House Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 73

HOUSE BILL 2514

AN ACT

AMENDING SECTION 41-1758.03, ARIZONA REVISED STATUTES; RELATING TO FINGERPRINT CLEARANCE CARDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 41-1758.03, Arizona Revised Statutes, is amended to read:

41-1758.03. Fingerprint clearance cards; issuance; immunity

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

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

1. Sexual abuse of a vulnerable adult.
2. Incest.
3. First or second degree murder.
4. Sexual assault.
5. Sexual exploitation of a minor.
6. Sexual exploitation of a vulnerable adult.
7. Commercial sexual exploitation of a minor.
8. Commercial sexual exploitation of a vulnerable adult.
9. Child prostitution as prescribed in section 13-3212.
10. Child abuse.
11. Abuse of a vulnerable adult.
12. Sexual conduct with a minor.
13. Molestation of a child.
14. Molestation of a vulnerable adult.
15. A dangerous crime against children as defined in section 13-705.
16. Exploitation of minors involving drug offenses.
17. Taking a child for the purpose of prostitution as prescribed in section 13-3206.
18. Neglect or abuse of a vulnerable adult.
19. Sex trafficking.
20. Sexual abuse.
21. Production, publication, sale, possession and presentation of obscene items as prescribed in section 13-3502.
22. Furnishing harmful items to minors as prescribed in section 13-3506.
23. Furnishing harmful items to minors by internet activity as prescribed in section 13-3506.01.
24. Obscene or indecent telephone communications to minors for commercial purposes as prescribed in section 13-3512.

25. Luring a minor for sexual exploitation.
26. Enticement of persons for purposes of prostitution.
27. Procurement by false pretenses of person for purposes of prostitution.
28. Procuring or placing persons in a house of prostitution.
29. Receiving earnings of a prostitute.
30. Causing one's spouse to become a prostitute.
31. Detention of persons in a house of prostitution for debt.
32. Keeping or residing in a house of prostitution or employment in prostitution.
33. Pandering.
34. Transporting persons for the purpose of prostitution, polygamy and concubinage.
35. Portraying adult as a minor as prescribed in section 13-3555.
36. Admitting minors to public displays of sexual conduct as prescribed in section 13-3558.
37. Unlawful sale or purchase of children.
38. Child bigamy.
39. Trafficking of persons for forced labor or services.

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

1. Manslaughter.
2. Endangerment.
3. Threatening or intimidating.
4. Assault.
5. Unlawfully administering intoxicating liquors, narcotic drugs or dangerous drugs.
6. Assault by vicious animals.
7. Drive by shooting.
8. Assaults on officers or fire fighters.
9. Discharging a firearm at a structure.
10. Indecent exposure.
11. Public sexual indecency.
12. Aggravated criminal damage.
13. Theft.
14. Theft by extortion.
15. Shoplifting.
16. Forgery.
17. Criminal possession of a forgery device.
18. Obtaining a signature by deception.
19. Criminal impersonation.

20. Theft of a credit card or obtaining a credit card by fraudulent means.
21. Receipt of anything of value obtained by fraudulent use of a credit card.
22. Forgery of a credit card.
23. Fraudulent use of a credit card.
24. Possession of any machinery, plate or other contrivance or incomplete credit card.
25. False statement as to financial condition or identity to obtain a credit card.
26. Fraud by persons authorized to provide goods or services.
27. Credit card transaction record theft.
28. Misconduct involving weapons.
29. Misconduct involving explosives.
30. Depositing explosives.
31. Misconduct involving simulated explosive devices.
32. Concealed weapon violation.
33. Possession and sale of peyote.
34. Possession and sale of a vapor-releasing substance containing a toxic substance.
35. Sale of precursor chemicals.
36. Possession, use or sale of marijuana, dangerous drugs or narcotic drugs.
37. Manufacture or distribution of an imitation controlled substance.
38. Manufacture or distribution of an imitation prescription-only drug.
39. Manufacture or distribution of an imitation over-the-counter drug.
40. Possession or possession with intent to use an imitation controlled substance.
41. Possession or possession with intent to use an imitation prescription-only drug.
42. Possession or possession with intent to use an imitation over-the-counter drug.
43. Manufacture of certain substances and drugs by certain means.
44. Adding poison or other harmful substance to food, drink or medicine.
45. A criminal offense involving criminal trespass under title 13, chapter 15.
46. A criminal offense involving burglary under title 13, chapter 15.
47. A criminal offense under title 13, chapter 23.
48. Child neglect.
49. Misdemeanor offenses involving contributing to the delinquency of a minor.
50. Offenses involving domestic violence.
51. Arson.

