

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1056

AN ACT

AMENDING SECTIONS 8-804, 8-804.01, 38-431.08, 41-619.51, 41-619.53 AND 41-619.54, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 3, ARTICLE 12, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-619.57; AMENDING SECTION 41-1750, ARIZONA REVISED STATUTES; RELATING TO PROTECTIVE SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-804, Arizona Revised Statutes, is amended to
3 read:

4 ~~8-804.~~ Central registry; notification

5 A. The department of economic security shall maintain a central
6 registry of reports of child abuse and neglect that are substantiated and the
7 outcome of the investigation of these reports made under this article. A
8 finding made by a court pursuant to section 8-844, subsection C that a child
9 is dependent based upon an allegation of abuse or neglect shall be recorded
10 as a substantiated finding of abuse or neglect. The department shall
11 incorporate duplicate reports on the same incident in the original report and
12 shall not classify duplicate reports as new reports.

13 B. THE DEPARTMENT SHALL CONDUCT CENTRAL REGISTRY BACKGROUND CHECKS AND
14 SHALL USE THE information contained in the central registry ~~shall be used by~~
15 ~~the department~~ only for the following purposes:

16 1. ~~To conduct background checks~~ As ~~one~~ A factor to determine
17 qualifications for foster home licensing, adoptive parent certification,
18 child care home certification, registration of unregulated child care homes
19 with the child care resource and referral system, and home and community
20 based services certification for services to children OR VULNERABLE ADULTS.

21 2. ~~To conduct background checks~~ As ~~one~~ A factor to determine
22 qualifications for persons WHO ARE EMPLOYED OR WHO ARE applying for
23 employment with this state in positions that provide direct service to
24 children or vulnerable adults ~~and persons applying for contracts with this~~
25 ~~state, including employees of the potential contractor, for positions that~~
26 ~~provide direct service to children or vulnerable adults.~~

27 3. AS A FACTOR TO DETERMINE QUALIFICATIONS FOR POSITIONS THAT PROVIDE
28 DIRECT SERVICE TO CHILDREN OR VULNERABLE ADULTS FOR:

29 (a) ANY PERSON WHO APPLIES FOR A CONTRACT WITH THIS STATE, AND THAT
30 PERSON'S EMPLOYEES.

31 (b) ALL EMPLOYEES OF A CONTRACTOR.

32 (c) A SUBCONTRACTOR OF A CONTRACTOR AND THE SUBCONTRACTOR'S EMPLOYEES.

33 (d) PROSPECTIVE EMPLOYEES OF THE CONTRACTOR OR SUBCONTRACTOR AT THE
34 REQUEST OF THE PROSPECTIVE EMPLOYER.

35 4. BEGINNING AUGUST 1, 2012, TO PROVIDE INFORMATION, USING THE
36 DEPARTMENT OF ECONOMIC SECURITY'S CONTRACTING REQUIREMENTS, TO LICENSEES THAT
37 DO NOT CONTRACT WITH THIS STATE REGARDING PERSONS WHO ARE EMPLOYED OR SEEKING
38 EMPLOYMENT TO PROVIDE DIRECT SERVICES TO CHILDREN PURSUANT TO TITLE 36,
39 CHAPTER 7.1.

40 ~~3-~~ 5. To identify and review reports concerning individual children
41 and families, in order to facilitate the assessment of risk.

42 ~~4-~~ 6. To determine the nature and scope of child abuse and neglect in
43 this state and to provide statewide statistical and demographic information
44 concerning trends in child abuse and neglect.

1 ~~5-~~ 7. To allow comparisons of this state's statistical data with
2 national data.

3 ~~6-~~ 8. To comply with section 8-804.01, subsection B.

