Minutes of Public Meeting
ARIZONA BOARD OF FINGERPRINTING
August 30, 2000

The Arizona Board of Fingerprinting held it's meeting at the Department of Economic Security, 4th Floor, 1789 W. Jefferson, Phoenix, Arizona. The meeting began at approximately 9:16 a.m.

MEMBERS PRESENT

Mike LeHew
Corinne Velasquez
Cheryl Rowley
Kim Pipersburgh

MEMBERS ABSENT

AOC Representative

CALL TO ORDER

ROLL CALL

GENERAL SESSION

CONSIDERATION OF MODIFICATIONS TO PROCEDURES IMPLEMENTING LEGISLATION EFFECTIVE JULY 18, 2000.

MOTION

Mr. LeHew introduced the item. After discussion of and modification to the proposed guidelines submitted by DHS, Ms. Velasquez made the motion to have the Director develop a "How to Appeal" information sheet including the guidelines for obtaining an interim work permit. (See attached.) The guidelines for approving via the "consent agenda" would be the same as those for an interim work permit with the following exceptions. Three letters of reference would be required for an expedited approval, while only a notarized letter of recommendation from the employer would be required for the interim work permit. An interim work permit would also require a positive recommendation from the agency representative on the Board. The Motion carried 4-0 (No AOC Representative appointed or present.)

CALL TO THE PUBLIC

No members of the public were present at this meeting.

ADJOURNMENT

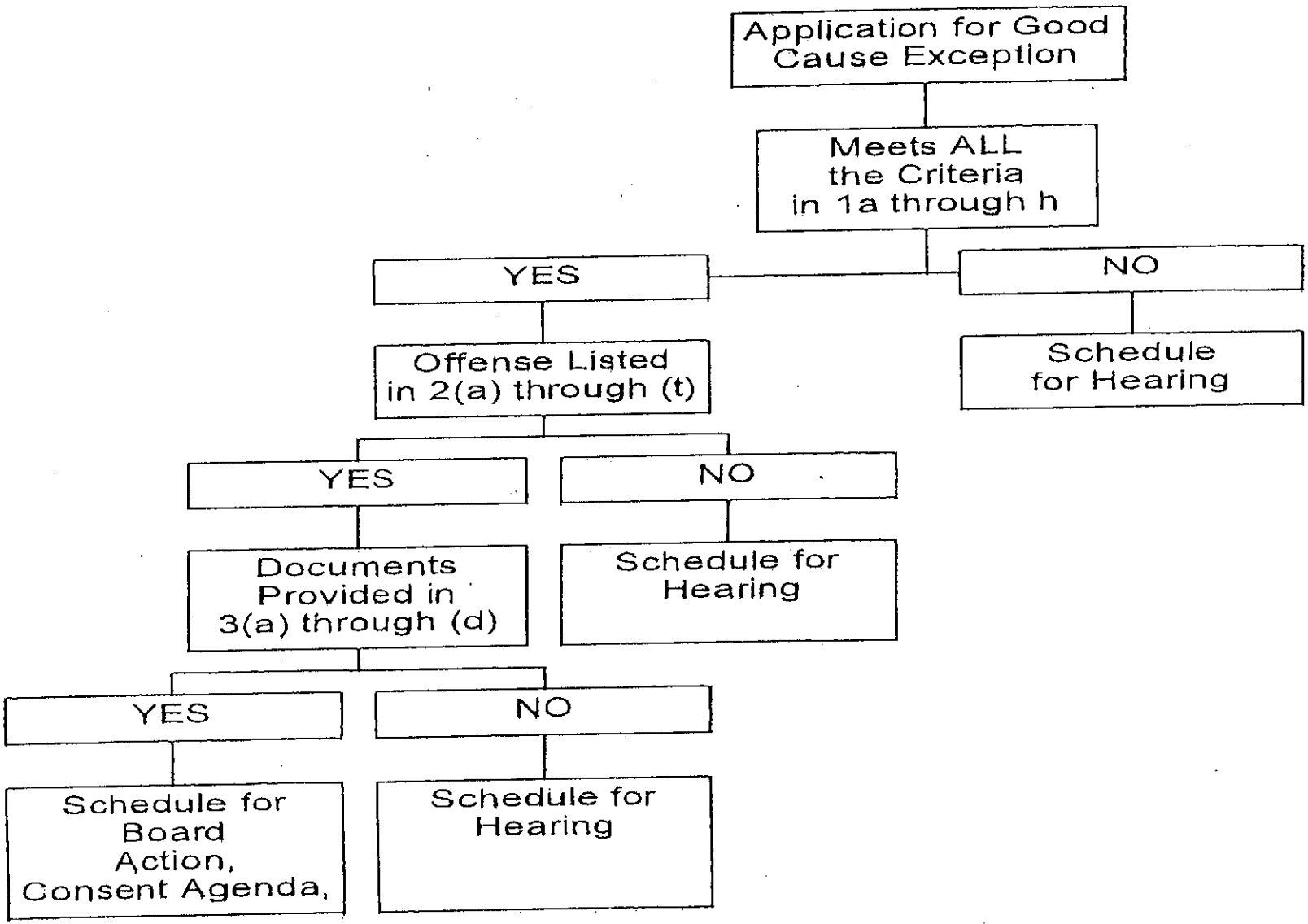
Mr. Lehew adjourned the meeting at approximately 9:47 a.m.

