section  
21 13-604.01.~~
- 22 ~~8. Child abuse.~~
- 23 ~~9. Sexual conduct with a minor.~~
- 24 ~~10. Molestation of a child.~~
- 25 ~~11. Exploitation of minors involving drug offenses.~~
- 26 ~~12. Sexual abuse of a vulnerable adult.~~
- 27 ~~13. Sexual exploitation of a vulnerable adult.~~
- 28 ~~14. Commercial sexual exploitation of a vulnerable adult.~~
- 29 ~~15. Child prostitution as prescribed in section 13-3212.~~
- 30 ~~16. Abuse of a vulnerable adult.~~
- 31 ~~17. Molestation of a vulnerable adult.~~
- 32 ~~18. Taking a child for the purposes of prostitution as prescribed in  
33 section 13-3206.~~
- 34 ~~19. Neglect of a vulnerable adult.~~

35 ~~G. A person who is awaiting trial on or who has been convicted of  
36 committing or attempting to commit one or more of the following offenses in  
37 this state or the same or similar offenses in another state or jurisdiction  
38 is precluded from receiving a class two fingerprint clearance card, except  
39 that the person may petition the board of fingerprinting for a good cause  
40 exception pursuant to section 41-619.55:~~

- 41 ~~1. Arson.~~
- 42 ~~2. Felony offenses involving contributing to the delinquency of a  
43 minor.~~

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

4           ~~4. Felony offenses involving the possession or use of marijuana,~~  
5 ~~dangerous drugs or narcotic drugs.~~

6           ~~5. Burglary.~~

7           ~~6. Aggravated or armed robbery.~~

8           ~~7. Robbery.~~

9           ~~8. Kidnapping.~~

10          ~~9. Manslaughter.~~

11          ~~10. Assault or aggravated assault.~~

12          ~~11. A violation of section 28-1381, 28-1382 or 28-1383.~~

13          ~~12. Offenses involving domestic violence.~~

14          ~~13. A criminal offense involving organized crime and fraud under~~  
15 ~~title 13, chapter 23.~~

16          ~~H. Notwithstanding subsection G of this section, on receiving written~~  
17 ~~notice from the board of fingerprinting that a good cause exception was~~  
18 ~~granted pursuant to section 41-619.55, the division shall issue a class two~~  
19 ~~fingerprint clearance card to the person.~~

20          ~~I. F. If the division denies a person's application for a class one~~  
21 ~~or class two fingerprint clearance card pursuant to subsection C or G of this~~  
22 ~~section and a good cause exception is requested pursuant to section~~  
23 ~~41-619.55, the division shall release, ON REQUEST BY THE BOARD OF~~  
24 ~~FINGERPRINTING, the person's criminal history record to the board of~~  
25 ~~fingerprinting.~~

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

28           ~~1. An agency granted a good cause exception before August 16, 1999~~  
29 ~~and no new crime PRECLUDING OFFENSE is identified. The fingerprint clearance~~  
30 ~~card shall specify only the program that granted the good cause exception.~~  
31 ~~On the request of the applicant, the agency that granted the prior good cause~~  
32 ~~exception shall notify the division in writing of the date on which the prior~~  
33 ~~good cause exception was granted and the date of the conviction and the name~~  
34 ~~of the offense for which the good cause exception was granted.~~

35           ~~2. The board granted a good cause exception and no new crime~~  
36 ~~PRECLUDING OFFENSE is identified. The fingerprint clearance card shall~~  
37 ~~specify the programs for which the board granted the good cause exception.~~

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

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

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

5 ~~N. The division shall maintain the fingerprint records of an  
6 individual who has received a fingerprint clearance card pursuant to section  
7 15-534 until the individual reaches the age of ninety-nine or two years after  
8 the division is notified that the individual is deceased or until the  
9 division is notified by the state board of education of the expiration of the  
10 individual's certificate. The state board of education shall notify the  
11 division of the expiration of an individual's certificate within sixty days  
12 of the expiration of the individual's certificate. The division shall  
13 include these records in the periodic state criminal history records checks  
14 conducted pursuant to subsection M of this section.~~

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

18 P. L. The division shall not issue a ~~class one or class two~~  
19 fingerprint clearance card to a person if the division cannot determine,  
20 within fifteen THIRTY business days after receipt of the person's state and  
21 federal criminal history record information, whether the person is awaiting  
22 trial on or has been convicted of committing any of the offenses listed in  
23 subsection B, OR C, ~~F or G~~ of this section. If the division is unable to  
24 make the determination required by this section and does not issue a ~~class~~  
25 ~~one or class two~~ fingerprint clearance card to a person, the person may  
26 request a good cause exception pursuant to section 41-619.55.