4 C. BEGINNING AUGUST 1, 2012, LICENSEES THAT DO NOT CONTRACT WITH THE
5 STATE AND THAT EMPLOY PERSONS WHO PROVIDE DIRECT SERVICES TO CHILDREN
6 PURSUANT TO TITLE 36, CHAPTER 7.1 MUST SUBMIT TO THE DEPARTMENT OF ECONOMIC
7 SECURITY IN A MANNER PRESCRIBED BY THE DEPARTMENT OF ECONOMIC SECURITY
8 INFORMATION NECESSARY TO CONDUCT CENTRAL REGISTRY BACKGROUND CHECKS. THE
9 DEPARTMENT OF HEALTH SERVICES SHALL VERIFY WHETHER LICENSEES, PURSUANT TO
10 TITLE 36, CHAPTER 7.1, HAVE COMPLIED WITH THE REQUIREMENTS OF THIS SUBSECTION
11 AND ANY RULES ADOPTED BY THE DEPARTMENT OF HEALTH SERVICES TO IMPLEMENT THIS
12 SUBSECTION.

13 ~~6-~~ D. If the department received a report before September 1, 1999
14 and determined that the report was substantiated, the department shall
15 maintain the report in the central registry until eighteen years from the
16 child victim's date of birth.

17 ~~6-~~ E. If the department received a report on or after September 1,
18 1999 and determined that the report was substantiated, the department shall
19 maintain the report in the central registry for twenty-five years after the
20 date of the report.

21 ~~6-~~ F. The department shall annually purge reports and investigative
22 outcomes received pursuant to the time frames prescribed in subsections ~~6-~~ D
23 and ~~6-~~ E of this section.

24 ~~6-~~ G. Any person who was the subject of a child protective services
25 investigation may request confirmation that the department has purged
26 information about the person pursuant to subsection ~~6-~~ F of this section. On
27 receipt of this request, the department shall provide the person with written
28 confirmation that the department has no record containing identifying
29 information about that person.

30 H. THE DEPARTMENT OF ECONOMIC SECURITY SHALL NOTIFY A PERSON,
31 CONTRACTOR OR LICENSEE IDENTIFIED IN SUBSECTION B, PARAGRAPH 3, SUBDIVISIONS
32 (a) THROUGH (c) AND SUBSECTION B, PARAGRAPH 4 OF THIS SECTION WHO IS
33 DISQUALIFIED BECAUSE OF A CENTRAL REGISTRY CHECK CONDUCTED PURSUANT TO
34 SUBSECTION B OF THIS SECTION THAT THE PERSON MAY APPLY TO THE BOARD OF
35 FINGERPRINTING FOR A CENTRAL REGISTRY EXCEPTION PURSUANT TO SECTION
36 41-619.57.

37 I. BEFORE BEING EMPLOYED OR WITHIN SEVEN WORKING DAYS OF BEING
38 EMPLOYED IN A POSITION THAT PROVIDES DIRECT SERVICES TO CHILDREN OR
39 VULNERABLE ADULTS PURSUANT TO SUBSECTION B, PARAGRAPH 3 OR SUBSECTION C OF
40 THIS SECTION, EMPLOYEES SHALL CERTIFY ON FORMS THAT ARE PROVIDED BY THE
41 DEPARTMENT OF ECONOMIC SECURITY WHETHER AN ALLEGATION OF ABUSE OR NEGLECT WAS
42 MADE AGAINST THEM AND WAS SUBSTANTIATED. THE FORMS ARE CONFIDENTIAL.

43 J. A PERSON WHO IS GRANTED A CENTRAL REGISTRY EXCEPTION PURSUANT TO
44 SECTION 41-619.57 IS NOT ENTITLED TO A CONTRACT, EMPLOYMENT, LICENSURE,

1 CERTIFICATION OR OTHER BENEFIT BECAUSE THE PERSON HAS BEEN GRANTED A CENTRAL
2 REGISTRY EXCEPTION.

3 Sec. 2. Section 8-804.01, Arizona Revised Statutes, is amended to
4 read:

5 8-804.01. Maintenance of reports; records

6 A. All reports of child abuse and neglect and related records shall be
7 maintained in the department's case management information system in
8 accordance with the time frames established in the department's records
9 retention schedule.

