

State of Arizona  
House of Representatives  
Fifty-first Legislature  
First Regular Session  
2013

# HOUSE BILL 2308

AN ACT

AMENDING SECTIONS 14-1108, 14-5304, 14-5315, 14-5401, 14-5419 AND 41-1750,  
ARIZONA REVISED STATUTES; RELATING TO PROTECTIVE PROCEEDINGS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 14-1108, Arizona Revised Statutes, is amended to  
3 read:

4 14-1108. Arbitration of disputes; alternative dispute  
5 resolution

6 In a proceeding brought pursuant to this title, ~~after the initial~~  
7 ~~appointment of a fiduciary,~~ the court may require arbitration of a dispute  
8 pursuant to the requirements of section 12-133, subsections B through L, or  
9 order alternative dispute resolution.

10 Sec. 2. Section 14-5304, Arizona Revised Statutes, is amended to read:

11 14-5304. Findings; limitations; filing; fingerprinting

12 A. In exercising its appointment authority pursuant to this chapter,  
13 the court shall encourage the development of maximum self-reliance and  
14 independence of the incapacitated person.

15 B. The court may appoint a general or limited guardian as requested if  
16 the court finds by clear and convincing evidence that:

17 1. The person for whom a guardian is sought is incapacitated.

18 2. The appointment is necessary to provide for the demonstrated needs  
19 of the incapacitated person.

20 3. The person's needs cannot be met by less restrictive means,  
21 including the use of appropriate technological assistance.

22 C. In conformity with the evidence regarding the extent of the ward's  
23 incapacity, the court may appoint a limited guardian and specify time limits  
24 on the guardianship and limitations on the guardian's powers.

25 D. The guardian shall file an acceptance of appointment with the  
26 appointing court.

27 E. THE COURT MAY REQUIRE EACH PERSON WHO SEEKS APPOINTMENT AS A  
28 GUARDIAN TO FURNISH A FULL SET OF FINGERPRINTS TO ENABLE THE COURT TO CONDUCT  
29 A CRIMINAL BACKGROUND INVESTIGATION. THE COURT SHALL SUBMIT THE PERSON'S  
30 COMPLETED FINGERPRINT CARD TO THE DEPARTMENT OF PUBLIC SAFETY. THE PERSON  
31 SHALL BEAR THE COST OF OBTAINING THE PERSON'S CRIMINAL HISTORY RECORD  
32 INFORMATION. THE COST SHALL NOT EXCEED THE ACTUAL COST OF OBTAINING THE  
33 PERSON'S CRIMINAL HISTORY RECORD INFORMATION. CRIMINAL HISTORY RECORDS  
34 CHECKS SHALL BE CONDUCTED PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544.  
35 THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA WITH THE  
36 FEDERAL BUREAU OF INVESTIGATION. THIS SUBSECTION DOES NOT APPLY TO A  
37 FIDUCIARY WHO IS LICENSED PURSUANT TO SECTION 14-5651 OR AN EMPLOYEE OF A  
38 FINANCIAL INSTITUTION.

39 Sec. 3. Section 14-5315, Arizona Revised Statutes, is amended to read:

40 14-5315. Guardian reports; contents

41 A. A guardian shall submit a written report to the court ~~on each~~  
42 ~~anniversary date of qualification as guardian~~ ANNUALLY, PURSUANT TO RULES  
43 ADOPTED BY THE SUPREME COURT, on resignation or substitution as guardian and  
44 on termination of the ward's disability.