Approved by the Board on the 21 **day of** December, **2000.**

Chair

AUG-18-00 FRI 05:28 PM 0

Interim Work Permits and Expedited Consideration



FAX NO. 6025423046 P.02

State Board of Fingerprinting

Interim Work Permits and Expedited Consideration

1. Criteria (must meet all criteria listed):

   a. Single arrest and/or conviction;

   b. Single arrest and/or conviction is at least 3 years old;

   c. Multiple arrests or convictions, with the last offense at least 5 years old (multiple arrests or convictions cannot be for the same offense);

   d. Multiple arrests or convictions for the same offense, with the last offense at least 10 years old;

   e. Applicant is not awaiting trial;

   f. Applicant has met all terms and conditions imposed by the court, including completion of probation, payment of fines, completion of community service hours, completion of required counseling, etc.;

   g. Applicant did not misrepresent criminal history on any form required either by the Board of Fingerprinting or the employing agency; and

   h. Arrest or conviction did not involve physical violence, bodily harm or use of a weapon.

2. **Offenses** (only the following offenses will be considered for interim work permits or expedited consideration by the Board):

   a. Domestic Violence

   b. DUI or DWI

   c. Theft

   d. Fraud or Fraudulent Schemes

   e. Trespassing

   f. False Statements

   g. Bad Checks/Insufficient Funds

h. Unlawful Rental Return

i. Aggravated Criminal Damage

j. Criminal Damage

k. Assault

l. Endangerment

m. Threatening Intimidating

n. Assault by Vicious Animal

o. Shoplifting

p. Unlawful Use of Transportation

q. Obtaining a Signature by Deception

r. Burglary

s. Possession of Marijuana

t. Assault on a Police Officer

3. **Documentation Required:**

a. Application for Good Cause Exception;

b. Evidence that applicant met all requirements imposed by the court (if applicable);

c. Personal account of the incident; and

d. Criminal History Affidavit (if applicable).

4. **General Administrative Guidelines:**

a. Expedited Consideration

(1) Applicant is not required to be present.

(2) Board has the option to approve, schedule for hearing or approve with conditions.

(3) Board may include on a "Consent Agenda", allowing for action to be taken on multiple cases with one motion and vote.

(4) Board may consider at a regular meeting or via meeting by teleconference.

(5) Applicant shall be notified by letter of the date, time and location of the meeting, and informed that they are not required to attend.

(6) Board will not hear from applicant, take testimony, receive evidence or hear from witnesses.

(7) Board may approve only the classification of card requested by the applicant. All deviations from the applicant's request must be decided after a hearing has been held.

(8) Board of Fingerprinting Director has the discretion to refer any request for a good cause exception to the Board for hearing.

b. Interim Work Permits (in addition to 4.a.(1) through (8) above)

(1) Requires a request from the employing agency.

(2) Requires a positive recommendation from the agency representative on the Board.

HOW TO APPEAL FOR A GOOD CAUSE EXCEPTION

If you have been denied a fingerprint clearance from the Department of Public Safety, you may be eligible for a good cause exception. Please complete the application form and provide all the requested documentation.

It is important that you indicate which type of fingerprint clearance you are requesting. If your employer requires a fingerprint clearance card, you must indicate whether you are appealing for a Class One or Class Two card. Most agencies require *at least* a Class Two fingerprint clearance card. However, if you will be working for an agency that has a contract with the Department of Economic Security – Division of Developmental Disabilities or are applying to be a surrogate parent under the Department of Education, you will need a Class One card. If you work in a residential care institution, nursing care facility, or home healthy agency contracted through the Department of Health Services (Vulnerable Adults), you are required to have a letter of Approval.

You will be required to provide three letters of reference. Letters of reference do not need to be notarized. Nevertheless, it is in *your* best interests to obtain quality references from friends, neighbors, co-workers, and/or employers that attest to your successful rehabilitation or positive change in lifestyle.

