

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SENATE BILL 1339

AN ACT

AMENDING SECTIONS 8-341, 13-904, 13-3101, 13-3113 AND 41-1750, ARIZONA
REVISED STATUTES; RELATING TO WEAPONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-341, Arizona Revised Statutes, is amended to
3 read:

4 8-341. Disposition and commitment; definitions

5 A. After receiving and considering the evidence on the proper
6 disposition of the case, the court may enter judgment as follows:

7 1. It may award a delinquent juvenile:

8 (a) To the care of the juvenile's parents, subject to supervision of a
9 probation department.

10 (b) To a probation department, subject to any conditions ~~as~~ the court
11 may impose, including a period of incarceration in a juvenile detention
12 center of not more than one year.

13 (c) To a reputable citizen of good moral character, subject to the
14 supervision of a probation department.

15 (d) To a private agency or institution, subject to the supervision of
16 a probation officer.

17 (e) To the department of juvenile corrections.

18 (f) To maternal or paternal relatives, subject to the supervision of a
19 probation department.

20 (g) To an appropriate official of a foreign country of which the
21 juvenile is a foreign national who is unaccompanied by a parent or guardian
22 in this state to remain on unsupervised probation for at least one year on
23 the condition that the juvenile cooperate with that official.

24 2. It may award an incorrigible child:

25 (a) To the care of the child's parents, subject to the supervision of
26 a probation department.

27 (b) To the protective supervision of a probation department, subject
28 to any conditions ~~as~~ the court may impose.

29 (c) To a reputable citizen of good moral character, subject to the
30 supervision of a probation department.

31 (d) To a public or private agency, subject to the supervision of a
32 probation department.

33 (e) To maternal or paternal relatives, subject to the supervision of a
34 probation department.

35 B. If a juvenile is placed on probation pursuant to this section, the
36 period of probation may continue until the juvenile's eighteenth birthday,
37 except that the term of probation shall not exceed one year if all of the
38 following apply:

39 1. The juvenile is not charged with a subsequent offense.

40 2. The juvenile has not been found in violation of a condition of
41 probation.

42 3. The court has not made a determination that it is in the best
43 interests of the juvenile or the public to require continued supervision.
44 The court shall state by minute entry or written order its reasons for
45 finding that continued supervision is required.

1 4. The offense for which the juvenile is placed on probation does not
2 involve the discharge, use or threatening exhibition of a deadly weapon or
3 dangerous instrument or the intentional or knowing infliction of serious
4 physical injury on another.

5 5. The offense for which the juvenile is placed on probation does not
6 involve a violation of title 13, chapter 14 or 35.1.

7 6. Restitution ordered pursuant to section 8-344 has been made.

8 C. If a juvenile is adjudicated as a first time felony juvenile
9 offender, the court shall provide the following written notice to the
10 juvenile:

11 You have been adjudicated a first time felony juvenile
12 offender. You are now on notice that if you are adjudicated of
13 another offense that would be a felony offense if committed by
14 an adult and if you commit the other offense when you are
15 fourteen years of age or older, you will be placed on juvenile
16 intensive probation, which may include home arrest and
17 electronic monitoring, or you may be placed on juvenile
18 intensive probation and may be incarcerated for a period of time
19 in a juvenile detention center, or you may be committed to the
20 department of juvenile corrections or you may be prosecuted as
21 an adult. If you are convicted as an adult of a felony offense
22 and you commit any other offense, you will be prosecuted as an
23 adult.

24 D. If a juvenile is fourteen years of age or older and is adjudicated
25 as a repeat felony juvenile offender, the juvenile court shall place the
26 juvenile on juvenile intensive probation, which may include home arrest and
27 electronic monitoring, may place the juvenile on juvenile intensive
28 probation, which may include incarceration for a period of time in a juvenile
29 detention center, or may commit the juvenile to the department of juvenile
30 corrections pursuant to subsection A, paragraph 1, subdivision (e) of this
31 section for a significant period of time.

32 E. If the juvenile is adjudicated as a repeat felony juvenile
33 offender, the court shall provide the following written notice to the
34 juvenile:

35 You have been adjudicated a repeat felony juvenile
36 offender. You are now on notice that if you are arrested for
37 another offense that would be a felony offense if committed by
38 an adult and if you commit the other offense when you are
39 fifteen years of age or older, you will be tried as an adult in
40 the criminal division of the superior court. If you commit the
41 other offense when you are fourteen years of age or older, you
42 may be tried as an adult in the criminal division of the
43 superior court. If you are convicted as an adult, you will be
44 sentenced to a term of incarceration. If you are convicted as
45 an adult of a felony offense and you commit any other offense,
46 you will be prosecuted as an adult.

1 F. The failure or inability of the court to provide the notices
2 required under subsections C and E of this section does not preclude the use
3 of the prior adjudications for any purpose otherwise permitted.

4 G. After considering the nature of the offense and the age, physical
5 and mental condition and earning capacity of the juvenile, the court shall
6 order the juvenile to pay a reasonable monetary assessment if the court
7 determines that an assessment is in aid of rehabilitation. If the director
8 of the department of juvenile corrections determines that enforcement of an
9 order for monetary assessment as a term and condition of conditional liberty
10 is not cost-effective, the director may require the youth to perform an
11 equivalent amount of community restitution in lieu of the payment ordered as
12 a condition of conditional liberty.

