

REFERENCE TITLE: DNA testing; arrest

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

SB 1267

Introduced by
Senator Gray C

AN ACT

AMENDING SECTIONS 13-610, 13-3967 AND 41-1750, ARIZONA REVISED STATUTES;
RELATING TO DEOXYRIBONUCLEIC TESTING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-610, Arizona Revised Statutes, is amended to
3 read:

4 13-610. Deoxyribonucleic acid testing; exception

5 A. Within thirty days after a person is sentenced to the state
6 department of corrections or a person who is accepted under the interstate
7 compact for the supervision of parolees and probationers arrives in this
8 state, the state department of corrections shall secure a sufficient sample
9 of blood or other bodily substances for deoxyribonucleic acid testing and
10 extraction from the person if the person was convicted of an offense listed
11 in this section and was sentenced to a term of imprisonment or was convicted
12 of any offense that was committed in another jurisdiction that if committed
13 in this state would be a violation of any offense listed in this section and
14 the person is under the supervision of the state department of corrections.
15 The state department of corrections shall transmit the sample to the
16 department of public safety.

17 B. Within thirty days after a person is placed on probation and
18 sentenced to a term of incarceration in a county jail detention facility or
19 is detained in a county juvenile detention facility, the county detention
20 facility shall secure a sufficient sample of blood or other bodily substances
21 for deoxyribonucleic acid testing and extraction from the person if the
22 person was convicted of or adjudicated delinquent for an offense listed in
23 this section. The county detention facility shall transmit the sample to the
24 department of public safety.

25 C. Within thirty days after a person is convicted and placed on
26 probation without a term of incarceration or adjudicated delinquent and
27 placed on probation, the county probation department shall secure a
28 sufficient sample of blood or other bodily substances for deoxyribonucleic
29 acid testing and extraction from the person if the person was convicted of or
30 adjudicated delinquent for an offense listed in this section. The county
31 probation department shall transmit the sample to the department of public
32 safety.

33 D. Within thirty days after the arrival of a person who is accepted
34 under the interstate compact for the supervision of parolees and probationers
35 and who is under the supervision of a county probation department, the county
36 probation department shall secure a sufficient sample of blood or other
37 bodily substances for deoxyribonucleic acid testing and extraction from the
38 person if the person was convicted of an offense that was committed in
39 another jurisdiction that if committed in this state would be a violation of
40 any offense listed in this section and was sentenced to a term of probation.
41 The county probation department shall transmit the sample to the department
42 of public safety.

43 E. Within thirty days after a juvenile is committed to the department
44 of juvenile corrections, the department of juvenile corrections shall secure
45 a sufficient sample of blood or other bodily substances for deoxyribonucleic

1 acid testing and extraction from the youth if the youth was adjudicated
2 delinquent for an offense listed in this section and was committed to a
3 secure care facility. The department of juvenile corrections shall transmit
4 the sample to the department of public safety.

5 F. Within thirty days after the arrival in this state of a juvenile
6 who is accepted by the department of juvenile corrections pursuant to the
7 interstate compact on juveniles and who was adjudicated for an offense that
8 was committed in another jurisdiction that if committed in this state would
9 be a violation of any offense listed in this section, the compact
10 administrator shall request that the sending state impose as a condition of
11 supervision that the juvenile submit a sufficient sample of blood or other
12 bodily substances for deoxyribonucleic acid testing. If the sending state
13 does not impose that condition, the department of juvenile corrections shall
14 request a sufficient sample of blood or other bodily substances for
15 deoxyribonucleic acid testing within thirty days after the juvenile's arrival
16 in this state. The department of juvenile corrections shall transmit the
17 sample to the department of public safety.

18 G. Notwithstanding subsections A through F of this section, the agency
19 that is responsible for securing a sample pursuant to this section shall not
20 secure the sample if the scientific criminal analysis section of the
21 department of public safety has previously received and maintains:

22 1. A sample sufficient for deoxyribonucleic acid testing.

