

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HOUSE BILL 2042

AN ACT

AMENDING SECTIONS 15-183, 15-203, 15-550 AND 41-1750, ARIZONA REVISED
STATUTES; RELATING TO SCHOOL EMPLOYEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-183, Arizona Revised Statutes, is amended to
3 read:

4 15-183. Charter schools; application; requirements; immunity;
5 exemptions; renewal of application; reprisal

6 A. An applicant seeking to establish a charter school shall submit a
7 written application to a proposed sponsor as prescribed in subsection C of
8 this section. The application shall include a detailed business plan for the
9 charter school and may include a mission statement for the charter school, a
10 description of the charter school's organizational structure and the
11 governing body, a financial plan for the first three years of operation of
12 the charter school, a description of the charter school's hiring policy, the
13 name of the charter school's applicant or applicants and requested sponsor, a
14 description of the charter school's facility and the location of the school,
15 a description of the grades being served and an outline of criteria designed
16 to measure the effectiveness of the school.

17 B. The sponsor of a charter school may contract with a public body,
18 private person or private organization for the purpose of establishing a
19 charter school pursuant to this article.

20 C. The sponsor of a charter school may be either a school district
21 governing board, the state board of education or the state board for charter
22 schools, subject to the following requirements:

23 1. For charter schools that submit an application for sponsorship to a
24 school district governing board:

25 (a) An applicant for a charter school may submit its application to a
26 school district governing board, which shall either accept or reject
27 sponsorship of the charter school within ninety days. An applicant may
28 submit a revised application for reconsideration by the governing board. If
29 the governing board rejects the application, the governing board shall notify
30 the applicant in writing of the reasons for the rejection. The applicant may
31 request, and the governing board may provide, technical assistance to improve
32 the application.

33 (b) In the first year that a school district is determined to be out
34 of compliance with the uniform system of financial records, within fifteen
35 days of the determination of noncompliance, the school district shall notify
36 by certified mail each charter school sponsored by the school district that
37 the school district is out of compliance with the uniform system of financial
38 records. The notification shall include a statement that if the school
39 district is determined to be out of compliance for a second consecutive year,
40 the charter school will be required to transfer sponsorship to another entity
41 pursuant to subdivision (c) of this paragraph.

42 (c) In the second consecutive year that a school district is
43 determined to be out of compliance with the uniform system of financial
44 records, within fifteen days of the determination of noncompliance, the
45 school district shall notify by certified mail each charter school sponsored

1 by the school district that the school district is out of compliance with the
2 uniform system of financial records. A charter school that receives a
3 notification of school district noncompliance pursuant to this subdivision
4 shall file a written sponsorship transfer application within forty-five days
5 with the state board of education, the state board for charter schools or the
6 school district governing board if the charter school is located within the
7 geographic boundaries of that school district. A charter school that
8 receives a notification of school district noncompliance may request an
9 extension of time to file a sponsorship transfer application and the state
10 board of education, the state board for charter schools or a school district
11 governing board may grant an extension of not more than an additional thirty
12 days if good cause exists for the extension. The state board of education
13 and the state board for charter schools shall approve a sponsorship transfer
14 application pursuant to this paragraph.

15 (d) Beginning July 1, 2000, a school district governing board shall
16 not grant a charter to a charter school that is located outside the
17 geographic boundaries of that school district.

18 (e) A school district that has been determined to be out of compliance
19 with the uniform system of financial records during either of the previous
20 two fiscal years shall not sponsor a new or transferring charter school.

21 2. The applicant may submit the application to the state board of
22 education or the state board for charter schools. The state board of
23 education or the state board for charter schools may approve the application
24 if the application meets the requirements of this article and may approve the
25 charter if the proposed sponsor determines, within its sole discretion, that
26 the applicant is sufficiently qualified to operate a charter school. The
27 state board of education or the state board for charter schools may approve
28 any charter schools transferring charters. The state board of education and
29 the state board for charter schools shall approve any charter schools
30 transferring charters from a school district that is determined to be out of
31 compliance with the uniform system of financial records pursuant to this
32 section, but may require the charter school to sign a new charter that is
33 equivalent to the charter awarded by the former sponsor. If the state board
34 of education or the state board for charter schools rejects the preliminary
35 application, the state board of education or the state board for charter
36 schools shall notify the applicant in writing of the reasons for the
37 rejection and of suggestions for improving the application. An applicant may
38 submit a revised application for reconsideration by the state board of
39 education or the state board for charter schools. The applicant may request,
40 and the state board of education or the state board for charter schools may
41 provide, technical assistance to improve the application.