13 H. If a child is adjudicated incorrigible, the court may impose a
14 monetary assessment on the child of not more than one hundred fifty dollars.

15 I. A juvenile who is charged with unlawful purchase, possession or
16 consumption of spirituous liquor is subject to section 8-323. The monetary
17 assessment for a conviction of unlawful purchase, possession or consumption
18 of spirituous liquor by a juvenile shall not exceed five hundred dollars.
19 The court of competent jurisdiction may order a monetary assessment or
20 equivalent community restitution.

21 J. The court shall require the monetary assessment imposed under
22 subsection G or H of this section on a juvenile who is not committed to the
23 department of juvenile corrections to be satisfied in one or both of the
24 following forms:

25 1. Monetary reimbursement by the juvenile in a lump sum or installment
26 payments through the clerk of the superior court for appropriate
27 distribution.

28 2. A program of work, not in conflict with regular schooling, to
29 repair damage to the victim's property, to provide community restitution or
30 to provide the juvenile with a job for wages. The court order for
31 restitution or monetary assessment shall specify, according to the
32 dispositional program, the amount of reimbursement and the portion of wages
33 of either existing or provided work that is to be credited toward
34 satisfaction of the restitution or assessment, or the nature of the work to
35 be performed and the number of hours to be spent working. The number of
36 hours to be spent working shall be set by the court based on the severity of
37 the offense but shall not be less than sixteen hours.

38 K. If a juvenile is committed to the department of juvenile
39 corrections the court shall specify the amount of the assessment imposed
40 pursuant to subsection G or H of this section.

41 L. After considering the length of stay guidelines developed pursuant
42 to section 41-2816, subsection C, the court may set forth in the order of
43 commitment the minimum period during which the juvenile shall remain in
44 secure care while in the custody of the department of juvenile corrections.
45 When the court awards a juvenile to the department of juvenile corrections or
46 an institution or agency, it shall transmit with the order of commitment

1 copies of a diagnostic psychological evaluation and educational assessment if
2 one has been administered, copies of the case report, all other psychological
3 and medical reports, restitution orders, any request for postadjudication
4 notice that has been submitted by a victim and any other documents or records
5 pertaining to the case requested by the department of juvenile corrections or
6 an institution or agency. The department shall not release a juvenile from
7 secure care before the juvenile completes the length of stay determined by
8 the court in the commitment order unless the county attorney in the county
9 from which the juvenile was committed requests the committing court to reduce
10 the length of stay. The department may release the juvenile from secure care
11 without a further court order after the juvenile completes the length of stay
12 determined by the court or may retain the juvenile in secure care for any
13 period subsequent to the completion of the length of stay in accordance with
14 the law.

15 M. Written notice of the release of any juvenile pursuant to
16 subsection L of this section shall be made to any victim requesting notice,
17 the juvenile court that committed the juvenile and the county attorney of the
18 county from which the juvenile was committed.

19 N. Notwithstanding any law to the contrary, if a person is under the
20 supervision of the court as an adjudicated delinquent juvenile at the time
21 the person reaches eighteen years of age, treatment services may be provided
22 until the person reaches twenty-one years of age if the court, the person and
23 the state agree to the provision of the treatment and a motion to transfer
24 the person pursuant to section 8-327 has not been filed or has been
25 withdrawn. The court may terminate the provision of treatment services after
26 the person reaches eighteen years of age if the court determines that any of
27 the following applies:

- 28 1. The person is not progressing toward treatment goals.
- 29 2. The person terminates treatment.
- 30 3. The person commits a new offense after reaching eighteen years of
31 age.
- 32 4. Continued treatment is not required or is not in the best interests
33 of the state or the person.

34 O. On the request of a victim of an act that may have involved
35 significant exposure as defined in section 13-1415 or that if committed by an
36 adult would be a sexual offense, the prosecuting attorney shall petition the
37 adjudicating court to require that the juvenile be tested for the presence of
38 the human immunodeficiency virus. If the victim is a minor the prosecuting
39 attorney shall file this petition at the request of the victim's parent or
40 guardian. If the act committed against a victim is an act that if committed
41 by an adult would be a sexual offense or the court determines that sufficient
42 evidence exists to indicate that significant exposure occurred, it shall
43 order the department of juvenile corrections or the department of health
44 services to test the juvenile pursuant to section 13-1415. Notwithstanding
45 any law to the contrary, the department of juvenile corrections and the
46 department of health services shall release the test results only to the

1 victim, the delinquent juvenile, the delinquent juvenile's parent or guardian
2 and a minor victim's parent or guardian and shall counsel them regarding the
3 meaning and health implications of the results.

4 P. If a juvenile has been adjudicated delinquent for an offense that
5 if committed by an adult would be a felony, the court shall provide the
6 department of public safety Arizona automated fingerprint identification
7 system established in section 41-2411 with the juvenile's fingerprints,
8 personal identification data and other pertinent information. If a juvenile
9 has been committed to the department of juvenile corrections the department
10 shall provide the fingerprints and information required by this subsection to
11 the Arizona automated fingerprint identification system. If the juvenile's
12 fingerprints and information have been previously submitted to the Arizona
13 automated fingerprint identification system the information is not required
14 to be resubmitted.

15 Q. Access to fingerprint records submitted pursuant to subsection P of
16 this section shall be limited to the administration of criminal justice as
17 defined in section 41-1750. Dissemination of fingerprint information shall
18 be limited to the name of the juvenile, juvenile case number, date of
19 adjudication and court of adjudication.