10 B. In addition to the purposes prescribed in section 8-807, reports
11 and related records maintained pursuant to subsection A of this section shall
12 be used by the department only for the following purposes:

13 1. To assess the safety and risk to a child when conducting an
14 investigation or identification of abuse or neglect.

15 2. To determine placement for a child that is the least restrictive
16 setting.

17 3. To determine the type and level of services and treatment provided
18 to the child and the child's family.

19 4. To assist in a criminal investigation or prosecution of child abuse
20 or neglect.

21 5. To meet state and federal reporting requirements.

22 C. Notwithstanding section 8-807 and except as otherwise provided by
23 law, reports and related records maintained pursuant to subsection A of this
24 section shall not be used for purposes of employment or background checks,
25 except for background checks conducted pursuant to section 8-804,
26 subsection B, ~~paragraph 1~~. ONLY INFORMATION CONTAINED IN THE CENTRAL
27 REGISTRY MAY BE USED TO CONDUCT BACKGROUND CHECKS PURSUANT TO SECTION 8-804,
28 SUBSECTION B.

29 D. If probable cause exists that abuse or neglect of a child has
30 occurred, the department shall record this finding. The department may make
31 this finding independent of whether a specific person is identified as
32 responsible for the abuse or neglect.

33 E. If the department is unable to locate a child who is the subject of
34 a report of abuse or neglect, the department shall record this finding
35 separate from its other findings.

36 F. Subject to the requirements of sections 8-804 and 8-811, whenever
37 possible, the department shall determine if a specific person is responsible
38 for the abuse or neglect of a child.

39 Sec. 3. Section 38-431.08, Arizona Revised Statutes, is amended to
40 read:

41 38-431.08. Exceptions; limitation

42 A. This article does not apply to:

43 1. Any judicial proceeding of any court or any political caucus of the
44 legislature.

1 2. Any conference committee of the legislature, except that all such
2 meetings shall be open to the public.

3 3. The commissions on appellate and trial court appointments and the
4 commission on judicial qualifications.

5 4. Good cause exception AND CENTRAL REGISTRY EXCEPTION determinations
6 and hearings conducted by the board of fingerprinting pursuant to ~~section~~
7 SECTIONS 41-619.55 AND 41-619.57.

8 B. A hearing held within a prison facility by the board of executive
9 clemency is subject to this article, except that the director of the state
10 department of corrections may:

11 1. Prohibit, on written findings that are made public within five days
12 of so finding, any person from attending a hearing whose attendance would
13 constitute a serious threat to the life or physical safety of any person or
14 to the safe, secure and orderly operation of the prison.

15 2. Require a person who attends a hearing to sign an attendance log.
16 If the person is over sixteen years of age, the person shall produce
17 photographic identification which verifies the person's signature.

18 3. Prevent and prohibit any articles from being taken into a hearing
19 except recording devices, and if the person who attends a hearing is a member
20 of the media, cameras.

21 4. Require that a person who attends a hearing submit to a reasonable
22 search on entering the facility.

23 C. The exclusive remedies available to any person who is denied
24 attendance at or removed from a hearing by the director of the state
25 department of corrections in violation of this section shall be those
26 remedies available in section 38-431.07, as against the director only.

27 D. Either house of the legislature may adopt a rule or procedure
28 pursuant to article IV, part 2, section 8, Constitution of Arizona, to
29 provide an exemption to the notice and agenda requirements of this article or
30 to allow standing or conference committees to meet through technological
31 devices rather than only in person.

32 Sec. 4. Section 41-619.51, Arizona Revised Statutes, is amended to
33 read:

34 41-619.51. Definitions

35 In this article, unless the context otherwise requires:

36 1. "Agency" means the supreme court, the department of economic
37 security, the department of education, the department of health services, the
38 department of juvenile corrections, the department of emergency and military
39 affairs, the state real estate department or the board of examiners of
40 nursing care institution administrators and assisted living facility
41 managers.