42 3. Each applicant seeking to establish a charter school shall submit a
43 full set of fingerprints to the approving agency for the purpose of obtaining
44 a state and federal criminal records check pursuant to section 41-1750 and
45 Public Law 92-544. If an applicant will have direct contact with students,

1 the applicant shall possess a valid fingerprint clearance card that is issued
2 pursuant to title 41, chapter 12, article 3.1. The department of public
3 safety may exchange this fingerprint data with the federal bureau of
4 investigation. The criminal records check shall be completed before the
5 issuance of a charter.

6 4. All persons engaged in instructional work directly as a classroom,
7 laboratory or other teacher or indirectly as a supervisory teacher, speech
8 therapist or principal shall have a valid fingerprint clearance card that is
9 issued pursuant to title 41, chapter 12, article 3.1, unless the person is a
10 volunteer or guest speaker who is accompanied in the classroom by a person
11 with a valid fingerprint clearance card. A charter school shall not employ a
12 teacher whose certificate has been revoked for a violation of section 15-507
13 or 15-550 or for any offense that placed a pupil in danger. All other
14 personnel shall be fingerprint checked pursuant to section 15-512. Before
15 employment, the charter school shall make documented, good faith efforts to
16 contact previous employers of a person to obtain information and
17 recommendations that may be relevant to a person's fitness for employment as
18 prescribed in section 15-512, subsection F. The charter school shall notify
19 the department of public safety if the charter school or sponsor receives
20 credible evidence that a person who possesses a valid fingerprint clearance
21 card is arrested for or is charged with an offense listed in section
22 41-1758.03, subsection B. Charter schools may hire personnel that have not
23 yet received a fingerprint clearance card if proof is provided of the
24 submission of an application to the department of public safety for a
25 fingerprint clearance card and if the charter school that is seeking to hire
26 the applicant does all of the following:

27 (a) Documents in the applicant's file the necessity for hiring and
28 placement of the applicant before receiving a fingerprint clearance card.

29 (b) Ensures that the department of public safety completes a statewide
30 criminal ~~history information~~ RECORDS check on the applicant. A statewide
31 criminal ~~history information~~ RECORDS check shall be completed by the
32 department of public safety every one hundred twenty days until the date that
33 the fingerprint check is completed.

34 (c) Obtains references from the applicant's current employer and the
35 two most recent previous employers except for applicants who have been
36 employed for at least five years by the applicant's most recent employer.

37 (d) Provides general supervision of the applicant until the date that
38 the fingerprint card is obtained.

39 (e) Completes a search of criminal records in all local jurisdictions
40 outside of this state in which the applicant has lived in the previous five
41 years.

42 (f) Verifies the fingerprint status of the applicant with the
43 department of public safety.

44 5. If a charter school operator is not already subject to a public
45 meeting or hearing by the municipality in which the charter school is

1 located, the operator of a charter school shall conduct a public meeting at
2 least thirty days before the charter school operator opens a site or sites
3 for the charter school. The charter school operator shall post notices of
4 the public meeting in at least three different locations that are within
5 three hundred feet of the proposed charter school site.

6 6. A PERSON WHO IS EMPLOYED BY A CHARTER SCHOOL OR WHO IS AN APPLICANT
7 FOR EMPLOYMENT WITH A CHARTER SCHOOL, WHO IS ARRESTED FOR OR CHARGED WITH AN
8 OFFENSE LISTED IN SECTION 41-1758.03, SUBSECTION B AND WHO DOES NOT
9 IMMEDIATELY REPORT THE ARREST OR CHARGE TO THE PERSON'S SUPERVISOR OR
10 POTENTIAL EMPLOYER IS GUILTY OF UNPROFESSIONAL CONDUCT AND THE PERSON SHALL
11 BE IMMEDIATELY DISMISSED FROM EMPLOYMENT WITH THE CHARTER SCHOOL OR
12 IMMEDIATELY EXCLUDED FROM POTENTIAL EMPLOYMENT WITH THE CHARTER SCHOOL. A
13 PERSON WHO IS EMPLOYED BY A CHARTER SCHOOL AND WHO IS CONVICTED OF ANY
14 APPEALABLE OR NONAPPEALABLE OFFENSE LISTED IN SECTION 41-1758.03, SUBSECTION
15 B OR IS CONVICTED OF ANY APPEALABLE OR NONAPPEALABLE OFFENSE THAT AMOUNTS TO
16 UNPROFESSIONAL CONDUCT UNDER SECTION 15-550 SHALL IMMEDIATELY DO ALL OF THE
17 FOLLOWING:

18 (a) SURRENDER ANY CERTIFICATES ISSUED BY THE DEPARTMENT OF EDUCATION.

19 (b) NOTIFY THE PERSON'S EMPLOYER OR POTENTIAL EMPLOYER OF THE
20 CONVICTION.

21 (c) NOTIFY THE DEPARTMENT OF PUBLIC SAFETY OF THE CONVICTION.

22 (d) SURRENDER THE PERSON'S FINGERPRINT CLEARANCE CARD.