20 R. IF A JUVENILE IS ADJUDICATED DELINQUENT FOR AN OFFENSE THAT IF
21 COMMITTED BY AN ADULT WOULD BE A MISDEMEANOR, THE COURT MAY PROHIBIT THE
22 JUVENILE FROM CARRYING OR POSSESSING A FIREARM WHILE THE JUVENILE IS UNDER
23 THE JURISDICTION OF THE DEPARTMENT OF JUVENILE CORRECTIONS OR THE JUVENILE
24 COURT.

25 ~~R.~~ S. For the purposes of this section:

26 1. "First time felony juvenile offender" means a juvenile who is
27 adjudicated delinquent for an offense that would be a felony offense if
28 committed by an adult.

29 2. "Repeat felony juvenile offender" means a juvenile to whom both of
30 the following apply:

31 (a) Is adjudicated delinquent for an offense that would be a felony
32 offense if committed by an adult.

33 (b) Previously has been adjudicated a first time felony juvenile
34 offender.

35 3. "Sexual offense" means oral sexual contact, sexual contact or
36 sexual intercourse as defined in section 13-1401.

37 Sec. 2. Section 13-904, Arizona Revised Statutes, is amended to read:

38 13-904. Suspension of civil rights and occupational
39 disabilities

40 A. A conviction for a felony suspends the following civil rights of
41 the person sentenced:

42 1. The right to vote.

43 2. The right to hold public office of trust or profit.

44 3. The right to serve as a juror.

45 4. During any period of imprisonment any other civil rights the
46 suspension of which is reasonably necessary for the security of the

1 institution in which the person sentenced is confined or for the reasonable
2 protection of the public.

3 5. The right to possess a gun or firearm.

4 B. Persons sentenced to imprisonment shall not thereby be rendered
5 incompetent as witnesses upon the trial of a criminal action or proceeding,
6 or incapable of making and acknowledging a sale or conveyance of property.

7 C. A person sentenced to imprisonment is under the protection of the
8 law, and any injury to his person, not authorized by law, is punishable in
9 the same manner as if such person was not convicted and sentenced.

10 D. The conviction of a person for any offense shall not work
11 forfeiture of any property, except if a forfeiture is expressly imposed by
12 law. All forfeitures to the state, unless expressly imposed by law, are
13 abolished.

14 E. A person shall not be disqualified from employment by this state or
15 any of its agencies or political subdivisions, nor shall a person whose civil
16 rights have been restored be disqualified to engage in any occupation for
17 which a license, permit or certificate is required to be issued by this state
18 solely because of a prior conviction for a felony or misdemeanor within or
19 without this state. A person may be denied employment by this state or any
20 of its agencies or political subdivisions or a person who has had his civil
21 rights restored may be denied a license, permit or certificate to engage in
22 an occupation by reason of the prior conviction of a felony or misdemeanor if
23 the offense has a reasonable relationship to the functions of the employment
24 or occupation for which the license, permit or certificate is sought.

25 F. Subsection E of this section is not applicable to any law
26 enforcement agency.

27 G. Any complaints concerning a violation of subsection E of this
28 section shall be adjudicated in accordance with the procedures set forth in
29 title 41, chapter 6 and title 12, chapter 7, article 6.

30 H. A person who is adjudicated delinquent under section 8-341 **FOR A**
31 **FELONY** does not have the right to carry or possess a gun or firearm.

32 Sec. 3. Section 13-3101, Arizona Revised Statutes, is amended to read:
33 **13-3101. Definitions**

34 A. In this chapter, unless the context otherwise requires:

35 1. "Deadly weapon" means anything that is designed for lethal
36 use. The term includes a firearm.

37 2. "Deface" means to remove, alter or destroy the manufacturer's
38 serial number.

39 3. "Explosive" means any dynamite, nitroglycerine, black powder or
40 other similar explosive material, including plastic explosives. Explosive
41 does not include ammunition or ammunition components such as primers,
42 percussion caps, smokeless powder, black powder and black powder substitutes
43 used for hand loading purposes.

44 4. "Firearm" means any loaded or unloaded handgun, pistol, revolver,
45 rifle, shotgun or other weapon that will expel, is designed to expel or may

1 readily be converted to expel a projectile by the action of an explosive.
2 Firearm does not include a firearm in permanently inoperable condition.

3 5. "Occupied structure" means any building, object, vehicle,
4 watercraft, aircraft or place with sides and a floor that is separately
5 securable from any other structure attached to it, that is used for lodging,
6 business, transportation, recreation or storage and in which one or more
7 human beings either ~~is~~ ARE or ~~is~~ ARE likely to be present or so near as to be
8 in equivalent danger at the time the discharge of a firearm occurs. Occupied
9 structure includes any dwelling house, whether occupied, unoccupied or
10 vacant.

11 6. "Prohibited possessor" means any person:

12 (a) Who has been found to constitute a danger to himself or to others
13 pursuant to court order under section 36-540, and whose court ordered
14 treatment has not been terminated by court order.

15 (b) Who has been convicted within or without this state of a felony or
16 who has been adjudicated delinquent FOR A FELONY and whose civil right to
17 possess or carry a gun or firearm has not been restored.

18 (c) Who is at the time of possession serving a term of imprisonment in
19 any correctional or detention facility.