42 2. "Board" means the board of fingerprinting.

1 3. "CENTRAL REGISTRY EXCEPTION" MEANS NOTIFICATION TO THE DEPARTMENT
2 OF ECONOMIC SECURITY OR THE DEPARTMENT OF HEALTH SERVICES, AS APPROPRIATE,
3 PURSUANT TO SECTION 41-619.57 THAT THE PERSON IS NOT DISQUALIFIED BECAUSE OF
4 A CENTRAL REGISTRY CHECK CONDUCTED PURSUANT TO SECTION 8-804.

5 ~~3-~~ 4. "Expedited review" means an examination, in accordance with
6 board rule, of the documents an applicant submits by the board or its hearing
7 officer without the applicant being present.

8 ~~4-~~ 5. "Good cause exception" means the issuance of a fingerprint
9 clearance card to an employee pursuant to section 41-619.55.

10 ~~5-~~ 6. "Person" means a person who is required to be fingerprinted
11 pursuant to this article OR WHO IS SUBJECT TO A CENTRAL REGISTRY CHECK and
12 any of the following:

- 13 (a) Section 8-105.
- 14 (b) Section 8-322.
- 15 (c) Section 8-509.
- 16 (d) Section 8-802.
- 17 (e) SECTION 8-804.
- 18 (f) SECTION 8-804.01.
- 19 ~~(e)~~ (g) Section 15-183.
- 20 ~~(f)~~ (h) Section 15-534.
- 21 ~~(g)~~ (i) Section 15-1330.
- 22 ~~(h)~~ (j) Section 15-1881.
- 23 ~~(i)~~ (k) Section 26-103.
- 24 ~~(j)~~ (l) Section 32-2108.01.
- 25 ~~(k)~~ (m) Section 32-2123.
- 26 ~~(l)~~ (n) Section 36-411.
- 27 ~~(m)~~ (o) Section 36-425.03.
- 28 ~~(n)~~ (p) Section 36-446.04.
- 29 ~~(o)~~ (q) Section 36-594.01.
- 30 ~~(p)~~ (r) Section 36-594.02.
- 31 ~~(q)~~ (s) Section 36-882.
- 32 ~~(r)~~ (t) Section 36-883.02.
- 33 ~~(s)~~ (u) Section 36-897.01.
- 34 ~~(t)~~ (v) Section 36-897.03.
- 35 ~~(u)~~ (w) Section 36-3008.
- 36 ~~(v)~~ (x) Section 41-619.53.
- 37 ~~(w)~~ (y) Section 41-1964.
- 38 ~~(x)~~ (z) Section 41-1967.01.
- 39 ~~(y)~~ (aa) Section 41-1968.
- 40 ~~(z)~~ (bb) Section 41-1969.
- 41 ~~(aa)~~ (cc) Section 41-2814.
- 42 ~~(bb)~~ (dd) Section 46-141, subsection A.
- 43 ~~(cc)~~ (ee) Section 46-321.

1 AND THE APPLICANT SUBMITS AN APPLICATION FOR A CENTRAL REGISTRY EXCEPTION
2 WITHIN THE TIME LIMITS PRESCRIBED BY RULE.

3 C. WHEN DETERMINING WHETHER A PERSON IS ELIGIBLE TO RECEIVE A CENTRAL
4 REGISTRY EXCEPTION PURSUANT TO SECTION 8-804, THE BOARD SHALL CONSIDER
5 WHETHER THE PERSON HAS SHOWN TO THE BOARD'S SATISFACTION THAT THE PERSON IS
6 SUCCESSFULLY REHABILITATED AND IS NOT A RECIDIVIST. BEFORE GRANTING A
7 CENTRAL REGISTRY EXCEPTION UNDER EXPEDITED REVIEW, THE BOARD SHALL CONSIDER
8 ALL OF THE CRITERIA LISTED IN SUBSECTION E OF THIS SECTION.

