

State of Arizona  
House of Representatives  
Fiftieth Legislature  
Second Regular Session  
2012

# HOUSE BILL 2674

AN ACT

AMENDING SECTIONS 41-1750 AND 41-1758.03, ARIZONA REVISED STATUTES; RELATING TO CRIMINAL HISTORY INFORMATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 41-1750, Arizona Revised Statutes, is amended to  
3 read:  
4 41-1750. Central state repository; department of public safety;  
5 duties; funds; accounts; definitions  
6 A. The department is responsible for the effective operation of the  
7 central state repository in order to collect, store and disseminate complete  
8 and accurate Arizona criminal history records and related criminal justice  
9 information. The department shall:  
10 1. Procure from all criminal justice agencies in this state accurate  
11 and complete personal identification data, fingerprints, charges, process  
12 control numbers and dispositions and such other information as may be  
13 pertinent to all persons who have been charged with, arrested for, convicted  
14 of or summoned to court as a criminal defendant for a felony offense or an  
15 offense involving domestic violence as defined in section 13-3601 or a  
16 violation of title 13, chapter 14 or title 28, chapter 4.  
17 2. Collect information concerning the number and nature of offenses  
18 known to have been committed in this state and of the legal steps taken in  
19 connection with these offenses, such other information that is useful in the  
20 study of crime and in the administration of criminal justice and all other  
21 information deemed necessary to operate the statewide uniform crime reporting  
22 program and to cooperate with the federal government uniform crime reporting  
23 program.  
24 3. Collect information concerning criminal offenses that manifest  
25 evidence of prejudice based on race, color, religion, national origin, sexual  
26 orientation, gender or disability.  
27 4. Cooperate with the central state repositories in other states and  
28 with the appropriate agency of the federal government in the exchange of  
29 information pertinent to violators of the law.  
30 5. Ensure the rapid exchange of information concerning the commission  
31 of crime and the detection of violators of the law among the criminal justice  
32 agencies of other states and of the federal government.  
33 6. Furnish assistance to peace officers throughout this state in crime  
34 scene investigation for the detection of latent fingerprints and in the  
35 comparison of latent fingerprints.  
36 7. Conduct periodic operational audits of the central state repository  
37 and of a representative sample of other agencies that contribute records to  
38 or receive criminal justice information from the central state repository or  
39 through the Arizona criminal justice information system.  
40 8. Establish and enforce the necessary physical and system safeguards  
41 to ensure that the criminal justice information maintained and disseminated  
42 by the central state repository or through the Arizona criminal justice  
43 information system is appropriately protected from unauthorized inquiry,  
44 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~~ BY 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 [PURSUANT TO SECTIONS 41-1758.03 AND 41-1758.07](#).

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.

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

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

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

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

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

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

7           10. With the auditor general for audit purposes.

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

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

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

26           (a) The fingerprint card.

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

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

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

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

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

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

42           19. With licensees of the United States nuclear regulatory commission  
43 for the purpose of determining whether an individual should be granted  
44 unescorted access to the protected area of a commercial nuclear generating

1 station on submission of the subject of record's fingerprints and the  
2 prescribed fee.

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

12 (a) The fingerprint card.

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

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

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

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

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

39 23. WITH A NONPROFIT ORGANIZATION THAT INTERACTS WITH CHILDREN OR  
40 VULNERABLE ADULTS FOR THE LAWFUL PURPOSE OF EVALUATING THE FITNESS OF ALL  
41 CURRENT AND PROSPECTIVE EMPLOYEES, CONTRACTORS AND VOLUNTEERS OF THE  
42 ORGANIZATION. THE CRIMINAL HISTORY RECORD INFORMATION SHALL BE PROVIDED ON  
43 SUBMISSION OF THE APPLICANT FINGERPRINT CARD AND THE PRESCRIBED FEE.