20 (d) Who is at the time of possession serving a term of probation
21 pursuant to a conviction for a domestic violence offense as defined in
22 section 13-3601 or a felony offense, parole, community supervision, work
23 furlough, home arrest or release on any other basis or who is serving a term
24 of probation or parole pursuant to the interstate compact under title 31,
25 chapter 3, article 4.

26 (e) Who is a prohibited possessor under 18 United States Code SECTION
27 922(g)(5), except as provided by 18 United States Code SECTION 922(y).

28 7. "Prohibited weapon" means, but does not include fireworks imported,
29 distributed or used in compliance with state laws or local ordinances, any
30 propellant, propellant actuated devices or propellant actuated industrial
31 tools that are manufactured, imported or distributed for their intended
32 purposes or a device that is commercially manufactured primarily for the
33 purpose of illumination, including any of the following:

34 (a) Explosive, incendiary or poison gas:

35 (i) Bomb.

36 (ii) Grenade.

37 (iii) Rocket having a propellant charge of more than four ounces.

38 (iv) Mine.

39 (b) Device that is designed, made or adapted to muffle the report of a
40 firearm.

41 (c) Firearm that is capable of shooting more than one shot
42 automatically, without manual reloading, by a single function of the trigger.

43 (d) Rifle with a barrel length of less than sixteen inches, or shotgun
44 with a barrel length of less than eighteen inches, or any firearm that is
45 made from a rifle or shotgun and that, as modified, has an overall length of
46 less than twenty-six inches.

1 (e) Instrument, including a nunchaku, that consists of two or more
2 sticks, clubs, bars or rods to be used as handles, connected by a rope, cord,
3 wire or chain, in the design of a weapon used in connection with the practice
4 of a system of self-defense.

5 (f) Breakable container that contains a flammable liquid with a flash
6 point of one hundred fifty degrees Fahrenheit or less and that has a wick or
7 similar device capable of being ignited.

8 (g) Chemical or combination of chemicals, compounds or materials,
9 including dry ice, that ~~are~~ IS placed in a sealed or unsealed container for
10 the purpose of generating a gas to cause a mechanical failure, rupture or
11 bursting of the container.

12 (h) Combination of parts or materials that is designed and intended
13 for use in making or converting a device into an item set forth in
14 subdivision (a) or (f) of this paragraph.

15 B. The items set forth in subsection A, paragraph 7, subdivisions (a),
16 (b), (c) and (d) of this section do not include any firearms or devices that
17 are registered in the national firearms registry and transfer records of the
18 United States treasury department or any firearm that has been classified as
19 a curio or relic by the United States treasury department.

20 Sec. 4. Section 13-3113, Arizona Revised Statutes, is amended to read:

21 13-3113. Adjudicated delinquents; firearm possession;
22 violation; classification

23 A person who was previously adjudicated delinquent ~~FOR A FELONY~~ and who
24 possesses, uses or carries a firearm within ten years from the date of his
25 adjudication or his release or escape from custody is guilty of a class 5
26 felony for a first offense and a class 4 felony for a second or subsequent
27 offense if the person was previously adjudicated for an offense that if
28 committed as an adult would constitute:

- 29 1. Burglary in the first degree.
- 30 2. Burglary in the second degree.
- 31 3. Arson.

32 4. Any felony offense involving the use or threatening exhibition of a
33 deadly weapon or dangerous instrument.

34 5. A serious offense as defined in section 13-604.

35 Sec. 5. Section 41-1750, Arizona Revised Statutes, is amended to read:

36 41-1750. Central state repository; department of public safety;
37 duties; funds; accounts; definitions

38 A. Notwithstanding section 41-2205, the department is responsible for
39 the effective operation of the central state repository in order to collect,
40 store and disseminate complete and accurate Arizona criminal history records
41 and related criminal justice information. The department shall:

42 1. Procure from all criminal justice agencies in this state accurate
43 and complete personal identification data, fingerprints, charges, process
44 control numbers and dispositions and such other information as may be
45 pertinent to all persons who have been charged with, arrested for, convicted
46 of or summoned to court as a criminal defendant for a felony offense or an

1 offense involving domestic violence as defined in section 13-3601 or a
2 violation of title 13, chapter 14 or title 28, chapter 4.

3 2. Collect information concerning the number and nature of offenses
4 known to have been committed in this state and of the legal steps taken in
5 connection with these offenses, such other information that is useful in the
6 study of crime and in the administration of criminal justice and all other
7 information deemed necessary to operate the statewide uniform crime reporting
8 program and to cooperate with the federal government uniform crime reporting
9 program.

10 3. Collect information concerning criminal offenses that manifest
11 evidence of prejudice based on race, color, religion, national origin, sexual
12 orientation, gender or disability.

13 4. Cooperate with the central state repositories in other states and
14 with the appropriate agency of the federal government in the exchange of
15 information pertinent to violators of the law.

16 5. Ensure the rapid exchange of information concerning the commission
17 of crime and the detection of violators of the law among the criminal justice
18 agencies of other states and of the federal government.

19 6. Furnish assistance to peace officers throughout this state in crime
20 scene investigation for the detection of latent fingerprints and in the
21 comparison of latent fingerprints.

22 7. Conduct periodic operational audits of the central state repository
23 and of a representative sample of other agencies that contribute records to
24 or receive criminal justice information from the central state repository or
25 through the Arizona criminal justice information system.