23 2. A PERSON'S DEOXYRIBONUCLEIC ACID TEST RESULTS FROM AN ARRESTING
24 AUTHORITY PURSUANT TO SECTION 13-3967 OR SECTION 41-1750, SUBSECTION U.

25 H. The department of public safety shall do all of the following:

26 1. Conduct or oversee through mutual agreement an analysis of the
27 samples that it receives pursuant to ~~subsection N, paragraphs 1, 2 and 3 of~~
28 ~~this section and subsection O, paragraphs 1 and 2~~ SUBSECTIONS L, M AND O of
29 this section.

30 ~~2. Store the samples it receives pursuant to subsection N, paragraphs~~
31 ~~4 and 5 of this section and subsection O, paragraphs 3 and 4 of this section~~
32 ~~and conduct an analysis of the samples on receipt of the funding necessary~~
33 ~~for this purpose.~~

34 ~~3.~~ 2. Make and maintain a report of the results of each
35 deoxyribonucleic acid analysis.

36 ~~4.~~ 3. Maintain samples of blood and other bodily substances for at
37 least thirty-five years.

38 I. Any sample and the result of any test that is obtained pursuant to
39 this section may be used only as follows:

40 1. For law enforcement identification purposes.

41 2. In a proceeding in a criminal prosecution or juvenile adjudication.

42 3. In a proceeding under title 36, chapter 37.

43 J. If the conviction of a person who is subject to this section is
44 overturned on appeal or postconviction relief and a final mandate has been
45 issued, on petition of the person to the superior court in the county in

1 which the conviction occurred, the court shall order that the person's
2 deoxyribonucleic acid profile resulting from that conviction be expunged from
3 the Arizona deoxyribonucleic acid identification system established by
4 section 41-2418 unless the person has been convicted of another offense that
5 would require the person to submit to deoxyribonucleic acid testing pursuant
6 to this section.

7 K. If the conviction of a person who is subject to this section is
8 classified as a misdemeanor pursuant to section 13-702, on petition of the
9 person to the superior court in the county in which the conviction occurred,
10 the court shall order that the person's deoxyribonucleic acid profile
11 resulting from that conviction be expunged from the Arizona deoxyribonucleic
12 acid identification system unless the person has been convicted of another
13 offense that would require the person to submit to deoxyribonucleic acid
14 testing pursuant to this section.

15 ~~L. A person who was convicted or adjudicated delinquent before the
16 applicable date provided in this section for any offense for which a
17 sufficient sample of blood or other bodily substance for deoxyribonucleic
18 acid testing and extraction is required to be secured shall have a sample
19 secured if the person is in the custody of the state department of
20 corrections, the department of juvenile corrections or a county jail
21 detention facility or is under the supervision of a probation department on
22 the applicable date listed in subsection N or O of this section. The sample
23 shall be secured within one hundred eighty days after the applicable date
24 listed in subsection N or O of this section.~~

25 L. BEGINNING JANUARY 1, 2008, IF A PERSON IS ARRESTED FOR ANY OFFENSE
26 AND IS TRANSFERRED BY THE ARRESTING AUTHORITY TO A STATE, COUNTY OR LOCAL LAW
27 ENFORCEMENT AGENCY OR JAIL, THE ARRESTING AUTHORITY SHALL SECURE A SUFFICIENT
28 SAMPLE OF BLOOD OR OTHER BODILY SUBSTANCES FOR DEOXYRIBONUCLEIC ACID TESTING
29 AND EXTRACTION FROM THE PERSON. THE ARRESTING AUTHORITY SHALL TRANSMIT THE
30 SAMPLE TO THE DEPARTMENT OF PUBLIC SAFETY.