23 D. A board that is authorized to sponsor charter schools pursuant to
24 this article has no legal authority over or responsibility for a charter
25 school sponsored by a different board. This subsection does not apply to the
26 state board of education's duty to exercise general supervision over the
27 public school system pursuant to section 15-203, subsection A, paragraph 1.

28 E. The charter of a charter school shall ensure the following:

29 1. Compliance with federal, state and local rules, regulations and
30 statutes relating to health, safety, civil rights and insurance. The
31 department of education shall publish a list of relevant rules, regulations
32 and statutes to notify charter schools of their responsibilities under this
33 paragraph.

34 2. That it is nonsectarian in its programs, admission policies and
35 employment practices and all other operations.

36 3. That it provides a comprehensive program of instruction for at
37 least a kindergarten program or any grade between grades one and twelve,
38 except that a school may offer this curriculum with an emphasis on a specific
39 learning philosophy or style or certain subject areas such as mathematics,
40 science, fine arts, performance arts or foreign language.

41 4. That it designs a method to measure pupil progress, toward the
42 pupil outcomes adopted by the state board of education pursuant to section
43 15-741.01, including participation in the Arizona instrument to measure
44 standards test and the nationally standardized norm-referenced achievement

1 test as designated by the state board and the completion and distribution of
2 an annual report card as prescribed in chapter 7, article 3 of this title.

3 5. That, except as provided in this article and in its charter, it is
4 exempt from all statutes and rules relating to schools, governing boards and
5 school districts.

6 6. That, except as provided in this article, it is subject to the same
7 financial and electronic data submission requirements as a school district,
8 including the uniform system of financial records as prescribed in chapter 2,
9 article 4 of this title, procurement rules as prescribed in section 15-213
10 and audit requirements. The auditor general shall conduct a comprehensive
11 review and revision of the uniform system of financial records to ensure that
12 the provisions of the uniform system of financial records that relate to
13 charter schools are in accordance with commonly accepted accounting
14 principles used by private business. A school's charter may include
15 exceptions to the requirements of this paragraph that are necessary as
16 determined by the district governing board, the state board of education or
17 the state board for charter schools. The department of education or the
18 office of the auditor general may conduct financial, program or compliance
19 audits.

20 7. Compliance with all federal and state laws relating to the
21 education of children with disabilities in the same manner as a school
22 district.

23 8. That it provides for a governing body for the charter school that
24 is responsible for the policy decisions of the charter school.

25 9. That it provides a minimum of one hundred seventy-five
26 instructional days before June 30 of each fiscal year unless it is operating
27 on an alternative calendar approved by its sponsor. The superintendent of
28 public instruction shall adjust the apportionment schedule accordingly to
29 accommodate a charter school utilizing an alternative calendar.

30 F. The charter of a charter school shall include a description of the
31 charter school's personnel policies, personnel qualifications and method of
32 school governance and the specific role and duties of the sponsor of the
33 charter school. A charter school shall keep on file the resumes of all
34 current and former employees who provide instruction to pupils at the charter
35 school. Resumes shall include an individual's educational and teaching
36 background and experience in a particular academic content subject area. A
37 charter school shall inform parents and guardians of the availability of the
38 resume information and shall make the resume information available for
39 inspection on request of parents and guardians of pupils enrolled at the
40 charter school. Nothing in this subsection shall be construed to require any
41 charter school to release personally identifiable information in relation to
42 any teacher or employee including the teacher's or employee's address,
43 salary, social security number or telephone number.

44 G. The charter of a charter school may be amended at the request of
45 the governing body of the charter school and on the approval of the sponsor.

1 H. Charter schools may contract, sue and be sued.

2 I. An approved plan to establish a charter school is effective for
3 fifteen years from the first day of operation. At the conclusion of the
4 first fourteen years of operation, the charter school may apply for renewal.
5 In addition to any other requirements, the application for renewal shall
6 include a detailed business plan for the charter school. The sponsor may
7 deny the request for renewal if, in its judgment, the charter school has
8 failed to complete the obligations of the contract or has failed to comply
9 with this article. A sponsor shall give written notice of its intent not to
10 renew the charter school's request for renewal to the charter school at least
11 twelve months before the expiration of the approved plan to allow the charter
12 school an opportunity to apply to another sponsor to transfer the operation
13 of the charter school. If the operation of the charter school is transferred
14 to another sponsor, the fifteen year period of the current charter shall be
15 maintained. A sponsor shall review a charter at five year intervals and may
16 revoke a charter at any time if the charter school breaches one or more
17 provisions of its charter. At least ninety days before the effective date of
18 the proposed revocation the sponsor shall give written notice to the operator
19 of the charter school of its intent to revoke the charter. Notice of the
20 sponsor's intent to revoke the charter shall be delivered personally to the
21 operator of the charter school or sent by certified mail, return receipt
22 requested, to the address of the charter school. The notice shall
23 incorporate a statement of reasons for the proposed revocation of the
24 charter. The sponsor shall allow the charter school at least ninety days to
25 correct the problems associated with the reasons for the proposed revocation
26 of the charter. The final determination of whether to revoke the charter
27 shall be made at a public hearing called for such purpose.