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

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

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

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

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

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

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

42 O. The department of economic security may pay from appropriated  
43 monies the cost of federal fingerprint processing or federal criminal history  
44 record information checks that are authorized by law for employees and  
45 volunteers of the department, guardians pursuant to section 46-134,

1 subsection A, paragraph 15, the licensing of foster parents or the  
2 certification of adoptive parents.

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

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

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

7 Q. The director shall ensure that the following limitations are  
8 observed regarding dissemination of criminal justice information obtained  
9 from the central state repository or through the Arizona criminal justice  
10 information system:

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

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

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

25 4. The existence or nonexistence of criminal history record  
26 information shall not be confirmed to any individual or agency not authorized  
27 to receive the information itself.

28 5. Criminal history record information to be released for noncriminal  
29 justice purposes to agencies of other states shall only be released to the  
30 central state repositories of those states for dissemination in accordance  
31 with the laws of those states.

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

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

1           S. This section does not apply to criminal history record information  
2 contained in:

3           1. Posters, arrest warrants, announcements or lists for identifying or  
4 apprehending fugitives or wanted persons.

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

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

11           4. Announcements of executive clemency or pardon.

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

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

22           U. In order to ensure that complete and accurate criminal history  
23 record information is maintained and disseminated by the central state  
24 repository:

25           1. The arresting authority shall take legible ten-print fingerprints  
26 of all persons who are arrested for offenses listed in subsection C of this  
27 section including persons who are arrested and released pursuant to section  
28 13-3903, subsection C. The arresting authority may transfer an arrestee to a  
29 booking agency for ten-print fingerprinting. The arresting authority or  
30 booking agency shall obtain a process control number and provide to the  
31 person fingerprinted a document that indicates proof of the fingerprinting  
32 and that informs the person that the document must be presented to the court.

33           2. The mandatory fingerprint compliance form shall contain the  
34 following information:

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

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

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

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

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

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

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

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

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

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

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

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

33           9. The state department of corrections or the department of juvenile  
34 corrections, within forty days, shall advise the central state repository  
35 that it has assumed supervision of a person convicted of an offense specified  
36 in subsection C of this section or section 8-341, subsection V, **PARAGRAPH 3**.  
37 The state department of corrections or the department of juvenile corrections  
38 shall also report dispositions that occur thereafter to the central state  
39 repository within forty days of the date of the dispositions. This  
40 information shall be submitted on a form or in a manner required by the  
41 department of public safety.

42           10. Each criminal justice agency shall query the central state  
43 repository before dissemination of any criminal history record information to  
44 ensure the completeness of the information. Inquiries shall be made before  
45 any dissemination except in those cases in which time is of the essence and

1 the repository is technically incapable of responding within the necessary  
2 time period. If time is of the essence, the inquiry shall still be made and  
3 the response shall be provided as soon as possible.

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

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

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

19 Y. For the purposes of this section:

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

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

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

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

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

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

6 6. "Criminal justice agency" means either:

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

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

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

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

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

34 10. "Management control":

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

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

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

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

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

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

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

12 13. "Sexual orientation" means consensual homosexuality or  
13 heterosexuality.

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

16 Sec. 2. Section 41-1758.03, Arizona Revised Statutes, is amended to  
17 read:

18 41-1758.03. Fingerprint clearance cards; issuance; immunity

19 A. On receiving the state and federal criminal history record of a  
20 person, the division shall compare the record with the list of criminal  
21 offenses that preclude the person from receiving a fingerprint clearance  
22 card. If the person's criminal history record does not contain any of the  
23 offenses listed in subsections B and C of this section, the division shall  
24 issue the person a fingerprint clearance card.

