

REFERENCE TITLE: **fingerprint clearance cards**

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SB 1045

Introduced by
Senator Gray L

AN ACT

AMENDING SECTIONS 41-619.53 AND 41-1758.03, ARIZONA REVISED STATUTES;
RELATING TO FINGERPRINTING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 41-619.53, Arizona Revised Statutes, is amended to
3 read:

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

6 A. The board of fingerprinting shall:

7 1. Determine good cause exceptions pursuant to section 41-619.55. The
8 board ~~shall~~ MAY appoint a hearing officer to determine good cause exceptions.
9 2. Adopt rules to implement this article, including rules to establish
10 good cause exceptions for the issuance of fingerprint clearance cards
11 pursuant to section 41-1758.03. This rule making is exempt from the
12 requirements of chapter 6 of this title.

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

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

18 5. Establish fees.

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

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

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

30 Sec. 2. Section 41-1758.03, Arizona Revised Statutes, is amended to
31 read:

32 41-1758.03. Fingerprint clearance cards: issuance; immunity

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

39 B. A person who is subject to registration as a sex offender in this
40 state or any other jurisdiction or who is awaiting trial on or who has been
41 convicted of committing or attempting, SOLICITING, FACILITATING or conspiring
42 to commit one or more of the following offenses in this state or the same or
43 similar offenses in another state or jurisdiction is precluded from receiving
44 a fingerprint clearance card:

45 1. Sexual abuse of a minor.

- 1 2. Sexual abuse of a vulnerable adult.
- 2 3. Incest.
- 3 4. First or second degree murder.
- 4 5. Sexual assault.
- 5 6. Sexual exploitation of a minor.
- 6 7. Sexual exploitation of a vulnerable adult.
- 7 8. Commercial sexual exploitation of a minor.
- 8 9. Commercial sexual exploitation of a vulnerable adult.
- 9 10. Child prostitution as prescribed in section 13-3212.
- 10 11. Child abuse.
- 11 12. Abuse of a vulnerable adult.
- 12 13. Sexual conduct with a minor.
- 13 14. Molestation of a child.
- 14 15. Molestation of a vulnerable adult.
- 15 16. A dangerous crime against children as defined in section 13-604.01.
- 16 17. Exploitation of minors involving drug offenses.
- 17 18. Taking a child for the purposes of prostitution as prescribed in
18 section 13-3206.
- 19 19. Neglect or abuse of a vulnerable adult.
- 20 20. SEX TRAFFICKING.
- 21 21. SEXUAL ABUSE.
- 22 22. PRODUCTION, PUBLICATION, SALE, POSSESSION AND PRESENTATION OF
23 OBSCENE ITEMS.
- 24 23. FURNISHING HARMFUL ITEMS TO MINORS.
- 25 24. FURNISHING HARMFUL ITEMS TO MINORS BY INTERNET ACTIVITY.
- 26 25. OBSCENE OR INDECENT TELEPHONE COMMUNICATIONS TO MINORS FOR
27 COMMERCIAL PURPOSES.
- 28 26. LURING A MINOR FOR SEXUAL EXPLOITATION.
- 29 C. A person who is awaiting trial on or who has been convicted of
30 committing or attempting, SOLICITING, FACILITATING or conspiring to commit
31 one or more of the following offenses in this state or the same or similar
32 offenses in another state or jurisdiction is precluded from receiving a
33 fingerprint clearance card, except that the person may petition the board of
34 fingerprinting for a good cause exception pursuant to section 41-619.55:
 - 35 1. Manslaughter.
 - 36 2. Endangerment.
 - 37 3. Threatening or intimidating.
 - 38 4. Assault.
 - 39 5. Unlawfully administering intoxicating liquors, narcotic drugs or
40 dangerous drugs.
 - 41 6. Assault by vicious animals.
 - 42 7. Drive by shooting.
 - 43 8. Assaults on officers or fire fighters.
 - 44 9. Discharging a firearm at a structure.
 - 45 10. Indecent exposure.

