

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HOUSE BILL 2344

AN ACT

AMENDING SECTIONS 8-323, 8-341 AND 41-1750, ARIZONA REVISED STATUTES;
RELATING TO JUVENILES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 8-323, Arizona Revised Statutes, is amended to
3 read:
4 8-323. Juvenile hearing officer; appointment; term;
5 compensation; hearings; required attendance; contempt
6 A. The judge of the juvenile court, or in counties having more than
7 one judge of the juvenile court, the presiding judge of the juvenile court,
8 may appoint one or more persons of suitable experience who may be magistrates
9 or justices of the peace to serve as juvenile hearing officers on a full-time
10 or part-time basis. The county board of supervisors shall approve the
11 appointment of justices of the peace as juvenile hearing officers. The local
12 governing body shall approve the appointment of municipal judges as juvenile
13 hearing officers. The juvenile hearing officer serves at the pleasure of the
14 appointing judge. The appointing judge, with the approval of the board of
15 supervisors, shall determine whether any compensation shall be paid to a
16 juvenile hearing officer who is not otherwise employed by a public agency or
17 holding another public office and shall establish the amounts and rates of
18 the compensation.
19 B. Subject to the orders of the juvenile court a juvenile hearing
20 officer may hear and determine juvenile pretrial detention hearings and may
21 process, adjudicate and dispose of all cases that are not classified as
22 felonies and in which a juvenile who is under eighteen years of age on the
23 date of the alleged offense is charged with violating any law relating to the
24 following:
25 1. Any provision of title 28 not declared to be a felony.
26 2. The purchase, possession or consumption of spirituous liquor by a
27 juvenile.
28 3. Boating or game and fish.
29 4. Curfew.
30 5. Truancy.
31 6. The damage or disfigurement of property by graffiti or the purchase
32 or possession of materials with the intent to use the materials for graffiti.
33 7. The purchase or possession of tobacco.
34 8. Any city, town or political subdivision ordinance.
35 9. Interference with judicial proceedings involving disobeying or
36 resisting the lawful order, process or other mandate of a juvenile hearing
37 officer or failure to appear related to any offense in this section.
38 C. A hearing before the juvenile hearing officer or a hearing before a
39 commissioner or a judge of the juvenile court in which the juvenile is
40 charged with any offense set forth in this section may be conducted on an
41 exact legible copy of a written notice to appear, including a uniform Arizona
42 traffic ticket and complaint form, that states, at a minimum, the name and
43 address of the juvenile, the offense charged and the time and place the
44 juvenile shall appear in court.

1 D. The juvenile hearing officer, commissioner or judge of the superior
2 court shall not dispose of a petition or citation for any offense under this
3 section unless the parent, guardian or custodian of the juvenile appears in
4 court with the juvenile at the time of disposition of the charge. On a
5 showing of good cause that the parent, guardian or custodian cannot appear on
6 the date and time set by the court, the court may waive the requirement that
7 the parent, guardian or custodian appear. The court shall state on the record
8 the reasons for waiving the requirement that the parent, guardian or
9 custodian appear. At the time the court issues an order to appear or other
10 order pursuant to this section, the court shall inform the juvenile that
11 failure to appear or failure to comply with an order will result in
12 suspension of the juvenile's driver license or privilege to drive. If the
13 juvenile fails to appear pursuant to a citation or an order to appear
14 properly issued under this section or if on disposition fails to comply with
15 any court order, the juvenile hearing officer shall order the department of
16 transportation to suspend the juvenile's driver license or privilege to drive
17 or shall direct the department of transportation to refuse to issue, renew or
18 restore the juvenile's driver license or privilege to drive until the
19 juvenile reaches eighteen years of age or appears in court as directed or
20 complies with the court's order.

21 E. If a parent, guardian or custodian fails to appear with the
22 juvenile, and good cause for the failure to appear is not found as provided
23 in subsection D of this section, the court shall issue an order to show cause
24 to the parent, guardian or custodian as to why that person shall not be held
25 in contempt.

26 F. Except as otherwise provided by law, on an admission by the
27 juvenile of a violation charged pursuant to this section, or after a hearing,
28 on the finding that the juvenile committed the violation, the juvenile
29 hearing officer, commissioner or judge of the superior court may do one or
30 more of the following:

31 1. Place the juvenile on probation, except that a city magistrate or
32 justice of the peace may only place the juvenile on unsupervised probation.

