

REFERENCE TITLE: board of fingerprinting; fingerprinting requirements

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

## **SB 1069**

Introduced by  
Senator Gray C

AN ACT

AMENDING SECTIONS 41-619.52, 41-619.53, 41-619.55 AND 41-1758.01, ARIZONA  
REVISED STATUTES; RELATING TO THE BOARD OF FINGERPRINTING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-619.52, Arizona Revised Statutes, is amended to  
3 read:

4 41-619.52. Board of fingerprinting; organization; meetings

5 A. The board of fingerprinting is established consisting of the  
6 following members:

7 1. A representative of the supreme court who is appointed by the chief  
8 justice of the supreme court.

9 2. A representative of the department of economic security who is  
10 appointed by the director of the department of economic security.

11 3. A representative of the department of education who is appointed by  
12 the superintendent of public instruction.

13 4. A representative of the department of health services who is  
14 appointed by the director of the department of health services.

15 5. A representative of the department of juvenile corrections who is  
16 appointed by the director of the department of juvenile corrections.

17 B. At its initial meeting and annually thereafter, the board shall  
18 elect a chairperson and vice-chairperson from among its members and any other  
19 officers that are deemed necessary or advisable.

20 C. The board shall meet at least once each calendar quarter and  
21 additionally as the chairperson deems necessary. A majority of the members  
22 constitutes a quorum for the transaction of business.

23 D. Board members:

24 1. Serve at the pleasure of the appointing authority.

25 2. Are not eligible for compensation but are eligible for  
26 reimbursement of expenses pursuant to title 38, chapter 4, article 2.

27 E. BEFORE A PERSON IS ELIGIBLE TO SERVE ON THE BOARD, THE PERSON SHALL  
28 SUBMIT AN IDENTITY VERIFIED FINGERPRINT CARD TO THE DEPARTMENT OF PUBLIC  
29 SAFETY FOR THE PURPOSE OF OBTAINING A FINGERPRINT CLEARANCE CARD PURSUANT TO  
30 CHAPTER 12, ARTICLE 3.1 OF THIS TITLE AND SHALL OBTAIN A FINGERPRINT  
31 CLEARANCE CARD PURSUANT TO CHAPTER 12, ARTICLE 3.1 OF THIS TITLE.

32 ~~E.~~ F. The chief justice, the superintendent of public instruction or  
33 a department director may designate an alternate member to represent a member  
34 who is appointed pursuant to subsection A by the chief justice, the  
35 superintendent of public instruction or a department director, respectively.

36 Sec. 2. Section 41-619.53, Arizona Revised Statutes, is amended to  
37 read:

38 41-619.53. Board of fingerprinting; powers and duties;  
39 personnel; liability

40 A. The board of fingerprinting shall:

41 1. Determine good cause exceptions pursuant to section 41-619.55. The  
42 board may appoint a hearing officer to determine good cause exceptions.

43 2. Adopt rules to implement this article, including rules to establish  
44 good cause exceptions for the issuance of fingerprint clearance cards

1 pursuant to section 41-1758.03. This rule making is exempt from the  
2 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 or its hearing officer grants a good cause exception,  
10 the board shall request in writing that the department of public safety issue  
11 a card to the applicant. If the board grants a good cause exception, the  
12 board's decision must be unanimous.

13 C. The board may employ clerical, professional and technical personnel  
14 subject to fee monies that are collected and to the budget that is approved  
15 by the board members and shall prescribe personnel duties and determine  
16 personnel compensation.

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

20 E. BEFORE BEGINNING EMPLOYMENT, EMPLOYEES OF THE BOARD SHALL SUBMIT AN  
21 IDENTITY VERIFIED FINGERPRINT CARD TO THE DEPARTMENT OF PUBLIC SAFETY FOR THE  
22 PURPOSE OF OBTAINING A FINGERPRINT CLEARANCE CARD PURSUANT TO CHAPTER 12,  
23 ARTICLE 3.1 OF THIS TITLE AND SHALL OBTAIN A FINGERPRINT CLEARANCE CARD  
24 PURSUANT TO CHAPTER 12, ARTICLE 3.1 OF THIS TITLE.

25 Sec. 3. Section 41-619.55, Arizona Revised Statutes, is amended to  
26 read:

27 41-619.55. Good cause exceptions: expedited review: hearing:  
28 revocation

29 A. The board or its hearing officer shall determine good cause  
30 exceptions. The board or its hearing officer shall determine a good cause  
31 exception after an expedited review or after a good cause exception hearing.  
32 The board or its hearing officer shall conduct an expedited review within  
33 twenty days after receiving an application for a good cause exception.

34 B. Within forty-five days after conducting an expedited review, the  
35 board or its hearing officer shall hold a good cause exception hearing if the  
36 board or its hearing officer determines that the applicant does not qualify  
37 for a good cause exception under an expedited review but is qualified to  
38 apply for a good cause exception and the applicant submits an application for  
39 a good cause exception within the time limits prescribed by rule.