52. Kidnapping.
53. Felony offenses involving sale, distribution or transportation of, offer to sell, transport or distribute or conspiracy to sell, transport or distribute marijuana, dangerous drugs or narcotic drugs.
54. Robbery.
55. Aggravated assault.
56. Felony offenses involving contributing to the delinquency of a minor.
57. Negligent homicide.
58. Criminal damage.
59. Misappropriation of charter school monies as prescribed in section 13-1818.
60. Taking identity of another person or entity.
61. Aggravated taking identity of another person or entity.
62. Trafficking in the identity of another person or entity.
63. Cruelty to animals.
64. Prostitution.
65. Sale or distribution of material harmful to minors through vending machines as prescribed in section 13-3513.
66. Welfare fraud.

D. A person who is awaiting trial on or who has been convicted of committing or attempting to commit a misdemeanor or felony violation of section 28-1381, 28-1382 or 28-1383 in this state or the same or similar offense in another state or jurisdiction within five years from the date of applying for a fingerprint clearance card is precluded from driving any vehicle to transport employees or clients of the employing agency as part of the person's employment. The division shall place a notation on the fingerprint clearance card that indicates this driving restriction. This subsection does not preclude a person from driving a vehicle alone as part of the person's employment. THIS SUBSECTION DOES NOT APPLY TO A PERSON WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 20, EXCEPT IF THE PERSON IS EMPLOYED BY AN AGENCY AS DEFINED IN SECTION 41-1758.

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

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

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

1. An agency granted a good cause exception before August 16, 1999 and no new precluding offense is identified. The fingerprint clearance card

shall specify only the program that granted the good cause exception. On the request of the applicant, the agency that granted the prior good cause exception shall notify the division in writing of the date on which the prior good cause exception was granted and the date of the conviction and the name of the offense for which the good cause exception was granted.

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

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

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

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

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

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

M. Except as provided in subsection N of this section, if after conducting a state and federal criminal history records check the division determines that it is not authorized to issue a fingerprint clearance card to a person, the division shall notify the agency that licenses or employs the person that the division is not authorized to issue a fingerprint clearance card. This notice shall include the criminal history information on which

1 the denial was based. This criminal history information is subject to
2 dissemination restrictions pursuant to section 41-1750 and Public Law 92-544.
3 N. If, after conducting a state and federal criminal history records
4 check on a person who requests a fingerprint clearance card pursuant to
5 section 15-1881, the division determines that it is not authorized to issue a
6 fingerprint clearance card to the person, the division shall not notify the
7 agency. The division shall notify the person who requested the card that the
8 division is not authorized to issue a fingerprint clearance card. The notice
9 shall include the criminal history information on which the denial was
10 based. This criminal history information is subject to dissemination
11 restrictions pursuant to section 41-1750 and Public Law 92-544.
12 O. The division is not liable for damages resulting from:
13 1. The issuance of a fingerprint clearance card to a person who is
14 later found to have been ineligible to receive a fingerprint clearance card
15 at the time the card was issued.
16 2. The denial of a fingerprint clearance card to a person who is later
17 found to have been eligible to receive a fingerprint clearance card at the
18 time issuance of the card was denied.
19 P. The issuance of a fingerprint clearance card does not entitle a
20 person to employment.
21 Q. Notwithstanding any law to the contrary, a person may apply for and
22 receive a level I fingerprint clearance card pursuant to section 41-1758.07
23 to satisfy a requirement that the person have a valid fingerprint clearance
24 card issued pursuant to this section.

APPROVED BY THE GOVERNOR MARCH 24, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 24, 2016.

Passed the House February 18, 2016

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

Speaker of the House

☐ Pro Tempore

Jim Drake

Chief Clerk of the House

Passed the Senate March 17, 2016

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Susan Adams

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

22nd day of March, 2016

at 10:06 o'clock A. M.

Secretary to the Governor

Approved this 24th day of

March

at 11:00 o'clock A M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 24th day of March, 2016

at 2:17 o'clock P M.

Michele Reagan

Secretary of State

H.B. 2514