GUIDELINES FOR OBTAINING AN INTERIM WORK PERMIT

An applicant for a good cause exception may be eligible for an **interim work permit** to continue working while awaiting a decision from the Board. The work permit will be valid for up to sixty days and will allow the applicant to work for the agency indicated on their fingerprint clearance card application. An applicant must meet all of the criteria listed below to be eligible.

1. Must complete the Board of Fingerprinting application for good cause exception and provide all

ARIZONA BOARD OF FINGERPRINTING

Mail Code 2500 P.O. Box 6638 Phoenix, AZ 85005-6638
Telephone: (602) 223-2800 Fax: (602) 223-2947

GENERAL GUIDELINES FOR APPROVING INTERIM WORK PERMITS

The Applicant:

1. Must complete the Board of Fingerprinting Application for Good Cause Exception and provide all requested documentation when possible.

2. Cannot be awaiting trial.

3. Must have met all of the requirements of the court such as completion of probation, payment of fine, attendance at counseling, et cetera.

4. Must show evidence of successful rehabilitation and/or positive life change.

5. May have a single isolated incident on his/her criminal record that occurred three or more years from the appeal application date.

6. May have multiple offenses (or any involvement with law enforcement) on his/her criminal record but the latest incident must have occurred five or more years from the appeal application date.

7. Must make a good faith effort to comply with the Board requirements. Lack of disposition information, uncooperativeness, or insufficient documentation may result in denial of the interim work permit, and require the applicant to appear in person before the Board for a good cause exception hearing.

8. Whose criminal record indicates any offense involving physical violence, verbal threats, or intimidation with an object will be held to a higher standard.

9. Must provide a notarized recommendation from an authorized representative on the letterhead of the provider agency or district for which the applicant wishes to work.

The Interim Work Permit will be valid for up to sixty days.

ARIZONA BOARD OF FINGERPRINTING

Mail Code 2500
P. O. Box 6638
Phoenix, AZ 85005-6638

(602) 223-2800 telephone (602) 223-2947 fax

FAX COVER SHEET

DATE: 8/1/00

TO: Julie - AZ Senate
602 (542 - 7833

FROM: Sally Lovland

As requested, I am enclosing a copy of the general guidelines for obtaining an interim work permit.

If you have any questions, please call me @ 602 223-2809

Number of Pages Including Coversheet 2

Arizona Department of Health Services

Division of Assurance and Licensure Services
Office of Assistant Director
1647 East Morten Avenue, Suite 220
Phoenix, Arizona 85020-4610
(602) 674-4200
(602) 861-0645 FAX

JANE DEE HULL, GOVERNOR
CATHERINE R. EDEN, DIRECTOR

MEMO

TO: All Providers

FROM: Mary Wiley, Assistant Director

DATE: July 10, 2000

RE: Changes in Fingerprint Regulations due to Senate Bills 1263 and 1407

Enclosed is information regarding changes in the fingerprinting regulations due to the State Legislature's passage of Senate Bills 1263 and 1407. These changes will take effect on July 18, 2000. Changes have occurred for the employers of vulnerable adult workers, child care workers, and juvenile behavior health workers.

The Department of Health Services, (DHS), Department of Public Safety (DPS), and the Board of Fingerprinting are working collaboratively to assure a smooth transition to these new regulations. Provider meetings will be held on the following dates to answer any questions providers may have regarding the changes.

Location	Date	Time	Comments
1647 E Morten Phoenix, AZ	July 18	3:00 - 4:30 p.m.	LIVE
400 W. Congress Tucson, AZ	July 18	3:00 - 4:30 p.m.	Teleconferencing
2519 E. 7th Flagstaff, AZ	JULY 18	3:00 - 4:30 p.m.	Teleconferencing

Representatives from the DHS, DPS, and the Fingerprint Board will be available at these meetings.

If you are unable to attend these meetings but have questions, please refer your questions to:

Department of Health Services	Rose Conner	602-674 4200
Department of Public Safety	Mike Timmerman	602-223-2639
Board of Fingerprinting	Sally Loveland	602-223-2800

MW:RC:mm F:fngrprnt MWpvdr6.wpd

CHANGES AFFECTING
FINGERPRINTING OF PERSONNEL IN:

*** CHILDREN'S BEHAVIORAL HEALTH PROGRAMS,**
*** CHILD CARE FACILITIES,**
*** CHILD CARE GROUP HOMES, and**
*** SHELTERS FOR VICTIMS OF DOMESTIC VIOLENCE**

Changes to fingerprinting requirements as a result of new 2000 laws, Chapter 251 (SB 1407)

1. Affidavit: Requires that children's behavioral health program personnel certify, on forms provided by the Department (DPS), and notarize that they are not awaiting trial on or have ever been convicted of or admitted in open court or pursuant to a plea agreement to committing any of the list of prescribed crimes in this state or similar offenses in another state or jurisdiction.