33 2. Transfer the citation to the juvenile court for all further
34 proceedings.

35 3. Suspend the driving privileges of the juvenile, or restrict the
36 juvenile's driving privileges for a period of not to exceed one hundred
37 eighty days.

38 4. Order the juvenile to attend a traffic school or a counseling or
39 education program approved by the presiding judge of the juvenile court or
40 the supreme court.

41 5. Order the juvenile to pay the monetary assessment or penalty that
42 is applicable to the offense. **EXCEPT AS PROVIDED IN SECTION 8-341,**
43 **SUBSECTION S,** the monetary assessment or penalty shall not exceed five
44 hundred dollars plus lawful surcharges and assessments payable to the public
45 agency processing the violation. If no monetary assessment or penalty is

1 specified for the offense, the juvenile hearing officer, commissioner or
2 judge of the superior court may order the juvenile to pay not more than one
3 hundred fifty dollars plus lawful surcharges and assessments payable to the
4 public agency processing the violation.

5 6. In lieu of or in addition to a monetary assessment or penalty,
6 order the juvenile to perform a program of work that does not conflict with
7 the juvenile's regular schooling and employment, to repair the victim's
8 property or to provide community restitution.

9 7. If the juvenile hearing officer, commissioner or judge of the
10 superior court determines that the person charged is eighteen or more years
11 of age, transfer the matter to the appropriate criminal court having
12 jurisdiction.

13 8. If the juvenile violated any truancy laws, require the juvenile and
14 the juvenile's parents or guardians to participate in a specialized program
15 consisting of counseling, supervision and education under the terms and
16 conditions the juvenile hearing officer, commissioner or judge of the
17 superior court orders.

18 9. Order the juvenile and one or both of the juvenile's custodial
19 parents to pay restitution to any person who suffered an economic loss as the
20 result of the juvenile's conduct. The juvenile hearing officer, commissioner
21 or judge of the superior court shall not consider the ability of the
22 juvenile's parents to pay restitution before making a restitution order. If
23 the juvenile hearing officer, commissioner or judge of the superior court
24 orders one or both of the juvenile's custodial parents to pay restitution,
25 the amount of the order shall not exceed the liability limit established
26 pursuant to section 12-661.

27 10. Impose sanctions authorized by section 8-343.

28 11. Reprimand the juvenile and take no further action.

29 G. A record of the proceedings before a juvenile hearing officer may
30 be made by a court reporter, videotape or audiotape or any other method
31 approved by the supreme court that accurately reproduces what occurred at the
32 proceeding.

33 H. Within five days after receiving the citation, the juvenile hearing
34 officer shall notify the juvenile court that the juvenile has been charged
35 with an offense by citation and shall indicate the listed charges. The
36 juvenile hearing officer shall retain jurisdiction of the case until all
37 orders made under this section have been fully complied with. Within five
38 days after disposition, the juvenile hearing officer shall transmit a copy of
39 the citation with the findings and disposition of the court noted on the copy
40 to the juvenile court for record keeping purposes. If appropriate, the
41 juvenile hearing officer shall transmit a copy of the citation to the
42 department of transportation. If on disposition the juvenile fails to comply
43 with any court order, the juvenile hearing officer, in the manner provided by
44 subsection D of this section, may impose any of the sanctions prescribed in
45 subsection F of this section.

1 I. Subject to an appeal pursuant to section 8-325 all orders of the
2 juvenile hearing officer shall be effective immediately.

3 J. A city or town attorney or prosecutor shall act on behalf of the
4 state in matters that are heard in a municipal court by a juvenile hearing
5 officer pursuant to this section. In these matters and on approval of the
6 presiding judge of the juvenile court and the county attorney, the city or
7 town attorney or the prosecutor may establish diversion programs for offenses
8 other than offenses involving a violation of section 28-1381, 28-1382 or
9 28-1383.

10 Sec. 2. Section 8-341, Arizona Revised Statutes, is amended to read:

11 8-341. Disposition and commitment; definitions

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

14 1. It may award a delinquent juvenile:

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

17 (b) To a probation department, subject to any conditions the court may
18 impose, including a period of incarceration in a juvenile detention center of
19 not more than one year.

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

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

24 (e) To the department of juvenile corrections.