25 B. A person who is subject to registration as a sex offender in this  
26 state or any other jurisdiction or who is awaiting trial on or who has been  
27 convicted of committing or attempting, soliciting, facilitating or conspiring  
28 to commit one or more of the following offenses in this state or the same or  
29 similar offenses in another state or jurisdiction is precluded from receiving  
30 a fingerprint clearance card:

- 31 1. Sexual abuse of a vulnerable adult.
- 32 2. Incest.
- 33 3. First or second degree murder.
- 34 4. Sexual assault.
- 35 5. Sexual exploitation of a minor.
- 36 6. Sexual exploitation of a vulnerable adult.
- 37 7. Commercial sexual exploitation of a minor.
- 38 8. Commercial sexual exploitation of a vulnerable adult.
- 39 9. Child prostitution as prescribed in section 13-3212.
- 40 10. Child abuse.
- 41 11. Abuse of a vulnerable adult.
- 42 12. Sexual conduct with a minor.
- 43 13. Molestation of a child.
- 44 14. Molestation of a vulnerable adult.
- 45 15. A dangerous crime against children as defined in section 13-705.

- 1           16. Exploitation of minors involving drug offenses.
- 2           17. Taking a child for the purpose of prostitution as prescribed in
- 3 section 13-3206.
- 4           18. Neglect or abuse of a vulnerable adult.
- 5           19. Sex trafficking.
- 6           20. Sexual abuse.
- 7           21. Production, publication, sale, possession and presentation of
- 8 obscene items as prescribed in section 13-3502.
- 9           22. Furnishing harmful items to minors as prescribed in section
- 10 13-3506.
- 11           23. Furnishing harmful items to minors by internet activity as
- 12 prescribed in section 13-3506.01.
- 13           24. Obscene or indecent telephone communications to minors for
- 14 commercial purposes as prescribed in section 13-3512.
- 15           25. Luring a minor for sexual exploitation.
- 16           26. Enticement of persons for purposes of prostitution.
- 17           27. Procurement by false pretenses of person for purposes of
- 18 prostitution.
- 19           28. Procuring or placing persons in a house of prostitution.
- 20           29. Receiving earnings of a prostitute.
- 21           30. Causing one's spouse to become a prostitute.
- 22           31. Detention of persons in a house of prostitution for debt.
- 23           32. Keeping or residing in a house of prostitution or employment in
- 24 prostitution.
- 25           33. Pandering.
- 26           34. Transporting persons for the purpose of prostitution, polygamy and
- 27 concubinage.
- 28           35. Portraying adult as a minor as prescribed in section 13-3555.
- 29           36. Admitting minors to public displays of sexual conduct as prescribed
- 30 in section 13-3558.
- 31           37. Unlawful sale or purchase of children.
- 32           38. Child bigamy.
- 33           C. A person who is awaiting trial on or who has been convicted of
- 34 committing or attempting, soliciting, facilitating or conspiring to commit
- 35 one or more of the following offenses in this state or the same or similar
- 36 offenses in another state or jurisdiction is precluded from receiving a
- 37 fingerprint clearance card, except that the person may petition the board of
- 38 fingerprinting for a good cause exception pursuant to section 41-619.55:
- 39           1. Manslaughter.
- 40           2. Endangerment.
- 41           3. Threatening or intimidating.
- 42           4. Assault.
- 43           5. Unlawfully administering intoxicating liquors, narcotic drugs or
- 44 dangerous drugs.
- 45           6. Assault by vicious animals.