28 J. After renewal of the charter at the end of the fifteen year period
29 described in subsection I of this section, the charter may be renewed for
30 successive periods of fifteen years if the charter school and its sponsor
31 deem that the school is in compliance with its own charter and this article.

32 K. A charter school that is sponsored by the state board of education
33 or the state board for charter schools may not be located on the property of
34 a school district unless the district governing board grants this authority.

35 L. A governing board or a school district employee who has control
36 over personnel actions shall not take unlawful reprisal against another
37 employee of the school district because the employee is directly or
38 indirectly involved in an application to establish a charter school. A
39 governing board or a school district employee shall not take unlawful
40 reprisal against an educational program of the school or the school district
41 because an application to establish a charter school proposes the conversion
42 of all or a portion of the educational program to a charter school. ~~As used~~
43 ~~in~~ FOR THE PURPOSES OF this subsection, "unlawful reprisal" means an action
44 that is taken by a governing board or a school district employee as a direct

1 result of a lawful application to establish a charter school and that is
2 adverse to another employee or an education program and:

3 1. With respect to a school district employee, results in one or more
4 of the following:

5 (a) Disciplinary or corrective action.

6 (b) Detail, transfer or reassignment.

7 (c) Suspension, demotion or dismissal.

8 (d) An unfavorable performance evaluation.

9 (e) A reduction in pay, benefits or awards.

10 (f) Elimination of the employee's position without a reduction in
11 force by reason of lack of monies or work.

12 (g) Other significant changes in duties or responsibilities that are
13 inconsistent with the employee's salary or employment classification.

14 2. With respect to an educational program, results in one or more of
15 the following:

16 (a) Suspension or termination of the program.

17 (b) Transfer or reassignment of the program to a less favorable
18 department.

19 (c) Relocation of the program to a less favorable site within the
20 school or school district.

21 (d) Significant reduction or termination of funding for the program.

22 M. Charter schools shall secure insurance for liability and property
23 loss. The governing body of a charter school that is sponsored by the state
24 board of education or the state board for charter schools may enter into an
25 intergovernmental agreement or otherwise contract to participate in an
26 insurance program offered by a risk retention pool established pursuant to
27 section 11-952.01 or 41-621.01 or the charter school may secure its own
28 insurance coverage. The pool may charge the requesting charter school
29 reasonable fees for any services it performs in connection with the insurance
30 program.

31 N. Charter schools do not have the authority to acquire property by
32 eminent domain.

33 O. A sponsor, including members, officers and employees of the
34 sponsor, is immune from personal liability for all acts done and actions
35 taken in good faith within the scope of its authority.

36 P. Charter school sponsors and this state are not liable for the debts
37 or financial obligations of a charter school or persons who operate charter
38 schools.

39 Q. The sponsor of a charter school shall establish procedures to
40 conduct administrative hearings on determination by the sponsor that grounds
41 exist to revoke a charter. Procedures for administrative hearings shall be
42 similar to procedures prescribed for adjudicative proceedings in title 41,
43 chapter 6, article 10. Except as provided in section 41-1092.08, subsection
44 H, final decisions of the state board of education and the state board for

1 charter schools from hearings conducted pursuant to this subsection are
2 subject to judicial review pursuant to title 12, chapter 7, article 6.

3 R. The sponsoring entity of a charter school shall have oversight and
4 administrative responsibility for the charter schools that it sponsors.

5 S. Charter schools may pledge, assign or encumber their assets to be
6 used as collateral for loans or extensions of credit.

7 T. All property accumulated by a charter school shall remain the
8 property of the charter school.

9 U. Charter schools may not locate a school on property that is less
10 than one-fourth mile from agricultural land regulated pursuant to section
11 3-365, except that the owner of the agricultural land may agree to comply
12 with the buffer zone requirements of section 3-365. If the owner agrees in
13 writing to comply with the buffer zone requirements and records the agreement
14 in the office of the county recorder as a restrictive covenant running with
15 the title to the land, the charter school may locate a school within the
16 affected buffer zone. The agreement may include any stipulations regarding
17 the charter school, including conditions for future expansion of the school
18 and changes in the operational status of the school that will result in a
19 breach of the agreement.