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

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

31 2. It may award an incorrigible child:

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

34 (b) To the protective supervision of a probation department, subject
35 to any conditions the court may impose.

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

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

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

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

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

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

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

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

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

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

15 C. If a juvenile is adjudicated as a first time felony juvenile
16 offender, the court shall provide the following written notice to the
17 juvenile:

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

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

39 E. If the juvenile is adjudicated as a repeat felony juvenile
40 offender, the court shall provide the following written notice to the
41 juvenile:

42 You have been adjudicated a repeat felony juvenile
43 offender. You are now on notice that if you are arrested for
44 another offense that would be a felony offense if committed by
45 an adult and if you commit the other offense when you are

1 fifteen years of age or older, you will be tried as an adult in
2 the criminal division of the superior court. If you commit the
3 other offense when you are fourteen years of age or older, you
4 may be tried as an adult in the criminal division of the
5 superior court. If you are convicted as an adult, you will be
6 sentenced to a term of incarceration. If you are convicted as
7 an adult of a felony offense and you commit any other offense,
8 you will be prosecuted as an adult.

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

12 G. EXCEPT AS PROVIDED IN SUBSECTION S OF THIS SECTION, after
13 considering the nature of the offense and the age, physical and mental
14 condition and earning capacity of the juvenile, the court shall order the
15 juvenile to pay a reasonable monetary assessment if the court determines that
16 an assessment is in aid of rehabilitation. If the director of the department
17 of juvenile corrections determines that enforcement of an order for monetary
18 assessment as a term and condition of conditional liberty is not
19 cost-effective, the director may require the youth to perform an equivalent
20 amount of community restitution in lieu of the payment ordered as a condition
21 of conditional liberty.

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

24 I. A juvenile who is charged with unlawful purchase, possession or
25 consumption of spirituous liquor is subject to section 8-323. The monetary
26 assessment for a conviction of unlawful purchase, possession or consumption
27 of spirituous liquor by a juvenile shall not exceed five hundred dollars.
28 The court of competent jurisdiction may order a monetary assessment or
29 equivalent community restitution.

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

34 1. Monetary reimbursement by the juvenile in a lump sum or installment
35 payments through the clerk of the superior court for appropriate
36 distribution.

37 2. A program of work, not in conflict with regular schooling, to
38 repair damage to the victim's property, to provide community restitution or
39 to provide the juvenile with a job for wages. The court order for
40 restitution or monetary assessment shall specify, according to the
41 dispositional program, the amount of reimbursement and the portion of wages
42 of either existing or provided work that is to be credited toward
43 satisfaction of the restitution or assessment, or the nature of the work to
44 be performed and the number of hours to be spent working. The number of

1 hours to be spent working shall be set by the court based on the severity of
2 the offense but shall not be less than sixteen hours.

3 K. If a juvenile is committed to the department of juvenile
4 corrections the court shall specify the amount of the MONETARY assessment
5 imposed pursuant to subsection G or H of this section.

6 L. After considering the length of stay guidelines developed pursuant
7 to section 41-2816, subsection C, the court may set forth in the order of
8 commitment the minimum period during which the juvenile shall remain in
9 secure care while in the custody of the department of juvenile corrections.
10 When the court awards a juvenile to the department of juvenile corrections or
11 an institution or agency, it shall transmit with the order of commitment
12 copies of a diagnostic psychological evaluation and educational assessment if
13 one has been administered, copies of the case report, all other psychological
14 and medical reports, restitution orders, any request for postadjudication
15 notice that has been submitted by a victim and any other documents or records
16 pertaining to the case requested by the department of juvenile corrections or
17 an institution or agency. The department shall not release a juvenile from
18 secure care before the juvenile completes the length of stay determined by
19 the court in the commitment order unless the county attorney in the county
20 from which the juvenile was committed requests the committing court to reduce
21 the length of stay. The department may release the juvenile from secure care
22 without a further court order after the juvenile completes the length of stay
23 determined by the court or may retain the juvenile in secure care for any
24 period subsequent to the completion of the length of stay in accordance with
25 the law.

26 M. Written notice of the release of any juvenile pursuant to
27 subsection L of this section shall be made to any victim requesting notice,
28 the juvenile court that committed the juvenile and the county attorney of the
29 county from which the juvenile was committed.