31 M. BEGINNING JANUARY 1, 2008, IF A JUDICIAL OFFICER AS DEFINED IN
32 SECTION 13-3967 RELEASES A PERSON ON HIS OWN RECOGNIZANCE OR ON BAIL, THE
33 JUDICIAL OFFICER SHALL ORDER THE PERSON TO REPORT IF THE PERSON IS CHARGED
34 WITH A FELONY OFFENSE, OR MAY ORDER THE PERSON TO REPORT IF THE PERSON IS
35 CHARGED WITH A MISDEMEANOR OFFENSE, WITHIN FORTY-EIGHT HOURS TO THE LAW
36 ENFORCEMENT AGENCY THAT ARRESTED THE PERSON AND SUBMIT A SUFFICIENT SAMPLE OF
37 BLOOD OR OTHER BODILY SUBSTANCES FOR DEOXYRIBONUCLEIC ACID TESTING AND
38 EXTRACTION. THE ARRESTING AUTHORITY SHALL TRANSMIT THE SAMPLE TO THE
39 DEPARTMENT OF PUBLIC SAFETY. IF A PERSON DOES NOT COMPLY WITH AN ORDER MADE
40 PURSUANT TO THIS SUBSECTION, THE COURT SHALL REVOKE THE PERSON'S RELEASE.

41 ~~M.~~ N. If any sample that is submitted to the department of public
42 safety under this section is found to be unacceptable for analysis and use or
43 cannot be used by the department, the department shall require that another
44 sample of blood or other bodily substances be secured pursuant to this
45 section.

1 ~~N.~~ 0. This section applies to persons who are:
2 1. Convicted of ~~the following offenses:~~
3 ~~1. A violation of or an attempt to violate any offense in chapter 11~~
4 ~~of this title, any felony offense in chapter 14 or 35.1 of this title or~~
5 ~~section 13-1507, 13-1508 or 13-3608.~~
6 ~~2. Any offense for which a person is required to register pursuant to~~
7 ~~section 13-3821.~~
8 ~~3. Any offense involving the discharge, use or threatening exhibition~~
9 ~~of a deadly weapon or dangerous instrument or the intentional or knowing~~
10 ~~infliction of serious physical injury as provided in section 13-604.~~
11 ~~4. A violation of any felony offense in chapter 34 of this title.~~
12 ~~5. Beginning on January 1, 2004, a violation of any felony offense.~~
13 ~~0. This section applies to persons who are~~
14 2. Adjudicated delinquent for the following offenses:
15 ~~1.~~ (a) A violation or an attempt to violate any offense in chapter 11
16 of this title, any felony offense in chapter 14 or 35.1 of this title or
17 section 13-1507, 13-1508 or 13-3608.
18 ~~2.~~ (b) Any offense for which a person is required to register
19 pursuant to section 13-3821.
20 ~~3.~~ (c) A violation of any felony offense A in chapter 34 of this title
21 that may be prosecuted pursuant to section 13-501, subsection B, paragraph 2.
22 ~~4.~~ (d) ~~Beginning on January 1, 2004,~~ A violation of any felony
23 offense that is listed in section 13-501.
24 Sec. 2. Section 13-3967, Arizona Revised Statutes, is amended to read:
25 13-3967. Release on bailable offenses before trial; definition
26 A. At his appearance before a judicial officer, any person who is
27 charged with a public offense that is bailable as a matter of right shall be
28 ordered released pending trial on his own recognizance or on the execution of
29 bail in an amount specified by the judicial officer.
30 B. In determining the method of release or the amount of bail, the
31 judicial officer, on the basis of available information, shall take into
32 account all of the following:
33 1. The views of the victim.
34 2. The nature and circumstances of the offense charged.
35 3. The weight of evidence against the accused.
36 4. The accused's family ties, employment, financial resources,
37 character and mental condition.
38 5. The results of any drug test submitted to the court.
39 6. Whether the accused is using any substance if its possession or use
40 is illegal pursuant to chapter 34 of this title.
41 7. Whether the accused violated section 13-3407, subsection A,
42 paragraph 2, 3, 4 or 7 involving methamphetamine or section 13-3407.01.
43 8. The length of residence in the community.
44 9. The accused's record of arrests and convictions.