   Children's Behavioral Health Programs: A.R.S. § 36-425.03(D)
   Child Care Facilities: A.R.S. § 36-883.02(D)
   Child Care Group Homes: A.R.S. § 36-897.01(J)
   Shelters for Victims of Domestic Violence: A.R.S. § 36-3008(B)

2. The Department of Health Services shall no longer register applicants to work in children's behavioral health programs, child care facilities, or child care group homes.

   Children's Behavioral Health Programs: Section 5 of the bill repealed the previous fingerprinting statutes (36-425.03) that contained registry requirements, new language does not contain a registry requirement.
   Child Care Facilities: Removed language in A.R.S. § 36-883.02(A) that contained registry requirements.
   Child Care Group Homes: Removed language in A.R.S. § 36-897.03(A) and (B) that contained registry requirement. However the last sentence in 36-897.01(J) appears to still make reference to the registration requirement - this appears to be a technical oversight.

3. Volunteers must be fingerprinted.

   Children's Behavioral Health Programs: Contained in the definition of "children's behavioral health program personnel" in A.R.S. § 36-425.03(K)(2)
   Child Care Facilities: A.R.S. § 36-883.02(A)
   Child Care Group Homes: A.R.S. § 36-897.03(A)
   Shelters for Victims of Domestic Violence: A.R.S. § 36-3008(A)

4. Documented good faith efforts to contact previous employers and check references.

   Children's Behavioral Health Programs: A.R.S. § 36-425.03(F)
   Child Care Facilities: A.R.S. § 36-883.02(E)
   Child Care Group Homes: A.R.S. § 36-897.03(C)
   Shelters for Victims of Domestic Violence: A.R.S. § 36-3008(D)

5. Good Cause Exception. An individual may work if they receive a fingerprint clearance card pursuant to Title 41, Chapter 12, Article 3.1.

   Children's Behavioral Health Programs: A.R.S. § 36-425.03(H) - identifies which crimes are eligible for Good Cause Exception.
   Child Care Facilities: A.R.S. § 36-883.02(H) - identifies which crimes are eligible for Good Cause Exception.
   Child Care Group Homes: A.R.S. § 36-897.03(G) - identifies which crimes are eligible for Good Cause Exception.

6. A person awaiting trial on or who has been convicted of or admitted in open court, as a result of a plea agreement to committing certain offenses is prohibited from working in any capacity that requires or allows contact with children.
   Children's Behavioral Health Programs: A.R.S. § 36-425.03(D)G
   Child Care Facilities: A.R.S. § 36-883.02(G)
   Child Care Group Homes: A.R.S. § 36-897.03(F)

7. If an employer receives credible evidence that an employee was charged with a proscribed crime or falsified information on the affidavit, the employer shall notify the DPS.

   Children's Behavioral Health Programs: A.R.S. § 36-425.03(J)
   Child Care Facilities: A.R.S. § 36-883.02(I)
   Child Care Group Homes: A.R.S. §§ 36-897.01(J) and 36-897.03(H)
   Shelters for Victims of Domestic Violence: A.R.S. § 36-3008(E)

IMPORTANT CHANGES
TO
FINGERPRINTING REQUIREMENTS
DUE TO
SENATE BILLS 1263 AND 1407

VULNERABLE ADULT CARE WORKERS

1. Criminal history affidavits provided by DPS must be completed by all applicants at the time of hire. The completed notarized affidavit/application form, completed fingerprint card and the FBI fee must be submitted to DPS within twenty days after the date the person begins work. A copy of the criminal history affidavit is to be kept by the employer and made available to the Department of Health Services upon request. (A.R.S.36-411 (A) (D) and (E)).

2. If an applicant indicates that he has been convicted of, or is awaiting trial for any crimes listed on the criminal history affidavit, or the applicant receives a denial to work based on fingerprint results, the applicant may not work providing direct care services unless he/she receives an Interim Work Permit, or a Good Cause Exception from the Board of Fingerprinting. Application for Interim Work Permits and application for Good Cause Exception Hearings will be available from the Arizona Board of Fingerprinting beginning July 18, 2000. (A.R.S. 36-411 (E)).

3. Volunteers who provide services under the direct visual supervision of previously screened owner or employee are exempt from the fingerprint requirements. (A.R.S. 36-411 (G)).