30 N. Notwithstanding any law to the contrary, if a person is under the
31 supervision of the court as an adjudicated delinquent juvenile at the time
32 the person reaches eighteen years of age, treatment services may be provided
33 until the person reaches twenty-one years of age if the court, the person and
34 the state agree to the provision of the treatment and a motion to transfer
35 the person pursuant to section 8-327 has not been filed or has been
36 withdrawn. The court may terminate the provision of treatment services after
37 the person reaches eighteen years of age if the court determines that any of
38 the following applies:

- 39 1. The person is not progressing toward treatment goals.
- 40 2. The person terminates treatment.
- 41 3. The person commits a new offense after reaching eighteen years of
42 age.
- 43 4. Continued treatment is not required or is not in the best interests
44 of the state or the person.

1 O. On the request of a victim of an act that may have involved
2 significant exposure as defined in section 13-1415 or that if committed by an
3 adult would be a sexual offense, the prosecuting attorney shall petition the
4 adjudicating court to require that the juvenile be tested for the presence of
5 the human immunodeficiency virus. If the victim is a minor the prosecuting
6 attorney shall file this petition at the request of the victim's parent or
7 guardian. If the act committed against a victim is an act that if committed
8 by an adult would be a sexual offense or the court determines that sufficient
9 evidence exists to indicate that significant exposure occurred, it shall
10 order the department of juvenile corrections or the department of health
11 services to test the juvenile pursuant to section 13-1415. Notwithstanding
12 any law to the contrary, the department of juvenile corrections and the
13 department of health services shall release the test results only to the
14 victim, the delinquent juvenile, the delinquent juvenile's parent or guardian
15 and a minor victim's parent or guardian and shall counsel them regarding the
16 meaning and health implications of the results.

17 P. If a juvenile has been adjudicated delinquent for an offense that
18 if committed by an adult would be a felony, the court shall provide the
19 department of public safety Arizona automated fingerprint identification
20 system established in section 41-2411 with the juvenile's fingerprints,
21 personal identification data and other pertinent information. If a juvenile
22 has been committed to the department of juvenile corrections the department
23 shall provide the fingerprints and information required by this subsection to
24 the Arizona automated fingerprint identification system. If the juvenile's
25 fingerprints and information have been previously submitted to the Arizona
26 automated fingerprint identification system the information is not required
27 to be resubmitted.

28 Q. Access to fingerprint records submitted pursuant to subsection P of
29 this section shall be limited to the administration of criminal justice as
30 defined in section 41-1750. Dissemination of fingerprint information shall
31 be limited to the name of the juvenile, juvenile case number, date of
32 adjudication and court of adjudication.

33 R. If a juvenile is adjudicated delinquent for an offense that if
34 committed by an adult would be a misdemeanor, the court may prohibit the
35 juvenile from carrying or possessing a firearm while the juvenile is under
36 the jurisdiction of the department of juvenile corrections or the juvenile
37 court.

38 S. THE COURT SHALL ORDER A JUVENILE WHO IS ADJUDICATED DELINQUENT FOR
39 A VIOLATION OF SECTION 13-1602, SUBSECTION A, PARAGRAPH 5 TO PAY A FINE OF AT
40 LEAST THREE HUNDRED DOLLARS BUT NOT MORE THAN ONE THOUSAND DOLLARS. ANY
41 RESTITUTION ORDERED SHALL BE PAID IN ACCORDANCE WITH SECTION 13-809,
42 SUBSECTION A. THE COURT MAY ORDER THE JUVENILE TO PERFORM COMMUNITY
43 RESTITUTION IN LIEU OF THE PAYMENT FOR ALL OR PART OF THE FINE IF IT IS IN
44 THE BEST INTERESTS OF THE JUVENILE. THE AMOUNT OF COMMUNITY RESTITUTION

1 SHALL BE EQUIVALENT TO THE AMOUNT OF THE FINE BY CREDITING ANY SERVICE
2 PERFORMED AT A RATE OF TEN DOLLARS PER HOUR.

3 ~~§~~ T. For the purposes of this section:

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

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

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

11 (b) Previously has been adjudicated a first time felony juvenile
12 offender.