27 Q. M. If after conducting a state and federal criminal history  
28 record check the division determines that it is not authorized to issue a  
29 ~~class one or class two~~ fingerprint clearance card to a person, the division  
30 shall notify the agency that licenses or employs the person that the division  
31 is not authorized to issue a fingerprint clearance card. THIS NOTICE SHALL  
32 INCLUDE THE CRIMINAL HISTORY INFORMATION ON WHICH THE DENIAL WAS BASED. THIS  
33 CRIMINAL HISTORY INFORMATION IS SUBJECT TO DISSEMINATION RESTRICTIONS  
34 PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544.

35 R. N. The division is not liable for damages resulting from:

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

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

42 S. O. The issuance of a ~~class one or class two~~ fingerprint clearance  
43 card does not entitle a person to employment.



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

5 D. The notarized forms are confidential.

6 E. The department of economic security shall notify the department of  
7 public safety if the department of economic security receives credible  
8 evidence that any child care personnel who possesses a valid ~~class one or~~  
9 ~~class two~~ fingerprint clearance card either:

10 1. Is arrested for or charged with an offense listed in section  
11 41-1758.03, subsection B ~~or~~ F.

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

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

19 Sec. 26. Section 41-1967, Arizona Revised Statutes, is amended  
20 effective from and after September 30, 2003, to read:

21 41-1967. Child care resource and referral system; immunity

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

25 1. Provide families with:

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

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

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

29 (d) Information about choosing child care.

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

31 2. Assist child care providers and programs with:

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

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

35 (c) Parent referrals.

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

37 3. Coordinate with the community to:

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

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

41 B. The child care resource and referral system shall:

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

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

- 1 (a) The type of program.
- 2 (b) The hours of service.
- 3 (c) The ages of children served.
- 4 (d) Fees for service.
- 5 (e) The licensure, certification and registration status of providers.
- 6 (f) Other significant provider and program information.
- 7 3. Establish and maintain a referral process that responds to parental
- 8 need for information. The child care resource and referral system shall make
- 9 referrals to child care providers and programs that:
  - 10 (a) Promote parental choice and meet the needs of families.
  - 11 (b) Are included in the resource and referral database.
- 12 4. Collect in a uniform method family information for the referral
- 13 database that includes the:
  - 14 (a) Number of calls and contacts.
  - 15 (b) Ages of children in need of care.
  - 16 (c) Days and times of care requested.
  - 17 (d) Type of care requested.
  - 18 (e) Special needs and requests made by the family.
  - 19 (f) Reason that the care is needed.
- 20 5. Provide outreach services that include:
  - 21 (a) Efforts to reach parents and providers in local communities.
  - 22 (b) Involvement in the local communities.
  - 23 (c) Publication of services through all available media sources,
  - 24 agencies and other appropriate channels.
  - 25 (d) Public awareness information to parents and providers about the
  - 26 child care home provider registry and the benefits of using the registry or
  - 27 becoming registered.
- 28 6. Provide technical assistance to existing and prospective child care
- 29 providers and programs that include:
  - 30 (a) Information on all aspects of initiating new child care services
  - 31 including child care regulations, zoning, program and budget development and
  - 32 assistance in finding information from other sources.
  - 33 (b) Educational information and resources that assist existing child
  - 34 care providers and programs to better serve the children and parents in their
  - 35 community.
  - 36 (c) Local coordination of existing child care and child related
  - 37 services.
- 38 7. Establish and maintain a child care home provider registry that
- 39 includes:
  - 40 (a) Child care home providers that are registered pursuant to section
  - 41 41-1967.01.
  - 42 (b) A complaint tracking system that contains written complaints
  - 43 concerning providers and written provider responses. The complaints and
  - 44 responses are available to the public.