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

- 1 47. Manufacture or distribution of an imitation prescription-only drug.
- 2 48. Manufacture or distribution of an imitation over-the-counter drug.
- 3 49. Possession or possession with intent to use an imitation controlled
- 4 substance.
- 5 50. Possession or possession with intent to use an imitation
- 6 prescription-only drug.
- 7 51. Possession or possession with intent to use an imitation
- 8 over-the-counter drug.
- 9 52. Manufacture of certain substances and drugs by certain means.
- 10 53. Adding poison or other harmful substance to food, drink or
- 11 medicine.
- 12 54. A criminal offense involving criminal trespass and burglary under
- 13 title 13, chapter 15.
- 14 55. A criminal offense involving organized crime and fraud under title
- 15 13, chapter 23.
- 16 56. Child neglect.
- 17 57. Misdemeanor offenses involving contributing to the delinquency of a
- 18 minor.
- 19 58. Offenses involving domestic violence.
- 20 59. Arson.
- 21 60. Kidnapping.
- 22 61. Felony offenses involving sale, distribution or transportation of,
- 23 offer to sell, transport or distribute or conspiracy to sell, transport or
- 24 distribute marijuana, dangerous drugs or narcotic drugs.
- 25 62. Robbery.
- 26 63. Aggravated assault.
- 27 64. Felony offenses involving contributing to the delinquency of a
- 28 minor.
- 29 65. NEGLIGENT HOMICIDE.
- 30 66. CRIMINAL DAMAGE.
- 31 67. MISAPPROPRIATION OF CHARTER SCHOOL MONIES.
- 32 68. TAKING IDENTITY OF ANOTHER PERSON OR ENTITY.
- 33 69. AGGRAVATED TAKING IDENTIFY OF ANOTHER PERSON OR ENTITY.
- 34 70. TRAFFICKING IN THE IDENTITY OF ANOTHER PERSON OR ENTITY.
- 35 71. CRUELTY TO ANIMALS.
- 36 72. PROSTITUTION.
- 37 73. SALE OR DISTRIBUTION OF MATERIAL HARMFUL TO MINORS THROUGH VENDING
- 38 MACHINES.
- 39 74. PORTRAYING ADULT AS MINOR.
- 40 75. ADMITTING MINORS TO PUBLIC DISPLAYS OF SEXUAL CONDUCT.
- 41 76. WELFARE FRAUD.
- 42 D. A person who is awaiting trial on or who has been convicted of
- 43 committing or attempting or conspiring to commit a violation of section
- 44 28-1381, 28-1382 or 28-1383 in this state or the same or similar offense in
- 45 another state or jurisdiction within five years from the date of applying for

1 a fingerprint clearance card is precluded from driving any vehicle to
2 transport employees or clients of the employing agency as part of the
3 person's employment. The division shall place a notation on the fingerprint
4 clearance card that indicates this driving restriction. This subsection does
5 not preclude a person from driving a vehicle alone as part of the person's
6 employment.

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

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

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

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

25 2. The board granted a good cause exception and no new precluding
26 offense is identified. The fingerprint clearance card shall specify the
27 programs for which the board granted the good cause exception.

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

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

36 J. The division may conduct periodic state criminal history records
37 checks for the purpose of updating the clearance status of current
38 fingerprint clearance card holders and may notify the board of fingerprinting
39 and the agency employing the person of the results of the records check.

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

43 L. The division shall not issue a fingerprint clearance card to a
44 person if the division cannot determine, within thirty business days after
45 receipt of the person's state and federal criminal history record

1 information, whether the person is awaiting trial on or has been convicted of
2 committing any of the offenses listed in subsection B or C of this section.
3 If the division is unable to make the determination required by this section
4 and does not issue a fingerprint clearance card to a person, the person may
5 request a good cause exception pursuant to section 41-619.55.

6 M. If after conducting a state and federal criminal history record
7 check the division determines that it is not authorized to issue a
8 fingerprint clearance card to a person, the division shall notify the agency
9 that licenses or employs the person that the division is not authorized to
10 issue a fingerprint clearance card. This notice shall include the criminal
11 history information on which the denial was based. This criminal history
12 information is subject to dissemination restrictions pursuant to section
13 41-1750 and Public Law 92-544.

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

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

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

21 0. The issuance of a fingerprint clearance card does not entitle a
22 person to employment.