40 C. When determining whether a person is eligible to receive a good  
41 cause exception under an expedited review, the board or its hearing officer  
42 shall consider whether the person has shown to the board's or its hearing  
43 officer's satisfaction that the person is not awaiting trial on or has not  
44 been convicted of committing any of the offenses listed in section  
45 41-1758.03, subsection B or that the person is successfully rehabilitated and

1 is not a recidivist. Before granting a good cause exception under an  
2 expedited review, the board or its hearing officer shall consider all of the  
3 criteria listed in subsection E of this section.

4 D. The following persons shall be present during good cause exception  
5 hearings:

6 1. The board or its hearing officer.

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

9 E. The board or its hearing officer may grant a good cause exception  
10 at a hearing if the person shows to the board's or its hearing officer's  
11 satisfaction that the person is not awaiting trial on or has not been  
12 convicted of committing any of the offenses listed in section 41-1758.03,  
13 subsection B or that the person is successfully rehabilitated and is not a  
14 recidivist. The board or its hearing officer shall grant or deny a good  
15 cause exception within eighty days after the good cause exception hearing.  
16 Before granting a good cause exception at a hearing the board or its hearing  
17 officer shall consider all of the following in accordance with board rule:

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

19 2. The length of time that has elapsed since the offense was  
20 committed.

21 3. The nature of the offense.

22 4. Any applicable mitigating circumstances.

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

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

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

26 (b) Whether the person paid restitution or other compensation for the  
27 offense.

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

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

31 F. If the board or its hearing officer grants a good cause exception  
32 to a person, the board shall request in writing that the department of public  
33 safety issue a fingerprint clearance card to the person.

34 G. The board's staff, under the direction of the executive director of  
35 the board, shall review reports it receives of the arrest, charging or  
36 conviction of a person for offenses listed in section 41-1758.03 who  
37 previously received a fingerprint clearance card. Except as provided by  
38 subsection J of this section, the executive director shall report any arrest,  
39 charge or conviction of a prohibited crime to the state agencies listed on  
40 the applicant's fingerprint clearance card application.

41 H. The board may request in writing that the department of public  
42 safety revoke a person's fingerprint clearance card pursuant to section  
43 41-1758.04 if the person received a fingerprint clearance card and the person  
44 is subsequently convicted of an offense listed in section 41-1758.03,  
45 subsection B or C.

1 I. Pending the outcome of a good cause exception determination, the  
2 board or its hearing officer may issue interim approval in accordance with  
3 board rule to continue working to a good cause exception applicant.

4 J. If the board's staff, under the direction of the executive  
5 director, receives a report of an arrest, charging or conviction of a  
6 prohibited crime for a person who previously received a fingerprint clearance  
7 card pursuant to section 15-1881, the executive director shall not report  
8 this information to the state agency that is listed on the applicant's  
9 fingerprint clearance card application but shall notify the person issued the  
10 fingerprint clearance card of the report.

11 K. The board is exempt from title 41, chapter 6, article 10.

12 L. A PERSON WHO IS REQUIRED TO OBTAIN A FINGERPRINT CLEARANCE CARD  
13 PURSUANT TO SECTION 41-619.52 OR 41-619.53 IS NOT ELIGIBLE TO RECEIVE A GOOD  
14 CAUSE EXCEPTION PURSUANT TO THIS SECTION.

15 Sec. 4. Section 41-1758.01, Arizona Revised Statutes, is amended to  
16 read:

17 41-1758.01. Fingerprinting division; duties

18 The fingerprinting division is established in the department of public  
19 safety and shall:

20 1. Conduct fingerprint background checks for persons and applicants  
21 who are seeking employment with licensees, contract providers and state  
22 agencies or seeking employment or educational opportunities with agencies  
23 that require fingerprint background checks pursuant to sections 8-105, 8-322,  
24 8-509, 8-802, 15-183, 15-534, 15-1330, 15-1881, 26-102, 36-411, 36-425.03,  
25 36-446.04, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03,  
26 36-3008, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 and  
27 41-2814, section 46-141, subsection A and section 46-321.

28 2. Issue fingerprint clearance cards. On issuance, a fingerprint  
29 clearance card becomes the personal property of the cardholder and the  
30 cardholder shall retain possession of the fingerprint clearance card.

31 3. On submission of an application for a fingerprint clearance card,  
32 collect the fees established by the board of fingerprinting pursuant to  
33 section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the  
34 monies collected in the board of fingerprinting fund.

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

38 5. Administer and enforce this article.

39 Sec. 5. Applicability

40 Within ninety days after the effective date of this act, current  
41 members of the board of fingerprinting and current employees of the board of  
42 fingerprinting must comply with sections 41-619.52 and 41-619.53, Arizona  
43 Revised Statutes, as amended by this act.