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

15 Sec. 3. Section 41-1750, Arizona Revised Statutes, is amended to read:

16 41-1750. Central state repository; department of public safety;
17 duties; funds; accounts; definitions

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

22 1. Procure from all criminal justice agencies in this state accurate
23 and complete personal identification data, fingerprints, charges, process
24 control numbers and dispositions and such other information as may be
25 pertinent to all persons who have been charged with, arrested for, convicted
26 of or summoned to court as a criminal defendant for a felony offense or an
27 offense involving domestic violence as defined in section 13-3601 or a
28 violation of title 13, chapter 14 or title 28, chapter 4.

29 2. Collect information concerning the number and nature of offenses
30 known to have been committed in this state and of the legal steps taken in
31 connection with these offenses, such other information that is useful in the
32 study of crime and in the administration of criminal justice and all other
33 information deemed necessary to operate the statewide uniform crime reporting
34 program and to cooperate with the federal government uniform crime reporting
35 program.

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

39 4. Cooperate with the central state repositories in other states and
40 with the appropriate agency of the federal government in the exchange of
41 information pertinent to violators of the law.

42 5. Ensure the rapid exchange of information concerning the commission
43 of crime and the detection of violators of the law among the criminal justice
44 agencies of other states and of the federal government.

1 6. Furnish assistance to peace officers throughout this state in crime
2 scene investigation for the detection of latent fingerprints and in the
3 comparison of latent fingerprints.

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

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

13 9. Aid and encourage coordination and cooperation among criminal
14 justice agencies through the statewide and interstate exchange of criminal
15 justice information.

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

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

21 12. Provide criminal history record information to the fingerprinting
22 division for the purpose of screening applicants for fingerprint clearance
23 cards.

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

27 C. The chief officers of criminal justice agencies of this state or
28 its political subdivisions shall provide to the central state repository
29 fingerprints and information concerning personal identification data,
30 descriptions, crimes for which persons are arrested, process control numbers
31 and dispositions and such other information as may be pertinent to all
32 persons who have been charged with, arrested for, convicted of or summoned to
33 court as criminal defendants for felony offenses or offenses involving
34 domestic violence as defined in section 13-3601 or violations of title 13,
35 chapter 14 or title 28, chapter 4 that have occurred in this state.

36 D. The chief officers of law enforcement agencies of this state or its
37 political subdivisions shall provide to the department such information as
38 necessary to operate the statewide uniform crime reporting program and to
39 cooperate with the federal government uniform crime reporting program.

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

44 F. The chief officers of criminal justice agencies of this state or
45 its political subdivisions also shall provide to the department information

1 concerning crimes that manifest evidence of prejudice based on race, color,
2 religion, national origin, sexual orientation, gender or disability.

3 G. The director shall authorize the exchange of criminal justice
4 information between the central state repository, or through the Arizona
5 criminal justice information system, whether directly or through any
6 intermediary, only as follows:

7 1. With criminal justice agencies of the federal government, Indian
8 tribes, this state or its political subdivisions and other states, on request
9 by the chief officers of such agencies or their designated representatives,
10 specifically for the purposes of the administration of criminal justice and
11 for evaluating the fitness of current and prospective criminal justice
12 employees.

13 2. With any noncriminal justice agency pursuant to a statute,
14 ordinance or executive order that specifically authorizes the noncriminal
15 justice agency to receive criminal history record information for the purpose
16 of evaluating the fitness of current or prospective licensees, employees,
17 contract employees or volunteers, on submission of the subject's fingerprints
18 and the prescribed fee. Each statute, ordinance, or executive order that
19 authorizes noncriminal justice agencies to receive criminal history record
20 information for these purposes shall identify the specific categories of
21 licensees, employees, contract employees or volunteers, and shall require
22 that fingerprints of the specified individuals be submitted in conjunction
23 with such requests for criminal history record information.

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

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

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

33 6. With regional computer centers that maintain authorized
34 computer-to-computer interfaces with the department, that are criminal
35 justice agencies or under the management control of a criminal justice agency
36 and that are established by a statute, ordinance or executive order to
37 provide automated data processing services to criminal justice agencies
38 specifically for the purposes of the administration of criminal justice or
39 evaluating the fitness of regional computer center employees who have access
40 to the Arizona criminal justice information system and the national crime
41 information center system.