1 10. The accused's record of appearance at court proceedings or of
2 flight to avoid prosecution or failure to appear at court proceedings.

3 11. Whether the accused has entered or remained in the United States
4 illegally.

5 12. Whether the accused's residence is in this state, in another state
6 or outside the United States.

7 C. If a judicial officer orders the release of a defendant who is
8 charged with a felony either on his own recognizance or on bail, the judicial
9 officer shall condition the defendant's release on the defendant's good
10 behavior while so released. On a showing of probable cause that the
11 defendant committed any offense during the period of release, a judicial
12 officer may revoke the defendant's release pursuant to section 13-3968.

13 D. After providing notice to the victim pursuant to section 13-4406, a
14 judicial officer may impose any of the following conditions on a person who
15 is released on his own recognizance or on bail:

16 1. Place the person in the custody of a designated person or
17 organization agreeing to supervise him.

18 2. Place restrictions on the person's travel, associates or place of
19 abode during the period of release.

20 3. Require the deposit with the clerk of the court of cash or other
21 security, such deposit to be returned on the performance of the conditions of
22 release.

23 4. Prohibit the person from possessing any dangerous weapon or
24 engaging in certain described activities or indulging in intoxicating liquors
25 or certain drugs.

26 5. Require the person to report regularly to and remain under the
27 supervision of an officer of the court.

28 6. Impose any other conditions deemed reasonably necessary to assure
29 appearance as required including a condition requiring that the person return
30 to custody after specified hours.

31 E. In addition to any of the conditions a judicial officer may impose
32 pursuant to subsection D of this section, the judicial officer shall impose
33 both of the following conditions on a person who is charged with a felony
34 violation of chapter 14 or 35.1 of this title and who is released on his own
35 recognizance or on bail:

36 1. Electronic monitoring where available.

37 2. A condition prohibiting the person from having any contact with the
38 victim.

39 F. The judicial officer who authorizes the release of the person
40 charged on his own recognizance or on bail shall do all of the following:

41 1. Issue an appropriate order containing statements of the conditions
42 imposed.

43 2. Inform the person of the penalties that apply to any violation of
44 the conditions of release.

1 3. Advise the person that a warrant for his arrest may be issued
2 immediately on any violation of the conditions of release, **INCLUDING THE**
3 **FAILURE TO SUBMIT TO DEOXYRIBONUCLEIC ACID TESTING ORDERED PURSUANT TO**
4 **PARAGRAPH 4 OF THIS SUBSECTION.**

5 4. **IF THE PERSON IS CHARGED WITH A FELONY OFFENSE, ORDER THE PERSON TO**
6 **REPORT WITHIN FORTY-EIGHT HOURS TO THE LAW ENFORCEMENT AGENCY THAT ARRESTED**
7 **THE PERSON AND SUBMIT A SUFFICIENT SAMPLE OF BLOOD OR OTHER BODILY SUBSTANCES**
8 **FOR DEOXYRIBONUCLEIC ACID TESTING AND EXTRACTION, AND IF THE PERSON IS**
9 **CHARGED WITH A MISDEMEANOR OFFENSE, THE COURT MAY ORDER THE PERSON TO REPORT**
10 **WITHIN FORTY-EIGHT HOURS TO THE LAW ENFORCEMENT AGENCY THAT ARRESTED THE**
11 **PERSON AND SUBMIT A SUFFICIENT SAMPLE OF BLOOD OR OTHER BODILY SUBSTANCES FOR**
12 **DEOXYRIBONUCLEIC ACID TESTING AND EXTRACTION.**

13 G. At any time after providing notice to the victim pursuant to
14 section 13-4406, the judicial officer who orders the release of a person on
15 any condition specified in this section or the court in which a prosecution
16 is pending may amend the order to employ additional or different conditions
17 of release, including either an increase or reduction in the amount of bail.
18 On application, the defendant shall be entitled to have the conditions of
19 release reviewed by the judicial officer who imposed them or by the court in
20 which the prosecution is pending. Reasonable notice of the application shall
21 be given to the county attorney and the victim.