26 8. Establish and enforce the necessary physical and system safeguards
27 to ensure that the criminal justice information maintained and disseminated
28 by the central state repository or through the Arizona criminal justice
29 information system is appropriately protected from unauthorized inquiry,
30 modification, destruction or dissemination as required by this section.

31 9. Aid and encourage coordination and cooperation among criminal
32 justice agencies through the statewide and interstate exchange of criminal
33 justice information.

34 10. Provide training and proficiency testing on the use of criminal
35 justice information to agencies receiving information from the central state
36 repository or through the Arizona criminal justice information system.

37 11. Operate and maintain the Arizona automated fingerprint
38 identification system established pursuant to section 41-2411.

39 12. Provide criminal history record information to the fingerprinting
40 division for the purpose of screening applicants for fingerprint clearance
41 cards.

42 B. The director may establish guidelines for the submission and
43 retention of criminal justice information as deemed useful for the study or
44 prevention of crime and for the administration of criminal justice.

45 C. The chief officers of criminal justice agencies of this state or
46 its political subdivisions shall provide to the central state repository

1 fingerprints and information concerning personal identification data,
2 descriptions, crimes for which persons are arrested, process control numbers
3 and dispositions and such other information as may be pertinent to all
4 persons who have been charged with, arrested for, convicted of or summoned to
5 court as criminal defendants for felony offenses or offenses involving
6 domestic violence as defined in section 13-3601 or violations of title 13,
7 chapter 14 or title 28, chapter 4 that have occurred in this state.

8 D. The chief officers of law enforcement agencies of this state or its
9 political subdivisions shall provide to the central state repository such
10 information as necessary to operate the statewide uniform crime reporting
11 program and to cooperate with the federal government uniform crime reporting
12 program.

13 E. The chief officers of criminal justice agencies of this state or
14 its political subdivisions shall comply with the training and proficiency
15 testing guidelines as required by the department to comply with the federal
16 national crime information center mandates.

17 F. The chief officers of criminal justice agencies of this state or
18 its political subdivisions also shall provide to the criminal identification
19 section information concerning crimes that manifest evidence of prejudice
20 based on race, color, religion, national origin, sexual orientation, gender
21 or disability.

22 G. The director shall authorize the exchange of criminal justice
23 information between the central state repository, or through the Arizona
24 criminal justice information system, whether directly or through any
25 intermediary, only as follows:

26 1. With criminal justice agencies of the federal government, Indian
27 tribes, this state or its political subdivisions and other states, on request
28 by the chief officers of such agencies or their designated representatives,
29 specifically for the purposes of the administration of criminal justice and
30 for evaluating the fitness of current and prospective criminal justice
31 employees.

32 2. With any noncriminal justice agency pursuant to a statute,
33 ordinance or executive order that specifically authorizes the noncriminal
34 justice agency to receive criminal history record information for the purpose
35 of evaluating the fitness of current or prospective licensees, employees,
36 contract employees or volunteers, on submission of the subject's fingerprints
37 and the prescribed fee. Each statute, ordinance, or executive order that
38 authorizes noncriminal justice agencies to receive criminal history record
39 information for these purposes shall identify the specific categories of
40 licensees, employees, contract employees or volunteers, and shall require
41 that fingerprints of the specified individuals be submitted in conjunction
42 with such requests for criminal history record information.

43 3. With the board of fingerprinting for the purpose of conducting good
44 cause exceptions pursuant to section 41-619.55.

45 4. With any individual for any lawful purpose on submission of the
46 subject of record's fingerprints and the prescribed fee.

1 5. With the governor, if the governor elects to become actively
2 involved in the investigation of criminal activity or the administration of
3 criminal justice in accordance with the governor's constitutional duty to
4 ensure that the laws are faithfully executed or as needed to carry out the
5 other responsibilities of the governor's office.

6 6. With regional computer centers that maintain authorized
7 computer-to-computer interfaces with the department, that are criminal
8 justice agencies or under the management control of a criminal justice agency
9 and that are established by a statute, ordinance or executive order to
10 provide automated data processing services to criminal justice agencies
11 specifically for the purposes of the administration of criminal justice or
12 evaluating the fitness of regional computer center employees who have access
13 to the Arizona criminal justice information system and the national crime
14 information center system.

15 7. With an individual who asserts a belief that criminal history
16 record information relating to the individual is maintained by an agency or
17 in an information system in this state that is subject to this section. On
18 submission of fingerprints, the individual may review this information for
19 the purpose of determining its accuracy and completeness by making
20 application to the agency operating the system. Rules adopted under this
21 section shall include provisions for administrative review and necessary
22 correction of any inaccurate or incomplete information. The review and
23 challenge process authorized by this paragraph is limited to criminal history
24 record information.

25 8. With individuals and agencies pursuant to a specific agreement with
26 a criminal justice agency to provide services required for the administration
27 of criminal justice pursuant to that agreement if the agreement specifically
28 authorizes access to data, limits the use of data to purposes for which given
29 and ensures the security and confidentiality of the data consistent with ~~the~~
30 ~~provisions of~~ this section.

31 9. With individuals and agencies for the express purpose of research,
32 evaluative or statistical activities pursuant to an agreement with a criminal
33 justice agency if the agreement specifically authorizes access to data,
34 limits the use of data to research, evaluative or statistical purposes and
35 ensures the confidentiality and security of the data consistent with this
36 section.