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

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

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

9 1. Child care providers licensed or certified by a government agency  
10 which is authorized by law to license, certify or approve child care  
11 providers.

12 2. Child care home providers that are registered pursuant to section  
13 41-1967.01. These providers shall submit and amend when necessary sworn,  
14 written statements to the department or its designees, on forms approved by  
15 the department, attesting that the provider is not subject to exclusion or  
16 removal from the child care resource and referral database under any of the  
17 grounds specified in subsection E of this section.

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

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

26 1. The provider fails to obtain a ~~class one or class two~~ fingerprint  
27 clearance card or the provider's ~~class two~~ fingerprint clearance card is  
28 revoked or suspended.

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

33 3. The provider, the provider's employees or any person eighteen years  
34 of age or older who resides in the provider's child care facility has been  
35 convicted of or is awaiting trial on any of the criminal offenses pursuant  
36 to LISTED IN section 41-1758.03, subsections ~~F~~ B and ~~G~~ C in this state or  
37 similar criminal offenses in any other state or jurisdiction.

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

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



- 1 (b) Incest.
- 2 (c) First or second degree murder.
- 3 (d) Kidnapping.
- 4 (e) Arson.
- 5 (f) Sexual assault.
- 6 (g) Sexual exploitation of a minor.
- 7 (h) Felony offenses involving contributing to the delinquency of a
- 8 minor.
- 9 (i) Commercial sexual exploitation of a minor.
- 10 (j) Felony offenses involving sale, distribution or transportation of,
- 11 offer to sell, transport or distribute or conspiracy to sell, transport or
- 12 distribute marijuana, dangerous drugs or narcotic drugs.
- 13 (k) Felony offenses involving the possession or use of marijuana,
- 14 dangerous drugs or narcotic drugs.
- 15 (l) Burglary.
- 16 (m) Aggravated or armed robbery.
- 17 (n) Robbery.
- 18 (o) A dangerous crime against children as defined in section
- 19 13-604.01.
- 20 (p) Child abuse.
- 21 (q) Sexual conduct with a minor.
- 22 (r) Molestation of a child.
- 23 (s) Manslaughter.
- 24 (t) Assault or aggravated assault.
- 25 (u) Exploitation of minors involving drug offenses.
- 26 (v) A violation of section 28-1381, 28-1382 or 28-1383.
- 27 (w) Offenses involving domestic violence.
- 28 2. They are parents or guardians of a child adjudicated to be a
- 29 dependent child as defined in section 8-201.
- 30 3. They have been denied a license to operate a child care facility
- 31 for cause in this state or another state or had a license or certificate to
- 32 operate a child care facility revoked.
- 33 E. The notarized forms are confidential.
- 34 F. Each applicant for registration shall not have been the subject of
- 35 an investigation where a report of child abuse or neglect has been
- 36 substantiated.
- 37 G. Each applicant shall maintain current training and certification
- 38 in first aid and infant and child cardiopulmonary resuscitation.
- 39 H. The applicant shall enclose any pool on the applicant's premises
- 40 pursuant to section 36-1681, subsections A, B and C.
- 41 I. The applicant shall separately store firearms and ammunition under
- 42 lock and key or combination lock.
- 43 J. The department shall adopt rules to carry out this section.
- 44 K. The director shall charge a fee for processing the fingerprint
- 45 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. 28. Section 41-2814, Arizona Revised Statutes, is amended  
6 effective from and after September 30, 2003, to read:

7 41-2814. Fingerprinting personnel; exception; violation;  
8 classification; definition

9 A. All employees of the department and all contract service providers  
10 that provide services primarily on department premises shall be  
11 fingerprinted. These individuals shall submit fingerprints and the form  
12 prescribed in subsection F of this section within seven days after the date  
13 of employment. Employment with the department is conditioned on the results  
14 of the fingerprint check. Fingerprint checks shall be conducted pursuant to  
15 section 41-1750, subsection G, paragraph 1.