9 D. THE FOLLOWING PERSONS SHALL BE PRESENT DURING CENTRAL REGISTRY
10 EXCEPTION HEARINGS:

11 1. THE BOARD OR ITS HEARING OFFICER.

12 2. THE PERSON WHO REQUESTED THE CENTRAL REGISTRY EXCEPTION HEARING.
13 THE PERSON MAY BE ACCOMPANIED BY A REPRESENTATIVE AT THE HEARING.

14 E. THE BOARD MAY GRANT A CENTRAL REGISTRY EXCEPTION AT A HEARING IF
15 THE PERSON SHOWS TO THE BOARD'S SATISFACTION THAT THE PERSON IS SUCCESSFULLY
16 REHABILITATED AND IS NOT A RECIDIVIST. THE BOARD MAY CONSIDER THE PERSON'S
17 CRIMINAL RECORD IN DETERMINING IF A PERSON HAS BEEN SUCCESSFULLY
18 REHABILITATED. IF THE APPLICANT FAILS TO APPEAR AT THE HEARING WITHOUT GOOD
19 CAUSE, THE BOARD MAY DENY A CENTRAL REGISTRY EXCEPTION. THE BOARD SHALL
20 GRANT OR DENY A CENTRAL REGISTRY EXCEPTION WITHIN EIGHTY DAYS AFTER THE
21 CENTRAL REGISTRY EXCEPTION HEARING. BEFORE GRANTING A CENTRAL REGISTRY
22 EXCEPTION AT A HEARING THE BOARD SHALL CONSIDER ALL OF THE FOLLOWING IN
23 ACCORDANCE WITH BOARD RULE:

24 1. THE EXTENT OF THE PERSON'S CENTRAL REGISTRY RECORDS.

25 2. THE LENGTH OF TIME THAT HAS ELAPSED SINCE THE ABUSE OR NEGLECT
26 OCCURRED.

27 3. THE NATURE OF THE ABUSE OR NEGLECT.

28 4. ANY APPLICABLE MITIGATING CIRCUMSTANCES.

29 5. THE DEGREE TO WHICH THE PERSON PARTICIPATED IN THE ABUSE OR
30 NEGLECT.

31 6. THE EXTENT OF THE PERSON'S REHABILITATION, INCLUDING:

32 (a) EVIDENCE OF POSITIVE ACTION TO CHANGE THE PERSON'S BEHAVIOR, SUCH
33 AS COMPLETION OF COUNSELING OR A DRUG TREATMENT, DOMESTIC VIOLENCE OR
34 PARENTING PROGRAM.

35 (b) PERSONAL REFERENCES ATTESTING TO THE PERSON'S REHABILITATION.

36 F. IF THE BOARD GRANTS A CENTRAL REGISTRY EXCEPTION TO A PERSON, THE
37 BOARD SHALL NOTIFY THE DEPARTMENT OF ECONOMIC SECURITY OR THE DEPARTMENT OF
38 HEALTH SERVICES, AS APPROPRIATE, IN WRITING.

39 G. A PERSON WHO IS GRANTED A CENTRAL REGISTRY EXCEPTION IS NOT
40 ENTITLED TO HAVE THE PERSON'S REPORT AND INVESTIGATION OUTCOME PURGED FROM
41 THE CENTRAL REGISTRY EXCEPT AS REQUIRED PURSUANT TO SECTION 8-804,
42 SUBSECTIONS D AND E.