22 H. Any information that is stated or offered in connection with any
23 order pursuant to this section need not conform to the rules pertaining to
24 admissibility of evidence in a court of law.

25 I. This section does not prevent the disposition of any case or class
26 of cases by forfeiture of bail or collateral security if such disposition is
27 authorized by the court.

28 J. A judicial officer who orders the release of a juvenile who has
29 been transferred to the criminal division of the superior court pursuant to
30 section 8-327 or who has been charged as an adult pursuant to section 13-501
31 shall notify the appropriate school district on the release of the juvenile
32 from custody.

33 K. For the purposes of this section and section 13-3968, "judicial
34 officer" means any person or court authorized pursuant to the constitution or
35 laws of this state to bail or otherwise release a person before trial or
36 sentencing or pending appeal.

37 Sec. 3. Section 41-1750, Arizona Revised Statutes, is amended to read:
38 **41-1750. Central state repository; department of public safety;**
39 **duties; funds; accounts; definitions**

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

44 1. Procure from all criminal justice agencies in this state accurate
45 and complete personal identification data, fingerprints, charges, process

1 control numbers and dispositions and such other information as may be
2 pertinent to all persons who have been charged with, arrested for, convicted
3 of or summoned to court as a criminal defendant for a felony offense or an
4 offense involving domestic violence as defined in section 13-3601 or a
5 violation of title 13, chapter 14 or title 28, chapter 4.

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

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

16 4. Cooperate with the central state repositories in other states and
17 with the appropriate agency of the federal government in the exchange of
18 information pertinent to violators of the law.

19 5. Ensure the rapid exchange of information concerning the commission
20 of crime and the detection of violators of the law among the criminal justice
21 agencies of other states and of the federal government.

22 6. Furnish assistance to peace officers throughout this state in crime
23 scene investigation for the detection of latent fingerprints and in the
24 comparison of latent fingerprints.

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

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

34 9. Aid and encourage coordination and cooperation among criminal
35 justice agencies through the statewide and interstate exchange of criminal
36 justice information.

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

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

42 12. Provide criminal history record information to the fingerprinting
43 division for the purpose of screening applicants for fingerprint clearance
44 cards.

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

4 C. The chief officers of criminal justice agencies of this state or
5 its political subdivisions shall provide to the central state repository
6 fingerprints, **DEOXYRIBONUCLEIC ACID TEST RESULTS** and information concerning
7 personal identification data, descriptions, crimes for which persons are
8 arrested, process control numbers and dispositions and such other information
9 as may be pertinent to all persons who have been charged with, arrested for,
10 convicted of or summoned to court as criminal defendants for felony offenses
11 or offenses involving domestic violence as defined in section 13-3601 or
12 violations of title 13, chapter 14 or title 28, chapter 4 that have occurred
13 in this state.

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

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

22 F. The chief officers of criminal justice agencies of this state or
23 its political subdivisions also shall provide to the department information
24 concerning crimes that manifest evidence of prejudice based on race, color,
25 religion, national origin, sexual orientation, gender or disability.

26 G. The director shall authorize the exchange of criminal justice
27 information between the central state repository, or through the Arizona
28 criminal justice information system, whether directly or through any
29 intermediary, only as follows:

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

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

1 that fingerprints of the specified individuals be submitted in conjunction
2 with such requests for criminal history record information.

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

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

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

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

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

31 8. With individuals and agencies pursuant to a specific agreement with
32 a criminal justice agency to provide services required for the administration
33 of criminal justice pursuant to that agreement if the agreement specifically
34 authorizes access to data, limits the use of data to purposes for which given
35 and ensures the security and confidentiality of the data consistent with this
36 section.