16 B. Except as provided in subsection A of this section, a paid or  
17 unpaid employee of a licensee or contract provider who has direct contact  
18 with committed youth shall have a valid ~~class one or class two~~ fingerprint  
19 clearance card issued pursuant to chapter 12, article 3.1 of this title or  
20 shall apply for a ~~class one or class two~~ fingerprint clearance card within  
21 seven days of beginning employment.

22 C. A service contract or license with any contract provider or  
23 licensee that involves the employment of persons who have direct contact with  
24 committed youth shall provide that the contract or license may be canceled  
25 or terminated immediately if a person certifies pursuant to subsection F of  
26 this section that the person is awaiting trial on or has been convicted of  
27 any of the offenses listed in subsection F of this section in this  
28 jurisdiction or acts committed in another jurisdiction that would be offenses  
29 in this jurisdiction or if the person does not possess or is denied issuance  
30 of a valid fingerprint clearance card.

31 D. A contract provider or licensee may avoid cancellation or  
32 termination of the contract or license under subsection C of this section if  
33 a person who does not possess or has been denied issuance of a valid  
34 fingerprint clearance card or who certifies pursuant to subsection F of this  
35 section that the person has been convicted of or is awaiting trial on any of  
36 the offenses listed in subsection F, paragraphs 1, 2, 3, 6, 7, 9, 15 through  
37 18 and 21 of this section is immediately prohibited from employment or  
38 service with the contract provider or licensee in any capacity requiring or  
39 allowing direct contact with committed youth.

40 E. A contract provider or licensee may avoid cancellation or  
41 termination of the contract or license under subsection C of this section if  
42 a person who does not possess or has been denied issuance of a valid  
43 fingerprint clearance card or who certifies pursuant to subsection F of this  
44 section that the person has been convicted of or is awaiting trial on any of  
45 the offenses listed in subsection F, paragraphs 4, 5, 8, 10 through 14, 19,

1 20, 22 and 23 of this section is immediately prohibited from employment or  
2 service with the contract provider or licensee in any capacity requiring or  
3 allowing direct contact with committed youth unless the employee is granted  
4 a good cause exception pursuant to section 41-619.55.

5 F. Personnel who are employed by the department and contract personnel  
6 who have direct contact with committed youth shall certify on forms provided  
7 by the department and notarized whether they are awaiting trial on or have  
8 ever been convicted of or committed any of the following criminal offenses  
9 in this state or similar offenses in another state or jurisdiction:

- 10 1. Sexual abuse of a minor.
- 11 2. Incest.
- 12 3. First or second degree murder.
- 13 4. Kidnapping.
- 14 5. Arson.
- 15 6. Sexual assault.
- 16 7. Sexual exploitation of a minor.
- 17 8. Felony offenses involving contributing to the delinquency of a  
18 minor.
- 19 9. Commercial sexual exploitation of a minor.
- 20 10. Felony offenses involving sale, distribution or transportation of,  
21 offer to sell, transport or distribute or conspiracy to sell, transport or  
22 distribute marijuana, dangerous drugs or narcotic drugs.
- 23 11. Felony offenses involving the possession or use of marijuana,  
24 dangerous drugs or narcotic drugs.
- 25 12. Burglary.
- 26 13. Aggravated or armed robbery.
- 27 14. Robbery.
- 28 15. A dangerous crime against children as defined in section 13-604.01.
- 29 16. Child abuse.
- 30 17. Sexual conduct with a minor.
- 31 18. Molestation of a child.
- 32 19. Manslaughter.
- 33 20. Assault or aggravated assault.
- 34 21. Exploitation of minors involving drug offenses.
- 35 22. A violation of section 28-1381, 28-1382 or 28-1383.
- 36 23. Offenses involving domestic violence.

37 G. The department shall make documented, good faith efforts to contact  
38 previous employers of personnel to obtain information or recommendations that  
39 may be relevant to an individual's fitness for employment.

40 H. Hospital employees, licensed medical personnel, staff and  
41 volunteers who provide services to juveniles in a health care facility  
42 located outside the secure care facility and who are under the direct visual  
43 supervision as is medically reasonable of the department's employees or the  
44 department's contracted security employees are exempt from the requirements  
45 of this section.