42 7. With an individual who asserts a belief that criminal history
43 record information relating to the individual is maintained by an agency or
44 in an information system in this state that is subject to this section. On
45 submission of fingerprints, the individual may review this information for

1 the purpose of determining its accuracy and completeness by making
2 application to the agency operating the system. Rules adopted under this
3 section shall include provisions for administrative review and necessary
4 correction of any inaccurate or incomplete information. The review and
5 challenge process authorized by this paragraph is limited to criminal history
6 record information.

7 8. With individuals and agencies pursuant to a specific agreement with
8 a criminal justice agency to provide services required for the administration
9 of criminal justice pursuant to that agreement if the agreement specifically
10 authorizes access to data, limits the use of data to purposes for which given
11 and ensures the security and confidentiality of the data consistent with this
12 section.

13 9. With individuals and agencies for the express purpose of research,
14 evaluative or statistical activities pursuant to an agreement with a criminal
15 justice agency if the agreement specifically authorizes access to data,
16 limits the use of data to research, evaluative or statistical purposes and
17 ensures the confidentiality and security of the data consistent with this
18 section.

19 10. With the auditor general for audit purposes.

20 11. With central state repositories of other states for noncriminal
21 justice purposes for dissemination in accordance with the laws of those
22 states.

23 12. On submission of the fingerprint card, with the department of
24 economic security to provide criminal history record information on
25 prospective adoptive parents for the purpose of conducting the preadoption
26 certification investigation under title 8, chapter 1, article 1 if the
27 department of economic security is conducting the investigation, or with an
28 agency or a person appointed by the court, if the agency or person is
29 conducting the investigation. Information received under this paragraph
30 shall only be used for the purposes of the preadoption certification
31 investigation.

32 13. With the department of economic security and the superior court for
33 the purpose of evaluating the fitness of custodians or prospective custodians
34 of juveniles, including parents, relatives and prospective guardians.
35 Information received under this paragraph shall only be used for the purposes
36 of that evaluation. The information shall be provided on submission of
37 either:

38 (a) The fingerprint card.

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

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

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

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

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

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

9 19. With licensees of the United States nuclear regulatory commission
10 for the purpose of determining whether an individual should be granted
11 unescorted access to the protected area of a commercial nuclear generating
12 station on submission of the subject of record's fingerprints and the
13 prescribed fee.

14 20. With the state board of education for the purpose of evaluating the
15 fitness of a certificated teacher or administrator or an applicant for a
16 teaching or an administrative certificate provided that the state board of
17 education or its employees or agents have reasonable suspicion that the
18 certificated person engaged in conduct that would be a criminal violation of
19 the laws of this state or was involved in immoral or unprofessional conduct
20 or that the applicant engaged in conduct that would warrant disciplinary
21 action if the applicant were certificated at the time of the alleged conduct.
22 The information shall be provided on the submission of either:

23 (a) The fingerprint card.

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

25 H. The director shall adopt rules necessary to execute this section.

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

29 J. The director shall establish a fee in an amount necessary to cover
30 the cost of federal noncriminal justice fingerprint processing for criminal
31 history record information checks that are authorized by law for noncriminal
32 justice employment, licensing or other lawful purposes. An additional fee
33 may be charged by the department for state noncriminal justice fingerprint
34 processing. Fees submitted to the department for state noncriminal justice
35 fingerprint processing are not refundable.

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

40 L. Except as provided in subsection 0 of this section, each agency
41 authorized by this section may charge a fee, in addition to any other fees
42 prescribed by law, in an amount necessary to cover the cost of state and
43 federal noncriminal justice fingerprint processing for criminal history
44 record information checks that are authorized by law for noncriminal justice
45 employment, licensing or other lawful purposes.

1 M. A fingerprint account within the records processing fund is
2 established for the purpose of separately accounting for the collection and
3 payment of fees for noncriminal justice fingerprint processing by the
4 department. Monies collected for this purpose shall be credited to the
5 account, and payments by the department to the United States for federal
6 noncriminal justice fingerprint processing shall be charged against the
7 account. Monies in the account not required for payment to the United States
8 shall be used by the department in support of the department's noncriminal
9 justice fingerprint processing duties. At the end of each fiscal year, any
10 balance in the account not required for payment to the United States or to
11 support the department's noncriminal justice fingerprint processing duties
12 reverts to the state general fund.