37 9. With individuals and agencies for the express purpose of research,
38 evaluative or statistical activities pursuant to an agreement with a criminal
39 justice agency if the agreement specifically authorizes access to data,
40 limits the use of data to research, evaluative or statistical purposes and
41 ensures the confidentiality and security of the data consistent with this
42 section.

43 10. With the auditor general for audit purposes.

1 11. With central state repositories of other states for noncriminal
2 justice purposes for dissemination in accordance with the laws of those
3 states.

4 12. On submission of the fingerprint card, with the department of
5 economic security to provide criminal history record information on
6 prospective adoptive parents for the purpose of conducting the preadoption
7 certification investigation under title 8, chapter 1, article 1 if the
8 department of economic security is conducting the investigation, or with an
9 agency or a person appointed by the court, if the agency or person is
10 conducting the investigation. Information received under this paragraph
11 shall only be used for the purposes of the preadoption certification
12 investigation.

13 13. With the department of economic security and the superior court for
14 the purpose of evaluating the fitness of custodians or prospective custodians
15 of juveniles, including parents, relatives and prospective guardians.
16 Information received under this paragraph shall only be used for the purposes
17 of that evaluation. The information shall be provided on submission of
18 either:

19 (a) The fingerprint card.

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

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

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

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

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

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

35 19. With licensees of the United States nuclear regulatory commission
36 for the purpose of determining whether an individual should be granted
37 unescorted access to the protected area of a commercial nuclear generating
38 station on submission of the subject of record's fingerprints and the
39 prescribed fee.

40 20. With the state board of education for the purpose of evaluating the
41 fitness of a certificated teacher or administrator or an applicant for a
42 teaching or an administrative certificate provided that the state board of
43 education or its employees or agents have reasonable suspicion that the
44 certificated person engaged in conduct that would be a criminal violation of
45 the laws of this state or was involved in immoral or unprofessional conduct

1 or that the applicant engaged in conduct that would warrant disciplinary
2 action if the applicant were certificated at the time of the alleged conduct.
3 The information shall be provided on the submission of either:

4 (a) The fingerprint card.

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

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

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

10 J. The director shall establish a fee in an amount necessary to cover
11 the cost of federal noncriminal justice fingerprint processing for criminal
12 history record information checks that are authorized by law for noncriminal
13 justice employment, licensing or other lawful purposes. An additional fee
14 may be charged by the department for state noncriminal justice fingerprint
15 processing. Fees submitted to the department for state noncriminal justice
16 fingerprint processing are not refundable.

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

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

27 M. A fingerprint account within the records processing fund is
28 established for the purpose of separately accounting for the collection and
29 payment of fees for noncriminal justice fingerprint processing by the
30 department. Monies collected for this purpose shall be credited to the
31 account, and payments by the department to the United States for federal
32 noncriminal justice fingerprint processing shall be charged against the
33 account. Monies in the account not required for payment to the United States
34 shall be used by the department in support of the department's noncriminal
35 justice fingerprint processing duties. At the end of each fiscal year, any
36 balance in the account not required for payment to the United States or to
37 support the department's noncriminal justice fingerprint processing duties
38 reverts to the state general fund.

39 N. A records processing fund is established for the purpose of
40 separately accounting for the collection and payment of fees for department
41 reports and photographs of traffic accident scenes processed by the
42 department. Monies collected for this purpose shall be credited to the fund
43 and shall be used by the department in support of functions related to
44 providing copies of department reports and photographs. At the end of each
45 fiscal year, any balance in the fund not required for support of the

1 functions related to providing copies of department reports and photographs
2 reverts to the state general fund.