1 I. The department of juvenile corrections shall notify the department  
2 of public safety if the department of juvenile corrections receives credible  
3 evidence that a person who possesses a valid ~~class one or class two~~  
4 fingerprint clearance card either:

5 1. Is arrested for or charged with an offense listed in section  
6 41-1758.03, subsection B ~~or F~~.

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

9 J. A person who makes a false statement, representation or  
10 certification in an application for employment with the department is guilty  
11 of a class 3 misdemeanor.

12 K. For the purposes of this section, "employee" means paid and unpaid  
13 personnel who have direct contact with committed youth.

14 Sec. 29. Section 46-141, Arizona Revised Statutes, is amended  
15 effective from and after September 30, 2003, to read:

16 46-141. Criminal record information checks; fingerprinting  
17 employees and applicants

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

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

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

39 D. A contract provider or licensee may avoid cancellation or  
40 termination of the contract or license under subsection C of this section if  
41 a person who does not possess or has been denied issuance of a valid  
42 fingerprint clearance card or who certifies pursuant to subsections F and G  
43 of this section that the person has been convicted of or is awaiting trial  
44 on any of the offenses listed in SECTION 41-1758.03, subsection F, paragraphs  
45 1, 2, 3, 6, 7, 9, 15 through 18 and 21 of this section B is immediately

1 prohibited from employment or service with the contract provider or licensee  
2 in any capacity requiring or allowing contact with juveniles.

3 E. A contract provider or licensee may avoid cancellation or  
4 termination of the contract or license under subsection C of this section if  
5 a person who does not possess or has been denied issuance of a valid  
6 fingerprint clearance card or who certifies pursuant to subsections F and G  
7 of this section that the person has been convicted of or is awaiting trial  
8 on any of the offenses listed in SECTION 41-1758.03, subsection ~~F~~, paragraphs  
9 ~~4, 5, 8, 10 through 14, 19, 20, 22 and 23~~ of this section C is immediately  
10 prohibited from employment or service with the contract provider or licensee  
11 in any capacity requiring contact with juveniles unless the person is granted  
12 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 pursuant to LISTED IN  
18 section 41-1758.03, subsections ~~F~~ B and ~~G~~ C in this state or similar  
19 offenses 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  
33 services, and who will provide direct services to juveniles or vulnerable  
34 adults shall submit a full set of fingerprints to the department for the  
35 purpose of obtaining a state and federal criminal records check pursuant to  
36 section 41-1750 and Public Law 92-544. The department of public safety may  
37 exchange this fingerprint data with the federal bureau of investigation.

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

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

4 L. The department of economic security shall notify the department of  
5 public safety if the department of economic security receives credible  
6 evidence that a person who possesses a valid ~~class one or class two~~  
7 fingerprint clearance card pursuant to subsection A of this section either:

8 1. Is arrested for or charged with an offense listed in section  
9 41-1758.03, subsection B ~~or F~~.

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

12 Sec. 30. Section 46-321, Arizona Revised Statutes, is amended  
13 effective from and after September 30, 2003, to read:

14 46-321. Fingerprinting; affidavit

15 A. Sponsors, except military bases and federally recognized Indian  
16 tribes, receiving federal child care food program monies from the department  
17 of education shall register with the department of education in order to  
18 receive those monies, unless they are public schools, child care facilities  
19 licensed by the department of health services or child care homes certified  
20 by the department of economic security.

21 B. Sponsors, except military bases and federally recognized Indian  
22 tribes, receiving federal child care food program monies as provided in  
23 subsection A of this section shall require all child care providers to submit  
24 the form prescribed in subsection F of this section to the department of  
25 education and to have valid ~~class one or class two~~ fingerprint clearance  
26 cards issued pursuant to title 41, chapter 12, article 3.1 or to apply for  
27 a ~~class one or class two~~ fingerprint clearance card within seven working days  
28 of employment before they receive any of those monies.