37 10. With the auditor general for audit purposes.

38 11. With central state repositories of other states for noncriminal
39 justice purposes for dissemination in accordance with the laws of those
40 states.

41 12. On submission of the fingerprint card, with the department of
42 economic security to provide criminal history record information on
43 prospective adoptive parents for the purpose of conducting the preadoption
44 certification investigation under title 8, chapter 1, article 1 if the
45 department of economic security is conducting the investigation, or with an
46 agency or a person appointed by the court, if the agency or person is

1 conducting the investigation. Information received under this paragraph
2 shall only be used for the purposes of the preadoption certification
3 investigation.

4 13. With the department of economic security and the superior court for
5 the purpose of evaluating the fitness of custodians or prospective custodians
6 of juveniles, including parents, relatives and prospective guardians.
7 Information received under this paragraph shall only be used for the purposes
8 of that evaluation. The information shall be provided on submission of
9 either:

10 (a) The fingerprint card.

11 (b) The name, date of birth and social security number of the person.

12 14. On submission of a fingerprint card, provide criminal history
13 record information to the superior court for the purpose of evaluating the
14 fitness of investigators appointed under section 14-5303 or 14-5407, or
15 guardians appointed under section 14-5206.

16 15. With the supreme court to provide criminal history record
17 information on prospective fiduciaries pursuant to section 14-5651.

18 16. With the department of juvenile corrections to provide criminal
19 history record information pursuant to section 41-2814.

20 17. On submission of the fingerprint card, provide criminal history
21 record information to the Arizona peace officer standards and training board
22 or a board certified law enforcement academy to evaluate the fitness of
23 prospective cadets.

24 18. With the internet sex offender web site database established
25 pursuant to section 13-3827.

26 19. With licensees of the United States nuclear regulatory commission
27 for the purpose of determining whether an individual should be granted
28 unescorted access to the protected area of a commercial nuclear generating
29 station on submission of the subject of record's fingerprints and the
30 prescribed fee.

31 20. With the state board of education for the purpose of evaluating the
32 fitness of a certificated teacher or administrator or an applicant for a
33 teaching or an administrative certificate provided that the state board of
34 education or its employees or agents have reasonable suspicion that the
35 certificated person engaged in conduct that would be a criminal violation of
36 the laws of this state or was involved in immoral or unprofessional conduct
37 or that the applicant engaged in conduct that would warrant disciplinary
38 action if the applicant were certificated at the time of the alleged conduct.
39 The information shall be provided on the submission of either:

40 (a) The fingerprint card.

41 (b) The name, date of birth and social security number of the person.

42 H. The director shall adopt rules necessary to execute ~~the provisions~~
43 ~~of~~ this section.

44 I. The director, in the manner prescribed by law, shall remove and
45 destroy records that the director determines are no longer of value in the
46 detection or prevention of crime.

1 J. The director shall establish a fee in an amount necessary to cover
2 the cost of federal noncriminal justice fingerprint processing for criminal
3 history record information checks that are authorized by law for noncriminal
4 justice employment, licensing or other lawful purposes. An additional fee
5 may be charged by the department for state noncriminal justice fingerprint
6 processing. Fees submitted to the department for state noncriminal justice
7 fingerprint processing are not refundable.

8 K. The director shall establish a fee in an amount necessary to cover
9 the cost of processing copies of department reports, eight by ten inch black
10 and white photographs or eight by ten inch color photographs of traffic
11 accident scenes.

12 L. Except as provided in subsection O of this section, each agency
13 authorized by this section may charge a fee, in addition to any other fees
14 prescribed by law, in an amount necessary to cover the cost of state and
15 federal noncriminal justice fingerprint processing for criminal history
16 record information checks that are authorized by law for noncriminal justice
17 employment, licensing or other lawful purposes.

18 M. A fingerprint account within the records processing fund is
19 established for the purpose of separately accounting for the collection and
20 payment of fees for noncriminal justice fingerprint processing by the
21 department. Monies collected for this purpose shall be credited to the
22 account, and payments by the department to the United States for federal
23 noncriminal justice fingerprint processing shall be charged against the
24 account. Monies in the account not required for payment to the United States
25 shall be used by the department in support of the department's noncriminal
26 justice fingerprint processing duties. At the end of each fiscal year, any
27 balance in the account not required for payment to the United States or to
28 support the department's noncriminal justice fingerprint processing duties
29 reverts to the state general fund.

30 N. A records processing fund is established for the purpose of
31 separately accounting for the collection and payment of fees for department
32 reports and photographs of traffic accident scenes processed by the
33 department. Monies collected for this purpose shall be credited to the fund
34 and shall be used by the department in support of functions related to
35 providing copies of department reports and photographs. At the end of each
36 fiscal year, any balance in the fund not required for support of the
37 functions related to providing copies of department reports and photographs
38 reverts to the state general fund.

39 O. The department of economic security may pay from appropriated
40 monies the cost of federal fingerprint processing or federal criminal history
41 record information checks that are authorized by law for employees and
42 volunteers of the department, guardians pursuant to section 46-134,
43 subsection A, paragraph 15, the licensing of foster parents or the
44 certification of adoptive parents.

45 P. The director shall adopt rules that provide for:

- 46 1. The collection and disposition of fees pursuant to this section.

1 2. The refusal of service to those agencies that are delinquent in
2 paying these fees.