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

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

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

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

13 Q. The director shall ensure that the following limitations are
14 observed regarding dissemination of criminal justice information obtained
15 from the central state repository or through the Arizona criminal justice
16 information system:

17 1. Any criminal justice agency that obtains criminal justice
18 information from the central state repository or through the Arizona criminal
19 justice information system assumes responsibility for the security of the
20 information and shall not secondarily disseminate this information to any
21 individual or agency not authorized to receive this information directly from
22 the central state repository or originating agency.

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

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

31 4. The existence or nonexistence of criminal history record
32 information shall not be confirmed to any individual or agency not authorized
33 to receive the information itself.

34 5. Criminal history record information to be released for noncriminal
35 justice purposes to agencies of other states shall only be released to the
36 central state repositories of those states for dissemination in accordance
37 with the laws of those states.

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

41 R. This section and the rules adopted under this section apply to all
42 agencies and individuals collecting, storing or disseminating criminal
43 justice information processed by manual or automated operations if the
44 collection, storage or dissemination is funded in whole or in part with
45 monies made available by the law enforcement assistance administration after

1 July 1, 1973, pursuant to title I of the crime control act of 1973, and to
2 all agencies that interact with or receive criminal justice information from
3 or through the central state repository and through the Arizona criminal
4 justice information system.

5 S. This section does not apply to criminal history record information
6 contained in:

7 1. Posters, arrest warrants, announcements or lists for identifying or
8 apprehending fugitives or wanted persons.

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

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

15 4. Announcements of executive clemency or pardon.

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

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

26 U. In order to ensure that complete and accurate criminal history
27 record information is maintained and disseminated by the central state
28 repository:

29 1. The arresting authority shall take legible fingerprints of all
30 persons arrested for offenses specified in subsection C of this section and,
31 within ten days of the arrest, the arresting authority shall forward the
32 fingerprints to the department in the manner or form required by the
33 department. On the issuance and service of a summons for a defendant who is
34 charged with a felony offense, a violation of title 13, chapter 14 or title
35 28, chapter 4 or a domestic violence offense as defined in section 13-3601,
36 the court shall order that the defendant be fingerprinted by the appropriate
37 law enforcement agency and that the defendant appear at a designated time and
38 place for fingerprinting. At the initial appearance or on the arraignment of
39 a summoned defendant who is charged with a felony offense, a violation of
40 title 13, chapter 14 or title 28, chapter 4 or a domestic violence offense as
41 defined in section 13-3601, the court shall order that the defendant be
42 fingerprinted at a designated time and place by the appropriate law
43 enforcement agency if the court has reasonable cause to believe that the
44 defendant was not previously fingerprinted.

1 2. BEGINNING JANUARY 1, 2008, THE ARRESTING AUTHORITY SHALL REQUIRE A
2 PERSON WHO IS ARRESTED AND WHO IS TRANSFERRED BY THE ARRESTING AUTHORITY TO A
3 STATE, COUNTY OR LOCAL LAW ENFORCEMENT AGENCY OR JAIL TO SUBMIT TO
4 DEOXYRIBONUCLEIC ACID TESTING. BEGINNING JANUARY 1, 2008, A JUDICIAL OFFICER
5 AS DEFINED IN SECTION 13-3967 SHALL ORDER A PERSON WHO IS CHARGED WITH A
6 FELONY OFFENSE AND WHO IS RELEASED ON HIS OWN RECOGNIZANCE OR ON BAIL TO
7 SUBMIT TO DEOXYRIBONUCLEIC ACID TESTING, AND MAY ORDER A PERSON WHO IS
8 CHARGED WITH A MISDEMEANOR OFFENSE AND WHO IS RELEASED ON HIS OWN
9 RECOGNIZANCE OR ON BAIL TO SUBMIT TO DEOXYRIBONUCLEIC ACID TESTING. THE
10 JUDICIAL OFFICER SHALL ORDER THE PERSON TO REPORT WITHIN FORTY-EIGHT HOURS TO
11 THE LAW ENFORCEMENT AGENCY THAT ARRESTED THE PERSON FOR TESTING. WITHIN
12 NINETY DAYS AFTER TESTING, THE ARRESTING AUTHORITY SHALL FORWARD THE
13 DEOXYRIBONUCLEIC ACID TEST RESULTS TO THE DEPARTMENT IN A MANNER OR FORM
14 REQUIRED BY THE DEPARTMENT.