43 H. PENDING THE OUTCOME OF A CENTRAL REGISTRY EXCEPTION DETERMINATION,
44 THE BOARD OR ITS HEARING OFFICER MAY ISSUE INTERIM APPROVAL IN ACCORDANCE

1 WITH BOARD RULE TO CONTINUE WORKING TO A CENTRAL REGISTRY EXCEPTION
2 APPLICANT.

3 I. THE BOARD IS EXEMPT FROM CHAPTER 6, ARTICLE 10 OF THIS TITLE.

4 Sec. 8. Section 41-1750, Arizona Revised Statutes, is amended to read:

5 41-1750. Central state repository; department of public safety;
6 duties; funds; accounts; definitions

7 A. The department is responsible for the effective operation of the
8 central state repository in order to collect, store and disseminate complete
9 and accurate Arizona criminal history records and related criminal justice
10 information. The department shall:

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

18 2. Collect information concerning the number and nature of offenses
19 known to have been committed in this state and of the legal steps taken in
20 connection with these offenses, such other information that is useful in the
21 study of crime and in the administration of criminal justice and all other
22 information deemed necessary to operate the statewide uniform crime reporting
23 program and to cooperate with the federal government uniform crime reporting
24 program.

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

28 4. Cooperate with the central state repositories in other states and
29 with the appropriate agency of the federal government in the exchange of
30 information pertinent to violators of the law.

31 5. Ensure the rapid exchange of information concerning the commission
32 of crime and the detection of violators of the law among the criminal justice
33 agencies of other states and of the federal government.

34 6. Furnish assistance to peace officers throughout this state in crime
35 scene investigation for the detection of latent fingerprints and in the
36 comparison of latent fingerprints.

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

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

1 9. Aid and encourage coordination and cooperation among criminal
2 justice agencies through the statewide and interstate exchange of criminal
3 justice information.

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

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

9 12. Provide criminal history record information to the fingerprinting
10 division for the purpose of screening applicants for fingerprint clearance
11 cards.

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

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

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

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

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

36 G. The director shall authorize the exchange of criminal justice
37 information between the central state repository, or through the Arizona
38 criminal justice information system, whether directly or through any
39 intermediary, only as follows:

40 1. With criminal justice agencies of the federal government, Indian
41 tribes, this state or its political subdivisions and other states, on request
42 by the chief officers of such agencies or their designated representatives,
43 specifically for the purposes of the administration of criminal justice and
44 for evaluating the fitness of current and prospective criminal justice
45 employees.

1 2. With any noncriminal justice agency pursuant to a statute,
2 ordinance or executive order that specifically authorizes the noncriminal
3 justice agency to receive criminal history record information for the purpose
4 of evaluating the fitness of current or prospective licensees, employees,
5 contract employees or volunteers, on submission of the subject's fingerprints
6 and the prescribed fee. Each statute, ordinance, or executive order that
7 authorizes noncriminal justice agencies to receive criminal history record
8 information for these purposes shall identify the specific categories of
9 licensees, employees, contract employees or volunteers, and shall require
10 that fingerprints of the specified individuals be submitted in conjunction
11 with such requests for criminal history record information.

12 3. With the board of fingerprinting for the purpose of conducting good
13 cause exceptions pursuant to section 41-619.55 AND CENTRAL REGISTRY
14 EXCEPTIONS PURSUANT TO SECTION 41-619.57.

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

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

22 6. With regional computer centers that maintain authorized
23 computer-to-computer interfaces with the department, that are criminal
24 justice agencies or under the management control of a criminal justice agency
25 and that are established by a statute, ordinance or executive order to
26 provide automated data processing services to criminal justice agencies
27 specifically for the purposes of the administration of criminal justice or
28 evaluating the fitness of regional computer center employees who have access
29 to the Arizona criminal justice information system and the national crime
30 information center system.

31 7. With an individual who asserts a belief that criminal history
32 record information relating to the individual is maintained by an agency or
33 in an information system in this state that is subject to this section. On
34 submission of fingerprints, the individual may review this information for
35 the purpose of determining its accuracy and completeness by making
36 application to the agency operating the system. Rules adopted under this
37 section shall include provisions for administrative review and necessary
38 correction of any inaccurate or incomplete information. The review and
39 challenge process authorized by this paragraph is limited to criminal history
40 record information.

41 8. With individuals and agencies pursuant to a specific agreement with
42 a criminal justice agency to provide services required for the administration
43 of criminal justice pursuant to that agreement if the agreement specifically
44 authorizes access to data, limits the use of data to purposes for which given

1 and ensures the security and confidentiality of the data consistent with this
2 section.