20 V. A transfer of a charter to another sponsor, a transfer of a charter
21 school site to another sponsor or a transfer of a charter school site to a
22 different charter shall be completed before the beginning of the fiscal year
23 that the transfer is scheduled to become effective. An entity that sponsors
24 charter schools may accept a transferring school after the beginning of the
25 fiscal year if the transfer is approved by the superintendent of public
26 instruction. The superintendent of public instruction shall have the
27 discretion to consider each transfer during the fiscal year on a case by case
28 basis. If a charter school is sponsored by a school district that is
29 determined to be out of compliance with this title, the uniform system of
30 financial records or any other state or federal law, the charter school may
31 transfer to another sponsoring entity at any time during the fiscal year.

32 W. The sponsoring entity may not charge any fees to a charter school
33 that it sponsors unless the sponsor has provided services to the charter
34 school and the fees represent the full value of those services provided by
35 the sponsor. On request, the value of the services provided by the sponsor
36 to the charter school shall be demonstrated to the department of education.

37 Sec. 2. Section 15-203, Arizona Revised Statutes, is amended to read:
38 15-203. Powers and duties

39 A. The state board of education shall:

40 1. Exercise general supervision over and regulate the conduct of the
41 public school system and adopt any rules and policies it deems necessary to
42 accomplish this purpose.

43 2. Keep a record of its proceedings.

44 3. Make rules for its own government.

45 4. Determine the policy and work undertaken by it.

- 1 5. Appoint its employees, on the recommendation of the superintendent
2 of public instruction.
- 3 6. Prescribe the duties of its employees if not prescribed by statute.
- 4 7. Delegate to the superintendent of public instruction the execution
5 of board policies and rules.
- 6 8. Recommend to the legislature changes or additions to the statutes
7 pertaining to schools.
- 8 9. Prepare, publish and distribute reports concerning the educational
9 welfare of this state.
- 10 10. Prepare a budget for expenditures necessary for proper maintenance
11 of the board and accomplishment of its purposes and present the budget to the
12 legislature.
- 13 11. Aid in the enforcement of laws relating to schools.
- 14 12. Prescribe a minimum course of study in the common schools, minimum
15 competency requirements for the promotion of pupils from the third grade and
16 minimum course of study and competency requirements for the promotion of
17 pupils from the eighth grade. The state board of education shall prepare a
18 fiscal impact statement of any proposed changes to the minimum course of
19 study or competency requirements and, on completion, shall send a copy to the
20 director of the joint legislative budget committee and the executive director
21 of the school facilities board. The state board of education shall not adopt
22 any changes in the minimum course of study or competency requirements in
23 effect on July 1, 1998 that will have a fiscal impact on school capital
24 costs.
- 25 13. Prescribe minimum course of study and competency requirements for
26 the graduation of pupils from high school. The state board of education
27 shall prepare a fiscal impact statement of any proposed changes to the
28 minimum course of study or competency requirements and, on completion, shall
29 send a copy to the director of the joint legislative budget committee and the
30 executive director of the school facilities board. The state board of
31 education shall not adopt any changes in the minimum course of study or
32 competency requirements in effect on July 1, 1998 that will have a fiscal
33 impact on school capital costs.
- 34 14. Supervise and control the certification of persons engaged in
35 instructional work directly as any classroom, laboratory or other teacher or
36 indirectly as a supervisory teacher, speech therapist, principal or
37 superintendent in a school district, including school district preschool
38 programs, or any other educational institution below the community college,
39 college or university level, and prescribe rules for certification, including
40 rules for certification of teachers who have teaching experience and who are
41 trained in other states, which are not unnecessarily restrictive and are
42 substantially similar to the rules prescribed for the certification of
43 teachers trained in this state. The rules shall require applicants for all
44 certificates for common school instruction to complete a minimum of
45 forty-five classroom hours or three college level credit hours, or the

1 equivalent, of training in research based systematic phonics instruction from
2 a public or private provider. The rules shall not require a teacher to
3 obtain a master's degree or to take any additional graduate courses as a
4 condition of certification or recertification. The rules shall allow a
5 general equivalency diploma to be substituted for a high school diploma in
6 the certification of emergency substitute teachers.

7 15. Adopt a list of approved tests for determining special education
8 assistance to gifted pupils as defined in and as provided in chapter 7,
9 article 4.1 of this title. The adopted tests shall provide separate scores
10 for quantitative reasoning, verbal reasoning and nonverbal reasoning and
11 shall be capable of providing reliable and valid scores at the highest ranges
12 of the score distribution.

13 16. Adopt rules governing the methods for the administration of all
14 proficiency examinations.

15 17. Adopt proficiency examinations for its use. The state board of
16 education shall determine the passing score for the proficiency examination.

17 18. Include within its budget the cost of contracting for the purchase,
18 distribution and scoring of the examinations as provided in paragraphs 16 and
19 17 of this subsection.

20 19. Supervise and control the qualifications of professional
21 nonteaching school personnel and prescribe standards relating to
22 qualifications.