15 ~~2-~~ 3. In every criminal case in which the defendant is incarcerated
16 or fingerprinted as a result of the charge, an originating law enforcement
17 agency or prosecutor, within forty days of the disposition, shall advise the
18 central state repository of all dispositions concerning the termination of
19 criminal proceedings against an individual arrested for an offense specified
20 in subsection C of this section. This information shall be submitted on a
21 form or in a manner required by the department.

22 ~~3-~~ 4. Dispositions resulting from formal proceedings in a court
23 having jurisdiction in a criminal action against an individual who is
24 arrested for an offense specified in subsection C of this section or section
25 8-341, subsection S shall be reported to the central state repository within
26 forty days of the date of the disposition. This information shall be
27 submitted on a form or in a manner specified by rules approved by the supreme
28 court.

29 ~~4-~~ 5. The state department of corrections or the department of
30 juvenile corrections, within forty days, shall advise the central state
31 repository that it has assumed supervision of a person convicted of an
32 offense specified in subsection C of this section or section 8-341,
33 subsection S. The state department of corrections or the department of
34 juvenile corrections shall also report dispositions that occur thereafter to
35 the central state repository within forty days of the date of the
36 dispositions. This information shall be submitted on a form or in a manner
37 required by the department of public safety.

38 ~~5-~~ 6. Each criminal justice agency shall query the central state
39 repository before dissemination of any criminal history record information to
40 ensure the completeness of the information. Inquiries shall be made before
41 any dissemination except in those cases in which time is of the essence and
42 the repository is technically incapable of responding within the necessary
43 time period. If time is of the essence, the inquiry shall still be made and
44 the response shall be provided as soon as possible.

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

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

13 X. Nothing in this section creates a cause of action or a right to
14 bring an action including an action based on discrimination due to sexual
15 orientation.

16 Y. For the purposes of this section:

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

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

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

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

38 5. "Criminal history record information" and "criminal history record"
39 means information that is collected by criminal justice agencies on
40 individuals and that consists of identifiable descriptions and notations of
41 arrests, detentions, indictments and other formal criminal charges, and any
42 disposition arising from those actions, sentencing, formal correctional
43 supervisory action and release. Criminal history record information and
44 criminal history record do not include identification information to the
45 extent that the information does not indicate involvement of the individual

1 in the criminal justice system or information relating to juveniles unless
2 they have been adjudicated as adults.

3 6. "Criminal justice agency" means either:

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

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

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

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

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

31 10. "Management control":

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

33 (i) Priorities regarding development and operation of criminal justice
34 information systems and programs.

35 (ii) Standards for the selection, supervision and termination of
36 personnel involved in the development of criminal justice information systems
37 and programs and in the collection, maintenance, analysis and dissemination
38 of criminal justice information.

39 (iii) Policies governing the operation of computers, circuits and
40 telecommunications terminals used to process criminal justice information to
41 the extent that the equipment is used to process, store or transmit criminal
42 justice information.

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

- 1 11. "Process control number" means the Arizona automated fingerprint
2 identification system number that attaches to each arrest event at the time
3 of fingerprinting and that is assigned to the arrest fingerprint card,
4 disposition form and other pertinent documents.
- 5 12. "Secondary dissemination" means the dissemination of criminal
6 justice information from an individual or agency that originally obtained the
7 information from the central state repository or through the Arizona criminal
8 justice information system to another individual or agency.
- 9 13. "Sexual orientation" means consensual homosexuality or
10 heterosexuality.
- 11 14. "Subject of record" means the person who is the primary subject of
12 a criminal justice record.