- 1           7. Drive by shooting.
- 2           8. Assaults on officers or fire fighters.
- 3           9. Discharging a firearm at a structure.
- 4           10. Indecent exposure.
- 5           11. Public sexual indecency.
- 6           12. Aggravated criminal damage.
- 7           13. Theft.
- 8           14. Theft by extortion.
- 9           15. Shoplifting.
- 10          16. Forgery.
- 11          17. Criminal possession of a forgery device.
- 12          18. Obtaining a signature by deception.
- 13          19. Criminal impersonation.
- 14          20. Theft of a credit card or obtaining a credit card by fraudulent  
15 means.
- 16          21. Receipt of anything of value obtained by fraudulent use of a credit  
17 card.
- 18          22. Forgery of a credit card.
- 19          23. Fraudulent use of a credit card.
- 20          24. Possession of any machinery, plate or other contrivance or  
21 incomplete credit card.
- 22          25. False statement as to financial condition or identity to obtain a  
23 credit card.
- 24          26. Fraud by persons authorized to provide goods or services.
- 25          27. Credit card transaction record theft.
- 26          28. Misconduct involving weapons.
- 27          29. Misconduct involving explosives.
- 28          30. Depositing explosives.
- 29          31. Misconduct involving simulated explosive devices.
- 30          32. Concealed weapon violation.
- 31          33. Possession and sale of peyote.
- 32          34. Possession and sale of a vapor-releasing substance containing a  
33 toxic substance.
- 34          35. Sale of precursor chemicals.
- 35          36. Possession, use or sale of marijuana, dangerous drugs or narcotic  
36 drugs.
- 37          37. Manufacture or distribution of an imitation controlled substance.
- 38          38. Manufacture or distribution of an imitation prescription-only drug.
- 39          39. Manufacture or distribution of an imitation over-the-counter drug.
- 40          40. Possession or possession with intent to use an imitation controlled  
41 substance.
- 42          41. Possession or possession with intent to use an imitation  
43 prescription-only drug.
- 44          42. Possession or possession with intent to use an imitation  
45 over-the-counter drug.

- 1           43. Manufacture of certain substances and drugs by certain means.
- 2           44. Adding poison or other harmful substance to food, drink or
- 3 medicine.
- 4           45. A criminal offense involving criminal trespass and burglary under
- 5 title 13, chapter 15.
- 6           46. A criminal offense under title 13, chapter 23.
- 7           47. Child neglect.
- 8           48. Misdemeanor offenses involving contributing to the delinquency of a
- 9 minor.
- 10          49. Offenses involving domestic violence.
- 11          50. Arson.
- 12          51. Kidnapping.
- 13          52. Felony offenses involving sale, distribution or transportation of,
- 14 offer to sell, transport or distribute or conspiracy to sell, transport or
- 15 distribute marijuana, dangerous drugs or narcotic drugs.
- 16          53. Robbery.
- 17          54. Aggravated assault.
- 18          55. Felony offenses involving contributing to the delinquency of a
- 19 minor.
- 20          56. Negligent homicide.
- 21          57. Criminal damage.
- 22          58. Misappropriation of charter school monies as prescribed in section
- 23 13-1818.
- 24          59. Taking identity of another person or entity.
- 25          60. Aggravated taking identity of another person or entity.
- 26          61. Trafficking in the identity of another person or entity.
- 27          62. Cruelty to animals.
- 28          63. Prostitution.
- 29          64. Sale or distribution of material harmful to minors through vending
- 30 machines as prescribed in section 13-3513.
- 31          65. Welfare fraud.

32           ~~D. A person who is awaiting trial on or who has been convicted of~~  
33 ~~committing or attempting to commit a violation of section 28-1381, 28-1382 or~~  
34 ~~28-1383 in this state or the same or similar offense in another state or~~  
35 ~~jurisdiction within five years from the date of applying for a fingerprint~~  
36 ~~clearance card is precluded from driving any vehicle to transport employees~~  
37 ~~or clients of the employing agency as part of the person's employment. The~~  
38 ~~division shall place a notation on the fingerprint clearance card that~~  
39 ~~indicates this driving restriction. This subsection does not preclude a~~  
40 ~~person from driving a vehicle alone as part of the person's employment.~~

41           E. D. Notwithstanding subsection C of this section, on receiving  
42 written notice from the board of fingerprinting that a good cause exception  
43 was granted pursuant to section 41-619.55, the division shall issue a  
44 fingerprint clearance card to the person.