23 20. Impose such disciplinary action, including the issuance of a letter
24 of censure, suspension, suspension with conditions or revocation of a
25 certificate, upon a finding of immoral or unprofessional conduct.

26 21. Establish an assessment, data gathering and reporting system for
27 pupil performance as prescribed in chapter 7, article 3 of this title.

28 22. Adopt a rule to promote braille literacy pursuant to section
29 15-214.

30 23. Adopt rules prescribing procedures for the investigation by the
31 department of education of every written complaint alleging that a
32 certificated person has engaged in immoral conduct.

33 24. For purposes of federal law, serve as the state board for
34 vocational and technological education and meet at least four times each year
35 solely to execute the powers and duties of the state board for vocational and
36 technological education.

37 25. Develop and maintain a handbook for use in the schools of this
38 state that provides guidance for the teaching of moral, civic and ethical
39 education. The handbook shall promote existing curriculum frameworks and
40 shall encourage school districts to recognize moral, civic and ethical values
41 within instructional and programmatic educational development programs for
42 the general purpose of instilling character and ethical principles in pupils
43 in kindergarten programs and grades one through twelve.

44 26. Require pupils to recite the following passage from the declaration
45 of independence for pupils in grades four through six at the commencement of

1 the first class of the day in the schools, except that a pupil shall not be
2 required to participate if the pupil or the pupil's parent or guardian
3 objects:

4 We hold these truths to be self-evident, that all men are
5 created equal, that they are endowed by their creator with
6 certain unalienable rights, that among these are life, liberty
7 and the pursuit of happiness. That to secure these rights,
8 governments are instituted among men, deriving their just powers
9 from the consent of the governed. . . .

10 27. Adopt rules that provide for teacher certification reciprocity.
11 The rules shall provide for a one year reciprocal teaching certificate with
12 minimum requirements including valid teacher certification from a state with
13 substantially similar criminal history or teacher fingerprinting requirements
14 and proof of the submission of an application for a fingerprint clearance
15 card pursuant to title 41, chapter 12, article 3.1.

16 28. Adopt rules that will be in effect until December 31, 2006 and that
17 provide for the presentation of an honorary high school diploma to a person
18 who has never obtained a high school diploma and who meets each of the
19 following requirements:

20 (a) Is at least sixty-five years of age.

21 (b) Currently resides in this state.

22 (c) Provides documented evidence from the Arizona department of
23 veterans' services that the person enlisted in the armed forces of the United
24 States before completing high school in a public or private school.

25 (d) Was honorably discharged from service with the armed forces of the
26 United States.

27 29. Cooperate with the Arizona-Mexico commission in the governor's
28 office and with researchers at universities in this state to collect data and
29 conduct projects in the United States and Mexico on issues that are within
30 the scope of the duties of the department of education and that relate to
31 quality of life, trade and economic development in this state in a manner
32 that will help the Arizona-Mexico commission to assess and enhance the
33 economic competitiveness of this state and of the Arizona-Mexico region.

34 30. Adopt rules to define and provide guidance to schools as to the
35 activities that would constitute immoral or unprofessional conduct of
36 certificated persons.

37 31. Adopt guidelines to encourage pupils in grades nine, ten, eleven
38 and twelve to volunteer for twenty hours of community service before
39 graduation from high school. A school district that complies with the
40 guidelines adopted pursuant to this paragraph is not liable for damages
41 resulting from a pupil's participation in community service unless the school
42 district is found to have demonstrated wanton or reckless disregard for the
43 safety of the pupil and other participants in community service. For the
44 purposes of this paragraph, "community service" may include service learning.
45 The guidelines shall include the following:

1 (a) A list of the general categories in which community service may be
2 performed.

3 (b) A description of the methods by which community service will be
4 monitored.

5 (c) A consideration of risk assessment for community service projects.

6 (d) Orientation and notification procedures of community service
7 opportunities for pupils entering grade nine including the development of a
8 notification form. The notification form shall be signed by the pupil and
9 the pupil's parent or guardian, except that a pupil shall not be required to
10 participate in community service if the parent or guardian notifies the
11 principal of the pupil's school in writing that the parent or guardian does
12 not wish the pupil to participate in community service.

13 (e) Procedures for a pupil in grade nine to prepare a written proposal
14 that outlines the type of community service that the pupil would like to
15 perform and the goals that the pupil hopes to achieve as a result of
16 community service. The pupil's written proposal shall be reviewed by a
17 faculty advisor, a guidance counselor or any other school employee who is
18 designated as the community service program coordinator for that school. The
19 pupil may alter the written proposal at any time before performing community
20 service.

21 (f) Procedures for a faculty advisor, a guidance counselor or any
22 other school employee who is designated as the community service program
23 coordinator to evaluate and certify the completion of community service
24 performed by pupils.