3 9. With individuals and agencies for the express purpose of research,
4 evaluative or statistical activities pursuant to an agreement with a criminal
5 justice agency if the agreement specifically authorizes access to data,
6 limits the use of data to research, evaluative or statistical purposes and
7 ensures the confidentiality and security of the data consistent with this
8 section.

9 10. With the auditor general for audit purposes.

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

13 12. On submission of the fingerprint card, with the department of
14 economic security to provide criminal history record information on
15 prospective adoptive parents for the purpose of conducting the preadoption
16 certification investigation under title 8, chapter 1, article 1 if the
17 department of economic security is conducting the investigation, or with an
18 agency or a person appointed by the court, if the agency or person is
19 conducting the investigation. Information received under this paragraph
20 shall only be used for the purposes of the preadoption certification
21 investigation.

22 13. With the department of economic security and the superior court for
23 the purpose of evaluating the fitness of custodians or prospective custodians
24 of juveniles, including parents, relatives and prospective guardians.
25 Information received under this paragraph shall only be used for the purposes
26 of that evaluation. The information shall be provided on submission of
27 either:

28 (a) The fingerprint card.

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

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

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

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

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

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

44 19. With licensees of the United States nuclear regulatory commission
45 for the purpose of determining whether an individual should be granted

1 unescorted access to the protected area of a commercial nuclear generating
2 station on submission of the subject of record's fingerprints and the
3 prescribed fee.

4 20. With the state board of education for the purpose of evaluating the
5 fitness of a certificated teacher or administrator or an applicant for a
6 teaching or an administrative certificate provided that the state board of
7 education or its employees or agents have reasonable suspicion that the
8 certificated person engaged in conduct that would be a criminal violation of
9 the laws of this state or was involved in immoral or unprofessional conduct
10 or that the applicant engaged in conduct that would warrant disciplinary
11 action if the applicant were certificated at the time of the alleged conduct.
12 The information shall be provided on the submission of either:

13 (a) The fingerprint card.

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

15 21. With each school district and charter school in this state. The
16 state board of education and the state board for charter schools shall
17 provide the department of public safety with a current list of e-mail
18 addresses for each school district and charter school in this state and shall
19 periodically provide the department of public safety with updated e-mail
20 addresses. If the department of public safety is notified that a person who
21 is required to have a fingerprint clearance card to be employed by or to
22 engage in volunteer activities at a school district or charter school has
23 been arrested for or convicted of an offense listed in section 41-1758.03,
24 subsection B or has been arrested for or convicted of an offense that amounts
25 to unprofessional conduct under section 15-550, the department of public
26 safety shall notify each school district and charter school in this state
27 that the person's fingerprint clearance card has been suspended or revoked.

28 22. With the child protective services division of the department of
29 economic security as provided by law, which currently is the Adam Walsh child
30 protection and safety act of 2006 (42 United States Code section 16961), for
31 the purposes of investigating or responding to reports of child abuse,
32 neglect or exploitation. Information received pursuant to this paragraph
33 from the national crime information center, the interstate identification
34 index and the Arizona criminal justice information system network shall only
35 be used for the purposes of investigating or responding as prescribed in this
36 paragraph. The information shall be provided on submission to the department
37 of public safety of either:

38 (a) The fingerprints of the person being investigated.

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

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

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

44 J. The director shall establish a fee in an amount necessary to cover
45 the cost of federal noncriminal justice fingerprint processing for criminal

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 4. Announcements of executive clemency or pardon.

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

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

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

19 1. The arresting authority shall take legible ten-print fingerprints
20 of all persons who are arrested for offenses listed in subsection C of this
21 section including persons who are arrested and released pursuant to section
22 13-3903, subsection C. The arresting authority may transfer an arrestee to a
23 booking agency for ten-print fingerprinting. The arresting authority or
24 booking agency shall obtain a process control number and provide to the
25 person fingerprinted a document that indicates proof of the fingerprinting
26 and that informs the person that the document must be presented to the court.