1           ~~F.~~ E. If the division denies a person's application for a fingerprint  
2 clearance card pursuant to subsection C of this section and a good cause  
3 exception is requested pursuant to section 41-619.55, the division shall  
4 release, on request by the board of fingerprinting, the person's criminal  
5 history record to the board of fingerprinting.

6           ~~G.~~ F. A person shall be granted a fingerprint clearance card if  
7 either of the following applies:

8           1. An agency granted a good cause exception before August 16, 1999 and  
9 no new precluding offense is identified. The fingerprint clearance card  
10 shall specify only the program that granted the good cause exception. On the  
11 request of the applicant, the agency that granted the prior good cause  
12 exception shall notify the division in writing of the date on which the prior  
13 good cause exception was granted and the date of the conviction and the name  
14 of the offense for which the good cause exception was granted.

15           2. The board granted a good cause exception and no new precluding  
16 offense is identified.

17           ~~H.~~ G. The licensee or contract provider shall assume the costs of  
18 fingerprint checks and may charge these costs to persons required to be  
19 fingerprinted.

20           ~~I.~~ H. A person who is under eighteen years of age or who is at least  
21 ninety-nine years of age is exempt from the fingerprint clearance card  
22 requirements of this section. At all times the person shall be under the  
23 direct visual supervision of personnel who have valid fingerprint clearance  
24 cards.

25           ~~J.~~ I. The division may conduct periodic state criminal history  
26 records checks for the purpose of updating the clearance status of current  
27 fingerprint clearance card holders and may notify the board of fingerprinting  
28 and the agency employing the person of the results of the records check.

29           ~~K.~~ J. The division shall revoke a person's fingerprint clearance card  
30 on receipt of a written request for revocation from the board of  
31 fingerprinting pursuant to section 41-619.55.

32           ~~L.~~ K. The division shall not issue a fingerprint clearance card to a  
33 person if the division cannot determine, within thirty business days after  
34 receipt of the person's state and federal criminal history record  
35 information, whether the person is awaiting trial on or has been convicted of  
36 committing any of the offenses listed in subsection B or C of this section.  
37 If the division is unable to make the determination required by this section  
38 and does not issue a fingerprint clearance card to a person, the person may  
39 request a good cause exception pursuant to section 41-619.55.

40           ~~M.~~ L. Except as provided in subsection ~~N-~~ M of this section, if after  
41 conducting a state and federal criminal history records check the division  
42 determines that it is not authorized to issue a fingerprint clearance card to  
43 a person, the division shall notify the agency that licenses or employs the  
44 person that the division is not authorized to issue a fingerprint clearance  
45 card. This notice shall include the criminal history information on which

1 the denial was based. This criminal history information is subject to  
2 dissemination restrictions pursuant to section 41-1750 and Public Law 92-544.

3 ~~N.~~ M. If, after conducting a state and federal criminal history  
4 records check on a person who requests a fingerprint clearance card pursuant  
5 to section 15-1881, the division determines that it is not authorized to  
6 issue a fingerprint clearance card to the person, the division shall not  
7 notify the agency. The division shall notify the person who requested the  
8 card that the division is not authorized to issue a fingerprint clearance  
9 card.

10 ~~Q.~~ N. The division is not liable for damages resulting from:

11 1. The issuance of a fingerprint clearance card to a person who is  
12 later found to have been ineligible to receive a fingerprint clearance card  
13 at the time the card was issued.

14 2. The denial of a fingerprint clearance card to a person who is later  
15 found to have been eligible to receive a fingerprint clearance card at the  
16 time issuance of the card was denied.

17 ~~P.~~ O. The issuance of a fingerprint clearance card does not entitle a  
18 person to employment.

19 ~~Q.~~ P. Notwithstanding any law to the contrary, a person may apply for  
20 and receive a level I fingerprint clearance card pursuant to section  
21 41-1758.07 to satisfy a requirement that the person have a valid fingerprint  
22 clearance card issued pursuant to this section.