3 Q. The director shall ensure that the following limitations are
4 observed regarding dissemination of criminal justice information obtained
5 from the central state repository or through the Arizona criminal justice
6 information system:

7 1. Any criminal justice agency that obtains criminal justice
8 information from the central state repository or through the Arizona criminal
9 justice information system assumes responsibility for the security of the
10 information and shall not secondarily disseminate this information to any
11 individual or agency not authorized to receive this information directly from
12 the central state repository or originating agency.

13 2. Dissemination to an authorized agency or individual may be
14 accomplished by a criminal justice agency only if the dissemination is for
15 criminal justice purposes in connection with the prescribed duties of the
16 agency and not in violation of this section.

17 3. Criminal history record information disseminated to noncriminal
18 justice agencies or to individuals shall be used only for the purposes for
19 which it was given. Secondary dissemination is prohibited unless otherwise
20 authorized by law.

21 4. The existence or nonexistence of criminal history record
22 information shall not be confirmed to any individual or agency not authorized
23 to receive the information itself.

24 5. Criminal history record information to be released for noncriminal
25 justice purposes to agencies of other states shall only be released to the
26 central state repositories of those states for dissemination in accordance
27 with the laws of those states.

28 6. Criminal history record information shall be released to
29 noncriminal justice agencies of the federal government pursuant to the terms
30 of the federal security clearance information act (P.L. 99-169).

31 R. This section and the rules adopted under this section apply to all
32 agencies and individuals collecting, storing or disseminating criminal
33 justice information processed by manual or automated operations if the
34 collection, storage or dissemination is funded in whole or in part with
35 monies made available by the law enforcement assistance administration after
36 July 1, 1973, pursuant to title I of the crime control act of 1973, and to
37 all agencies that interact with or receive criminal justice information from
38 or through the central state repository and through the Arizona criminal
39 justice information system.

40 S. This section does not apply to criminal history record information
41 contained in:

42 1. Posters, arrest warrants, announcements or lists for identifying or
43 apprehending fugitives or wanted persons.

44 2. Original records of entry such as police blotters maintained by
45 criminal justice agencies, compiled chronologically and required by law or

1 long-standing custom to be made public if these records are organized on a
2 chronological basis.

3 3. Transcripts or records of judicial proceedings if released by a
4 court or legislative or administrative proceedings.

5 4. Announcements of executive clemency or pardon.

6 5. Computer databases, other than the Arizona criminal justice
7 information system, that are specifically designed for community notification
8 of an offender's presence in the community pursuant to section 13-3825 or for
9 public informational purposes authorized by section 13-3827.

10 T. Nothing in this section prevents a criminal justice agency from
11 disclosing to the public criminal history record information that is
12 reasonably contemporaneous to the event for which an individual is currently
13 within the criminal justice system, including information noted on traffic
14 accident reports concerning citations, blood alcohol tests, intoxilyzer tests
15 or arrests made in connection with the traffic accident being investigated.

16 U. In order to ensure that complete and accurate criminal history
17 record information is maintained and disseminated by the central state
18 repository:

19 1. The arresting authority shall take legible fingerprints of all
20 persons arrested for offenses specified in subsection C of this section and,
21 within ten days of the arrest, the arresting authority shall forward the
22 fingerprints to the department in the manner or form required by the
23 department. On the issuance and service of a summons for a defendant who is
24 charged with a felony offense, a violation of title 13, chapter 14 or title
25 28, chapter 4 or a domestic violence offense as defined in section 13-3601,
26 the court shall order that the defendant be fingerprinted by the appropriate
27 law enforcement agency and that the defendant appear at a designated time and
28 place for fingerprinting. At the initial appearance or on the arraignment of
29 a summoned defendant who is charged with a felony offense, a violation of
30 title 13, chapter 14 or title 28, chapter 4 or a domestic violence offense as
31 defined in section 13-3601, the court shall order that the defendant be
32 fingerprinted at a designated time and place by the appropriate law
33 enforcement agency if the court has reasonable cause to believe that the
34 defendant was not previously fingerprinted.

35 2. In every criminal case in which the defendant is incarcerated or
36 fingerprinted as a result of the charge, an originating law enforcement
37 agency or prosecutor, within forty days of the disposition, shall advise the
38 central state repository of all dispositions concerning the termination of
39 criminal proceedings against an individual arrested for an offense specified
40 in subsection C of this section. This information shall be submitted on a
41 form or in a manner required by the department.

42 3. Dispositions resulting from formal proceedings in a court having
43 jurisdiction in a criminal action against an individual who is arrested for
44 an offense specified in subsection C of this section or section 8-341,
45 subsection ~~R~~ S shall be reported to the central state repository within
46 forty days of the date of the disposition. This information shall be

1 submitted on a form or in a manner specified by rules approved by the supreme
2 court.

3 4. The state department of corrections or the department of juvenile
4 corrections, within forty days, shall advise the central state repository
5 that it has assumed supervision of a person convicted of an offense specified
6 in subsection C of this section or section 8-341, subsection ~~R~~-S. The state
7 department of corrections or the department of juvenile corrections shall
8 also report dispositions that occur thereafter to the central state
9 repository within forty days of the date of the dispositions. This
10 information shall be submitted on a form or in a manner required by the
11 department of public safety.