27 2. The mandatory fingerprint compliance form shall contain the
28 following information:

29 (a) Whether ten-print fingerprints have been obtained from the person.

30 (b) Whether a process control number was obtained.

31 (c) The offense or offenses for which the process control number was
32 obtained.

33 (d) Any report number of the arresting authority.

34 (e) Instructions on reporting for ten-print fingerprinting, including
35 available times and locations for reporting for ten-print fingerprinting.

36 (f) Instructions that direct the person to provide the form to the
37 court at the person's next court appearance.

38 3. Within ten days after a person is fingerprinted, the arresting
39 authority or agency that took the fingerprints shall forward the fingerprints
40 to the department in the manner or form required by the department.

41 4. On the issuance of a summons for a defendant who is charged with an
42 offense listed in subsection C of this section, the summons shall direct the
43 defendant to provide ten-print fingerprints to the appropriate law
44 enforcement agency.

1 5. At the initial appearance or on the arraignment of a summoned
2 defendant who is charged with an offense listed in subsection C of this
3 section, if the person does not present a completed mandatory fingerprint
4 compliance form to the court or if the court has not received the process
5 control number, the court shall order that within twenty calendar days the
6 defendant be ten-print fingerprinted at a designated time and place by the
7 appropriate law enforcement agency.

8 6. If the defendant fails to present a completed mandatory fingerprint
9 compliance form or if the court has not received the process control number,
10 the court, on its own motion, may remand the defendant into custody for
11 ten-print fingerprinting. If otherwise eligible for release, the defendant
12 shall be released from custody after being ten-print fingerprinted.

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

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

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

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

42 V. The director shall adopt rules specifying that any agency that
43 collects, stores or disseminates criminal justice information that is subject
44 to this section shall establish effective security measures to protect the
45 information from unauthorized access, disclosure, modification or

1 dissemination. The rules shall include reasonable safeguards to protect the
2 affected information systems from fire, flood, wind, theft, sabotage or other
3 natural or man-made hazards or disasters.

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

9 X. Nothing in this section creates a cause of action or a right to
10 bring an action including an action based on discrimination due to sexual
11 orientation.

12 Y. For the purposes of this section:

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

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

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

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

34 5. "Criminal history record information" and "criminal history record"
35 means information that is collected by criminal justice agencies on
36 individuals and that consists of identifiable descriptions and notations of
37 arrests, detentions, indictments and other formal criminal charges, and any
38 disposition arising from those actions, sentencing, formal correctional
39 supervisory action and release. Criminal history record information and
40 criminal history record do not include identification information to the
41 extent that the information does not indicate involvement of the individual
42 in the criminal justice system or information relating to juveniles unless
43 they have been adjudicated as adults.

1 6. "Criminal justice agency" means either:

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

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

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

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

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

29 10. "Management control":

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

31 (i) Priorities regarding development and operation of criminal justice
32 information systems and programs.

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

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

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

44 11. "Process control number" means the Arizona automated fingerprint
45 identification system number that attaches to each arrest event at the time

1 of fingerprinting and that is assigned to the arrest fingerprint card,
2 disposition form and other pertinent documents.

3 12. "Secondary dissemination" means the dissemination of criminal
4 justice information from an individual or agency that originally obtained the
5 information from the central state repository or through the Arizona criminal
6 justice information system to another individual or agency.

7 13. "Sexual orientation" means consensual homosexuality or
8 heterosexuality.

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

11 Sec. 9. Exemptions from rule making

12 A. For the purposes of this act, the board of fingerprinting is exempt
13 from the rule making requirements of title 41, chapter 6, Arizona Revised
14 Statutes, for one year after the effective date of this act.

15 B. For the purposes of this act, the department of health services is
16 exempt from the rule making requirements of title 41, chapter 6, Arizona
17 Revised Statutes, until August 1, 2012.