25 32. To facilitate the transfer of military personnel and their
26 dependents to and from the public schools of this state, pursue, in
27 cooperation with the Arizona board of regents, reciprocity agreements with
28 other states concerning the transfer credits for military personnel and their
29 dependents. A reciprocity agreement entered into pursuant to this paragraph
30 shall:

31 (a) Address procedures for each of the following:

32 (i) The transfer of student records.

33 (ii) Awarding credit for completed course work.

34 (iii) Permitting a student to satisfy the graduation requirements
35 prescribed in section 15-701.01 through the successful performance on
36 comparable exit-level assessment instruments administered in another state.

37 (b) Include appropriate criteria developed by the state board of
38 education and the Arizona board of regents.

39 33. Adopt guidelines that school district governing boards shall use in
40 identifying pupils who are eligible for gifted programs and in providing
41 gifted education programs and services. The state board of education shall
42 adopt any other guidelines and rules that it deems necessary in order to
43 carry out the purposes of chapter 7, article 4.1 of this title.

44 34. ADOPT RULES TO PROHIBIT A PERSON WHO VIOLATES THE NOTIFICATION
45 REQUIREMENTS, CERTIFICATION SURRENDER REQUIREMENTS OR FINGERPRINT CLEARANCE

1 CARD SURRENDER REQUIREMENTS PRESCRIBED IN SECTION 15-183, SUBSECTION C,
2 PARAGRAPH 6 OR SECTION 15-550, SUBSECTION C FROM CERTIFICATION PURSUANT TO
3 THIS TITLE FOR AT LEAST TEN YEARS AFTER THE DATE OF THE VIOLATION.

4 B. The state board of education may:

5 1. Contract.

6 2. Sue and be sued.

7 3. Distribute and score the tests prescribed in chapter 7, article 3
8 of this title.

9 4. Provide for an advisory committee to conduct hearings and
10 screenings to determine whether grounds exist to impose disciplinary action
11 against a certificated person, whether grounds exist to reinstate a revoked
12 or surrendered certificate and whether grounds exist to approve or deny an
13 initial application for certification or a request for renewal of a
14 certificate. The board may delegate its responsibility to conduct hearings
15 and screenings to its advisory committee. Hearings shall be conducted
16 pursuant to title 41, chapter 6, article 6.

17 5. Proceed with the disposal of any complaint requesting disciplinary
18 action or with any disciplinary action against a person holding a certificate
19 as prescribed in subsection A, paragraph 14 of this section after the
20 suspension or expiration of the certificate or surrender of the certificate
21 by the holder.

22 6. Assess costs and reasonable attorney fees against a person who
23 files a frivolous complaint or who files a complaint in bad faith. Costs
24 assessed pursuant to this paragraph shall not exceed the expenses incurred by
25 the state board in the investigation of the complaint.

26 Sec. 3. Section 15-550, Arizona Revised Statutes, is amended to read:
27 15-550. Unprofessional conduct; penalty

28 A. A teacher who has been convicted of a dangerous crime against
29 children as defined in section 13-604.01 or has been convicted of a violation
30 of section 13-1404 or 13-1406 in which the victim was a minor or section
31 13-1405 or an act committed in another state or territory which if committed
32 in this state would have been a dangerous crime against children or a
33 violation of section 13-1404 OR 13-1406 in which the victim was a minor or a
34 violation of section 13-1405 ~~or 13-1406~~ is guilty of unprofessional conduct
35 and the teacher's certificate shall be revoked permanently immediately on
36 notification of conviction by the clerk of the court or the magistrate.

37 B. A teacher who has been convicted of a preparatory offense as
38 prescribed in section 13-1001 of any of the offenses prescribed in subsection
39 A of this section or any crime that requires the teacher to register as a sex
40 offender is guilty of unprofessional conduct and the teacher's certificate
41 shall be permanently revoked on notification of the conviction by a court of
42 competent jurisdiction.

43 C. A PERSON WHO IS EMPLOYED BY A SCHOOL DISTRICT OR WHO IS AN
44 APPLICANT FOR EMPLOYMENT WITH A SCHOOL DISTRICT, WHO IS ARRESTED FOR OR
45 CHARGED WITH AN OFFENSE LISTED IN SECTION 41-1758.03, SUBSECTION B AND WHO

1 DOES NOT IMMEDIATELY REPORT THE ARREST OR CHARGE TO THE PERSON'S SUPERVISOR
2 OR POTENTIAL EMPLOYER IS GUILTY OF UNPROFESSIONAL CONDUCT AND THE PERSON
3 SHALL BE IMMEDIATELY DISMISSED FROM EMPLOYMENT WITH THE SCHOOL DISTRICT OR
4 IMMEDIATELY EXCLUDED FROM POTENTIAL EMPLOYMENT WITH THE SCHOOL DISTRICT. A
5 PERSON WHO IS EMPLOYED BY A SCHOOL DISTRICT AND WHO IS CONVICTED OF ANY
6 APPEALABLE OR NONAPPEALABLE OFFENSE LISTED IN SECTION 41-1758.03, SUBSECTION
7 B OR IS CONVICTED OF ANY APPEALABLE OR NONAPPEALABLE OFFENSE THAT AMOUNTS TO
8 UNPROFESSIONAL CONDUCT UNDER THIS SECTION SHALL IMMEDIATELY DO ALL OF THE
9 FOLLOWING:

- 10 1. SURRENDER ANY CERTIFICATES ISSUED BY THE DEPARTMENT OF EDUCATION.
- 11 2. NOTIFY THE PERSON'S EMPLOYER OR POTENTIAL EMPLOYER OF THE
12 CONVICTION.
- 13 3. NOTIFY THE DEPARTMENT OF PUBLIC SAFETY OF THE CONVICTION.
- 14 4. SURRENDER THE PERSON'S FINGERPRINT CLEARANCE CARD.

15 Sec. 4. 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. The department is responsible for the effective operation of the
19 central state repository in order to collect, store and disseminate complete
20 and accurate Arizona criminal history records and related criminal justice
21 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 21. WITH EACH SCHOOL DISTRICT AND CHARTER SCHOOL IN THIS STATE. THE
26 STATE BOARD OF EDUCATION AND THE STATE BOARD FOR CHARTER SCHOOLS SHALL
27 PROVIDE THE DEPARTMENT OF PUBLIC SAFETY WITH A CURRENT LIST OF ELECTRONIC
28 E-MAIL ADDRESSES FOR EACH SCHOOL DISTRICT AND CHARTER SCHOOL IN THIS STATE
29 AND SHALL PERIODICALLY PROVIDE THE DEPARTMENT OF PUBLIC SAFETY WITH UPDATED
30 ELECTRONIC E-MAIL ADDRESSES. IF THE DEPARTMENT OF PUBLIC SAFETY IS NOTIFIED
31 THAT A PERSON WHO IS REQUIRED TO HAVE A FINGERPRINT CLEARANCE CARD TO BE
32 EMPLOYED BY OR TO ENGAGE IN VOLUNTEER ACTIVITIES AT A SCHOOL DISTRICT OR
33 CHARTER SCHOOL HAS BEEN ARRESTED OR CONVICTED OF AN OFFENSE LISTED IN SECTION
34 41-1758.03, SUBSECTION B OR HAS BEEN ARRESTED OR CONVICTED OF AN OFFENSE THAT
35 AMOUNTS TO UNPROFESSIONAL CONDUCT UNDER SECTION 15-550, THE DEPARTMENT OF
36 PUBLIC SAFETY SHALL NOTIFY EACH SCHOOL DISTRICT AND CHARTER SCHOOL IN THIS
37 STATE THAT THE PERSON'S FINGERPRINT CLEARANCE CARD HAS BEEN SUSPENDED OR
38 REVOKED.

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

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

43 J. The director shall establish a fee in an amount necessary to cover
44 the cost of federal noncriminal justice fingerprint processing for criminal
45 history record information checks that are authorized by law for noncriminal

1 justice employment, licensing or other lawful purposes. An additional fee
2 may be charged by the department for state noncriminal justice fingerprint
3 processing. Fees submitted to the department for state noncriminal justice
4 fingerprint processing are not refundable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 S. This section does not apply to criminal history record information
39 contained in:

40 1. Posters, arrest warrants, announcements or lists for identifying or
41 apprehending fugitives or wanted persons.

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

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

3 4. Announcements of executive clemency or pardon.

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

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

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

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

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

40 3. Dispositions resulting from formal proceedings in a court having
41 jurisdiction in a criminal action against an individual who is arrested for
42 an offense specified in subsection C of this section or section 8-341,
43 subsection T shall be reported to the central state repository within forty
44 days of the date of the disposition. This information shall be submitted on
45 a form or in a manner specified by rules approved by the supreme court.

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

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

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

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

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

32 Y. For the purposes of this section:

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

41 2. "Administrative records" means records that contain adequate and
42 proper documentation of the organization, functions, policies, decisions,
43 procedures and essential transactions of the agency and that are designed to
44 furnish information to protect the rights of this state and of persons
45 directly affected by the agency's activities.

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

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

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

19 6. "Criminal justice agency" means either:

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

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

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

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

1 9. "Dissemination" means the written, oral or electronic communication
2 or transfer of criminal justice information to individuals and agencies other
3 than the criminal justice agency that maintains the information.
4 Dissemination includes the act of confirming the existence or nonexistence of
5 criminal justice information.

6 10. "Management control":

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

8 (i) Priorities regarding development and operation of criminal justice
9 information systems and programs.

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

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

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

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

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

29 13. "Sexual orientation" means consensual homosexuality or
30 heterosexuality.

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