4. Applicants who have met the fingerprinting and criminal records check requirements and change jobs within two years after satisfying the requirements of the law are exempt from this law. (A.R.S. 36-411 (H).

5. An applicant may be eligible for Good Cause Exception upon request, if an applicant is awaiting trial on or has been convicted of the following crimes:

   arson
   contributing to the delinquency of a minor
   theft
   robbery
   domestic violence
   fraud or fraudulent schemes
   assault within the last five years from the date of submitting a full set of fingerprints to the department (DPS)
   possession or use of dangerous or narcotic drugs within the last five years from the date of submitting a full set of fingerprints to the department.

   (A.R.S.36-411 (I)).

QUESTIONS AND ANSWERS
REGARDING FINGERPRINTING
REGULATION CHANGES

Q. What legislation made changes to the fingerprinting requirements?
A. Senate Bill 1263 and Senate Bill 1407

Q Who is affected by the changes?
A. Senate Bill 1263 affects vulnerable adult workers.
Senate Bill 1407 affects child care workers, juvenile behavioral health workers. and vulnerable adult workers.

Q. What are the major changes made by Senate Bill 1263?
A. Senate Bill 1263 allows vulnerable adult workers who have been convicted of certain crimes to request a Good Cause Exception Hearing from the Board of Fingerprinting. If the Board of Fingerprinting approves a Good Cause Exception, DPS will issue a clearance to work and the applicant may work in a residential care institution, nursing care institution, home health agency, and provide direct care services, supportive services, and home health services. Employees who do not provide direct care services, supportive services, and home health services do not need to meet the fingerprint requirements. Employers should not submit fingerprints on individuals unless they provide direct care, supportive services or home health services. DPS has noted that many employers appear to be requiring all employees to submit fingerprints. If a person who does not fall under the category of employee to submit fingerprints, but submits fingerprints under Section 36-411, Administrative Law Judges have ruled that once DPS conducts the criminal records search that person must be treated under the provisions of Section 36-411.

Q. What are the major changes made by Senate Bill 1407?
A.
a) Eliminates the requirement for DHS to maintain a register of child care and juvenile behavioral health workers.
b) Requires volunteers working with juvenile behavioral health workers to be fingerprinted.
c) Requires employers to make good faith efforts to check references and to keep documentation of those efforts.
d) Allows the Board of Fingerprinting to issue interim work permits to applicants awaiting a Good Cause Exception Hearing.
e) Requires employers to notify DPS if they become aware of changes in an employee's criminal history such as a new conviction or knowledge that the employee is awaiting trial for a proscribed crime.
f) Requires the employer and Department of Health Services to notify the Department of Public Safety if the applicant falsified the criminal history affidavit at the time of application.

Q. When will these changes take effect?
A These changes will take effect July 18, 2000.

Q. If I am awaiting fingerprint results from DHS for fingerprints submitted before August 6, 1999, or for fingerprints submitted to DPS since August 6, 1999, what should I expect?

A. a) There are approximately 400 fingerprint applications submitted to DHS that are still being processed. Many of the fingerprints were rejected by the FBI and are in need of being reprocessed. DHS will contact the individual to provide further instructions regarding the need to submit new fingerprints and to provide information on the possibility of application for a Good Cause Exception.

b) Any applicants currently being processed by DPS that are eligible for Good Cause Exception, are being notified of their ability to request Good Cause Exception from the Board of Fingerprinting effective July 18. Applicants that had been denied by DPS since August 6, 1999, and upon re-application, would now be eligible to request a Good Cause Exception from the Board of Fingerprinting have been mailed a "Notice" informing them of this change. Until July 18, 2000, any denials made by DPS legally must follow the appeals process as set out in the current law. Beginning July 18, 2000, any denials made by DPS will follow the appeals process as outlined in the revisions to Section 36-411.

c) All future fingerprint applications will continue to be processed by DPS and all applicants who are denied, but eligible for Good Cause Exception, will be notified by DPS.

Q. Who can I call for further questions?
A. Please call the agency that is responsible for your individual fingerprint questions.

a) For vulnerable adult fingerprints submitted prior to Aug 6, 1999 .
Rose Conner (DHS) 602-674-4200

b) For Fingerprints submitted after August 6, 1999
Mike Timmerman (DPS) 602-223-2639

c) Good Cause Exception Hearing cases
Sally Loveland 602-223-2800
(Board of Fingerprinting)

d) For fingerprint clearance and applications submitted by August 16 to DPS
Jazell Michael (DPS) 602-223-2440
Renee Wilson (DPS) 602-223-2764

e) Pending hearings or information regarding Board of Fingerprinting
Sally Loveland 602-223-2800

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