29 C. Sponsors that are federally recognized Indian tribes or military  
30 bases may submit and the department shall accept certifications that state  
31 that any child care personnel who is employed or who will be employed during  
32 the contract term has not been convicted of, has not admitted to or is not  
33 awaiting trial on any of the offenses listed in subsection F of this section  
34 or is not the parent or guardian of a child adjudicated to be a dependent  
35 child as defined in section 8-201 or the parent or guardian of a child  
36 adjudicated a dependent child under similar provisions in another state or  
37 jurisdiction.

38 D. Sponsors that are federally recognized Indian tribes or military  
39 bases may submit and the department shall accept certifications that state  
40 that good faith efforts have been made to contact previous employers of  
41 tribal and military child care personnel.

42 E. The department of education shall charge sponsors receiving federal  
43 child care food program monies as provided in subsection A of this section  
44 for the costs of their fingerprint checks.

1 F. Sponsors receiving federal child care food program monies as  
2 provided in subsection A of this section shall require all child care  
3 personnel to certify on forms that are provided by the department of  
4 education and notarized that:

5 1. They are not awaiting trial on and have never been convicted of or  
6 admitted committing any of the following criminal offenses in this state or  
7 similar offenses in another state or jurisdiction:

- 8 (a) Sexual abuse of a minor.
- 9 (b) Incest.
- 10 (c) First or second degree murder.
- 11 (d) Kidnapping.
- 12 (e) Arson.
- 13 (f) Sexual assault.
- 14 (g) Sexual exploitation of a minor.
- 15 (h) Felony offenses involving contributing to the delinquency of a  
16 minor.
- 17 (i) Commercial sexual exploitation of a minor.
- 18 (j) Felony offenses involving sale, distribution or transportation of,  
19 offer to sell, transport or distribute or conspiracy to sell, transport or  
20 distribute marijuana, dangerous drugs or narcotic drugs.
- 21 (k) Felony offenses involving the possession or use of marijuana,  
22 dangerous drugs or narcotic drugs.
- 23 (l) Burglary.
- 24 (m) Aggravated or armed robbery.
- 25 (n) Robbery.
- 26 (o) A dangerous crime against children as defined in section  
27 13-604.01.
- 28 (p) Child abuse.
- 29 (q) Sexual conduct with a minor.
- 30 (r) Molestation of a child.
- 31 (s) Manslaughter.
- 32 (t) Assault or aggravated assault.
- 33 (u) Exploitation of minors involving drug offenses.
- 34 (v) A violation of section 28-1381, 28-1382 or 28-1383.
- 35 (w) Offenses involving domestic violence.

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

38 3. They have not been denied a license to operate a facility for the  
39 care of children for cause in this state or another state or had a license  
40 or certificate to operate such a facility revoked.

41 G. Sponsors shall make documented, good faith efforts to contact  
42 previous employers of child care personnel who receive federal child care  
43 food program monies as provided in subsection A of this section to obtain  
44 information or recommendations that may be relevant to an individual's  
45 fitness for child care.

1 H. The notarized forms are confidential.

2 I. The state board of education shall notify the department of public  
3 safety if the state board of education receives credible evidence that any  
4 child care provider who possesses a valid ~~class one or class two~~ fingerprint  
5 clearance card either:

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

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

10 Sec. 31. Emergency

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

APPROVED BY THE GOVERNOR MAY 14, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 15, 2003.



Passed the House February 17, 2003,

Passed the Senate April 30, 2003,

by the following vote: 59 Ayes,

by the following vote: 28 Ayes,

0 Nays, 1 Not Voting  
*with emergency*  
Jake Flake  
Speaker of the House  
Spomen L. Moore  
Chief Clerk of the House

0 Nays, 2 Not Voting  
*with Emergency*  
Kelli Bennett  
President of the Senate  
Channing Billington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State

H.B. 2016

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

May 8, 2003,

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting  
*With Emergency*

Jake Flake  
Speaker of the House

Herman L. Moore  
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

8 day of May, 2003,

at 1:40 o'clock P. M.

Sandra Haney  
Secretary to the Governor

Approved this 14 day of

May, 2003,

at 4<sup>00</sup> o'clock P. M.

Jan Brewer  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 15 day of May, 2003,

at 1:55 o'clock P. M.

Janice L. Brewer  
Secretary of State

H.B. 2016