12 5. Each criminal justice agency shall query the central state
13 repository before dissemination of any criminal history record information to
14 ensure the completeness of the information. Inquiries shall be made before
15 any dissemination except in those cases in which time is of the essence and
16 the repository is technically incapable of responding within the necessary
17 time period. If time is of the essence, the inquiry shall still be made and
18 the response shall be provided as soon as possible.

19 V. The director shall adopt rules specifying that any agency that
20 collects, stores or disseminates criminal justice information that is subject
21 to this section shall establish effective security measures to protect the
22 information from unauthorized access, disclosure, modification or
23 dissemination. The rules shall include reasonable safeguards to protect the
24 affected information systems from fire, flood, wind, theft, sabotage or other
25 natural or man-made hazards or disasters.

26 W. The department shall make available to agencies that contribute to,
27 or receive criminal justice information from, the central state repository or
28 through the Arizona criminal justice information system a continuing training
29 program in the proper methods for collecting, storing and disseminating
30 information in compliance with this section.

31 X. Nothing in this section creates a cause of action or a right to
32 bring an action including an action based on discrimination due to sexual
33 orientation.

34 Y. For THE purposes of this section:

35 1. "Administration of criminal justice" means performance of the
36 detection, apprehension, detention, pretrial release, ~~post-trial~~ POSTTRIAL
37 release, prosecution, adjudication, correctional supervision or
38 rehabilitation of criminal offenders. Administration of criminal justice
39 includes enforcement of criminal traffic offenses and civil traffic
40 violations, including parking violations, when performed by a criminal
41 justice agency. Administration of criminal justice also includes criminal
42 identification activities and the collection, storage and dissemination of
43 criminal history record information.

44 2. "Administrative records" means records that contain adequate and
45 proper documentation of the organization, functions, policies, decisions,
46 procedures and essential transactions of the agency and that are designed to

1 furnish information to protect the rights of this state and of persons
2 directly affected by the agency's activities.

3 3. "Arizona criminal justice information system" or "system" means the
4 statewide information system managed by the director for the collection,
5 processing, preservation, dissemination and exchange of criminal justice
6 information and includes the electronic equipment, facilities, procedures and
7 agreements necessary to exchange this information.

8 4. "Central state repository" means the central location within the
9 department for the collection, storage and dissemination of Arizona criminal
10 history records and related criminal justice information.

11 5. "Criminal history record information" and "criminal history record"
12 means information that is collected by criminal justice agencies on
13 individuals and that consists of identifiable descriptions and notations of
14 arrests, detentions, indictments and other formal criminal charges, and any
15 disposition arising from those actions, sentencing, formal correctional
16 supervisory action and release. Criminal history record information and
17 criminal history record do not include identification information to the
18 extent that the information does not indicate involvement of the individual
19 in the criminal justice system or information relating to juveniles unless
20 they have been adjudicated as adults.

21 6. "Criminal justice agency" means either:

22 (a) A court at any governmental level with criminal or equivalent
23 jurisdiction, including courts of any foreign sovereignty duly recognized by
24 the federal government.

25 (b) A government agency or subunit of a government agency that is
26 specifically authorized to perform as its principal function the
27 administration of criminal justice pursuant to a statute, ordinance or
28 executive order and that allocates more than fifty per cent of its annual
29 budget to the administration of criminal justice. This subdivision includes
30 agencies of any foreign sovereignty duly recognized by the federal
31 government.

32 7. "Criminal justice information" means information that is collected
33 by criminal justice agencies and that is needed for the performance of their
34 legally authorized and required functions, such as criminal history record
35 information, citation information, stolen property information, traffic
36 accident reports and wanted persons information. Criminal justice
37 information does not include the administrative records of a criminal justice
38 agency.

39 8. "Disposition" means information disclosing that a decision has been
40 made not to bring criminal charges or that criminal proceedings have been
41 concluded or information relating to sentencing, correctional supervision,
42 release from correctional supervision, the outcome of an appellate review of
43 criminal proceedings or executive clemency.

44 9. "Dissemination" means the written, oral or electronic communication
45 or transfer of criminal justice information to individuals and agencies other
46 than the criminal justice agency that maintains the information.

1 Dissemination includes the act of confirming the existence or nonexistence of
2 criminal justice information.

3 10. "Management control":

4 (a) Means the authority to set and enforce:

5 (i) Priorities regarding development and operation of criminal justice
6 information systems and programs.

7 (ii) Standards for the selection, supervision and termination of
8 personnel involved in the development of criminal justice information systems
9 and programs and in the collection, maintenance, analysis and dissemination
10 of criminal justice information.

11 (iii) Policies governing the operation of computers, circuits and
12 telecommunications terminals used to process criminal justice information to
13 the extent that the equipment is used to process, store or transmit criminal
14 justice information.

15 (b) Includes the supervision of equipment, systems design, programming
16 and operating procedures necessary for the development and implementation of
17 automated criminal justice information systems.

18 11. "Process control number" means the Arizona automated fingerprint
19 identification system number that attaches to each arrest event at the time
20 of fingerprinting and that is assigned to the arrest fingerprint card,
21 disposition form and other pertinent documents.

22 12. "Secondary dissemination" means the dissemination of criminal
23 justice information from an individual or agency that originally obtained the
24 information from the central state repository or through the Arizona criminal
25 justice information system to another individual or agency.

26 13. "Sexual orientation" means consensual homosexuality or
27 heterosexuality.

28 14. "Subject of record" means the person who is the primary subject of
29 a criminal justice record.