13 N. A records processing fund is established for the purpose of
14 separately accounting for the collection and payment of fees for department
15 reports and photographs of traffic accident scenes processed by the
16 department. Monies collected for this purpose shall be credited to the fund
17 and shall be used by the department in support of functions related to
18 providing copies of department reports and photographs. At the end of each
19 fiscal year, any balance in the fund not required for support of the
20 functions related to providing copies of department reports and photographs
21 reverts to the state general fund.

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

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

- 29 1. The collection and disposition of fees pursuant to this section.
30 2. The refusal of service to those agencies that are delinquent in
31 paying these fees.

32 Q. The director shall ensure that the following limitations are
33 observed regarding dissemination of criminal justice information obtained
34 from the central state repository or through the Arizona criminal justice
35 information system:

36 1. Any criminal justice agency that obtains criminal justice
37 information from the central state repository or through the Arizona criminal
38 justice information system assumes responsibility for the security of the
39 information and shall not secondarily disseminate this information to any
40 individual or agency not authorized to receive this information directly from
41 the central state repository or originating agency.

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

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

5 4. The existence or nonexistence of criminal history record
6 information shall not be confirmed to any individual or agency not authorized
7 to receive the information itself.

8 5. Criminal history record information to be released for noncriminal
9 justice purposes to agencies of other states shall only be released to the
10 central state repositories of those states for dissemination in accordance
11 with the laws of those states.

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

15 R. This section and the rules adopted under this section apply to all
16 agencies and individuals collecting, storing or disseminating criminal
17 justice information processed by manual or automated operations if the
18 collection, storage or dissemination is funded in whole or in part with
19 monies made available by the law enforcement assistance administration after
20 July 1, 1973, pursuant to title I of the crime control act of 1973, and to
21 all agencies that interact with or receive criminal justice information from
22 or through the central state repository and through the Arizona criminal
23 justice information system.

24 S. This section does not apply to criminal history record information
25 contained in:

26 1. Posters, arrest warrants, announcements or lists for identifying or
27 apprehending fugitives or wanted persons.

28 2. Original records of entry such as police blotters maintained by
29 criminal justice agencies, compiled chronologically and required by law or
30 long-standing custom to be made public if these records are organized on a
31 chronological basis.

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

34 4. Announcements of executive clemency or pardon.

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

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

1 U. In order to ensure that complete and accurate criminal history
2 record information is maintained and disseminated by the central state
3 repository:

4 1. The arresting authority shall take legible fingerprints of all
5 persons arrested for offenses specified in subsection C of this section and,
6 within ten days of the arrest, the arresting authority shall forward the
7 fingerprints to the department in the manner or form required by the
8 department. On the issuance and service of a summons for a defendant who is
9 charged with a felony offense, a violation of title 13, chapter 14 or title
10 28, chapter 4 or a domestic violence offense as defined in section 13-3601,
11 the court shall order that the defendant be fingerprinted by the appropriate
12 law enforcement agency and that the defendant appear at a designated time and
13 place for fingerprinting. At the initial appearance or on the arraignment of
14 a summoned defendant who is charged with a felony offense, a violation of
15 title 13, chapter 14 or title 28, chapter 4 or a domestic violence offense as
16 defined in section 13-3601, the court shall order that the defendant be
17 fingerprinted at a designated time and place by the appropriate law
18 enforcement agency if the court has reasonable cause to believe that the
19 defendant was not previously fingerprinted.

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

27 3. Dispositions resulting from formal proceedings in a court having
28 jurisdiction in a criminal action against an individual who is arrested for
29 an offense specified in subsection C of this section or section 8-341,
30 subsection ~~S~~- T shall be reported to the central state repository within
31 forty days of the date of the disposition. This information shall be
32 submitted on a form or in a manner specified by rules approved by the supreme
33 court.

34 4. The state department of corrections or the department of juvenile
35 corrections, within forty days, shall advise the central state repository
36 that it has assumed supervision of a person convicted of an offense specified
37 in subsection C of this section or section 8-341, subsection ~~S~~- T. The state
38 department of corrections or the department of juvenile corrections shall
39 also report dispositions that occur thereafter to the central state
40 repository within forty days of the date of the dispositions. This
41 information shall be submitted on a form or in a manner required by the
42 department of public safety.

43 5. Each criminal justice agency shall query the central state
44 repository before dissemination of any criminal history record information to
45 ensure the completeness of the information. Inquiries shall be made before

1 any dissemination except in those cases in which time is of the essence and
2 the repository is technically incapable of responding within the necessary
3 time period. If time is of the essence, the inquiry shall still be made and
4 the response shall be provided as soon as possible.

5 V. The director shall adopt rules specifying that any agency that
6 collects, stores or disseminates criminal justice information that is subject
7 to this section shall establish effective security measures to protect the
8 information from unauthorized access, disclosure, modification or
9 dissemination. The rules shall include reasonable safeguards to protect the
10 affected information systems from fire, flood, wind, theft, sabotage or other
11 natural or man-made hazards or disasters.

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

17 X. Nothing in this section creates a cause of action or a right to
18 bring an action including an action based on discrimination due to sexual
19 orientation.

20 Y. For the purposes of this section:

21 1. "Administration of criminal justice" means performance of the
22 detection, apprehension, detention, pretrial release, posttrial release,
23 prosecution, adjudication, correctional supervision or rehabilitation of
24 criminal offenders. Administration of criminal justice includes enforcement
25 of criminal traffic offenses and civil traffic violations, including parking
26 violations, when performed by a criminal justice agency. Administration of
27 criminal justice also includes criminal identification activities and the
28 collection, storage and dissemination of criminal history record information.

29 2. "Administrative records" means records that contain adequate and
30 proper documentation of the organization, functions, policies, decisions,
31 procedures and essential transactions of the agency and that are designed to
32 furnish information to protect the rights of this state and of persons
33 directly affected by the agency's activities.

34 3. "Arizona criminal justice information system" or "system" means the
35 statewide information system managed by the director for the collection,
36 processing, preservation, dissemination and exchange of criminal justice
37 information and includes the electronic equipment, facilities, procedures and
38 agreements necessary to exchange this information.

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

42 5. "Criminal history record information" and "criminal history record"
43 means information that is collected by criminal justice agencies on
44 individuals and that consists of identifiable descriptions and notations of
45 arrests, detentions, indictments and other formal criminal charges, and any

1 disposition arising from those actions, sentencing, formal correctional
2 supervisory action and release. Criminal history record information and
3 criminal history record do not include identification information to the
4 extent that the information does not indicate involvement of the individual
5 in the criminal justice system or information relating to juveniles unless
6 they have been adjudicated as adults.

7 6. "Criminal justice agency" means either:

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

11 (b) A government agency or subunit of a government agency that is
12 specifically authorized to perform as its principal function the
13 administration of criminal justice pursuant to a statute, ordinance or
14 executive order and that allocates more than fifty per cent of its annual
15 budget to the administration of criminal justice. This subdivision includes
16 agencies of any foreign sovereignty duly recognized by the federal
17 government.

18 7. "Criminal justice information" means information that is collected
19 by criminal justice agencies and that is needed for the performance of their
20 legally authorized and required functions, such as criminal history record
21 information, citation information, stolen property information, traffic
22 accident reports, wanted persons information and system network log searches.
23 Criminal justice information does not include the administrative records of a
24 criminal justice agency.

25 8. "Disposition" means information disclosing that a decision has been
26 made not to bring criminal charges or that criminal proceedings have been
27 concluded or information relating to sentencing, correctional supervision,
28 release from correctional supervision, the outcome of an appellate review of
29 criminal proceedings or executive clemency.

30 9. "Dissemination" means the written, oral or electronic communication
31 or transfer of criminal justice information to individuals and agencies other
32 than the criminal justice agency that maintains the information.
33 Dissemination includes the act of confirming the existence or nonexistence of
34 criminal justice information.

35 10. "Management control":

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

37 (i) Priorities regarding development and operation of criminal justice
38 information systems and programs.

39 (ii) Standards for the selection, supervision and termination of
40 personnel involved in the development of criminal justice information systems
41 and programs and in the collection, maintenance, analysis and dissemination
42 of criminal justice information.

43 (iii) Policies governing the operation of computers, circuits and
44 telecommunications terminals used to process criminal justice information to

1 the extent that the equipment is used to process, store or transmit criminal
2 justice information.

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

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

10 12. "Secondary dissemination" means the dissemination of criminal
11 justice information from an individual or agency that originally obtained the
12 information from the central state repository or through the Arizona criminal
13 justice information system to another individual or agency.

14 13. "Sexual orientation" means consensual homosexuality or
15 heterosexuality.

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