45 B. The guardian shall mail a copy of the report to:

- 1           1. The ward.
- 2           2. The ward's conservator.
- 3           3. The ward's spouse or the ward's parents if the ward is not married.
- 4           4. A court appointed attorney for the ward.
- 5           5. Any other interested person who has filed a demand for notice with
- 6 the court.
- 7           C. The report shall include the following:
- 8           1. The type, name and address of the home or facility where the ward
- 9 lives and the name of the person in charge of the home.
- 10           2. The number of times the guardian has seen the ward in the last
- 11 twelve months.
- 12           3. The date the guardian last saw the ward.
- 13           4. The name and address of the ward's physician or registered nurse
- 14 practitioner.
- 15           5. The date the ward was last seen by a physician or a registered
- 16 nurse practitioner.
- 17           6. A copy of the ward's physician's or registered nurse practitioner's
- 18 report to the guardian or, if none exists, a summary of the physician's or
- 19 the registered nurse practitioner's observations on the ward's physical and
- 20 mental condition.
- 21           7. Major changes in the ward's physical or mental condition observed
- 22 by the guardian in the last year.
- 23           8. The guardian's opinion as to whether the guardianship should be
- 24 continued.
- 25           9. A summary of the services provided to the ward by a governmental
- 26 agency and the name of the individual responsible for the ward's affairs with
- 27 that agency.
- 28           Sec. 4. Section 14-5401, Arizona Revised Statutes, is amended to read:
- 29           14-5401. Protective proceedings; fingerprinting
- 30           A. On petition and after notice and a hearing pursuant to this
- 31 article, the court may appoint a conservator or make another protective order
- 32 for cause as follows:
- 33           1. Appointment of a conservator or other protective order may be made
- 34 in relation to the estate and affairs of a minor if the court determines that
- 35 a minor owns money or property that requires management or protection that
- 36 cannot otherwise be provided or has or may have affairs that may be
- 37 jeopardized or prevented by minority or that funds are needed for the minor's
- 38 support and education and that protection is necessary or desirable to obtain
- 39 or provide funds.
- 40           2. Appointment of a conservator or other protective order may be made
- 41 in relation to the estate and affairs of a person if the court specifically
- 42 finds on the record both of the following:
- 43           (a) The person is unable to manage the person's estate and affairs
- 44 effectively for reasons such as mental illness, mental deficiency, mental

1 disorder, physical illness or disability, chronic use of drugs, chronic  
2 intoxication, confinement, detention by a foreign power or disappearance.

3 (b) The person has property that will be wasted or dissipated unless  
4 proper management is provided, or that funds are needed for the support, care  
5 and welfare of the person or those entitled to be supported by the person and  
6 that protection is necessary or desirable to obtain or provide funds.

7 B. On petition and after notice and a hearing pursuant to this  
8 article, the court may continue a conservatorship or other protective order  
9 entered pursuant to subsection A, paragraph 1 of this section beyond the  
10 minor's eighteenth birthday if the court determines that the order is  
11 appropriate pursuant to subsection A, paragraph 2 of this section. The  
12 petition shall comply with the requirements of section 14-5404, subsection B  
13 and must be filed after the minor's seventeenth birthday and before  
14 termination of the conservatorship by court order.

15 C. THE COURT MAY REQUIRE EACH PERSON WHO SEEKS APPOINTMENT AS A  
16 CONSERVATOR TO FURNISH A FULL SET OF FINGERPRINTS TO ENABLE THE COURT TO  
17 CONDUCT A CRIMINAL BACKGROUND INVESTIGATION. THE COURT SHALL SUBMIT THE  
18 PERSON'S COMPLETED FINGERPRINT CARD TO THE DEPARTMENT OF PUBLIC SAFETY. THE  
19 PERSON SHALL BEAR THE COST OF OBTAINING THE PERSON'S CRIMINAL HISTORY RECORD  
20 INFORMATION. THE COST SHALL NOT EXCEED THE ACTUAL COST OF OBTAINING THE  
21 PERSON'S CRIMINAL HISTORY RECORD INFORMATION. CRIMINAL HISTORY RECORDS  
22 CHECKS SHALL BE CONDUCTED PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544.  
23 THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA WITH THE  
24 FEDERAL BUREAU OF INVESTIGATION. THIS SUBSECTION DOES NOT APPLY TO A  
25 FIDUCIARY WHO IS LICENSED PURSUANT TO SECTION 14-5651 OR AN EMPLOYEE OF A  
26 FINANCIAL INSTITUTION.

27 Sec. 5. Section 14-5419, Arizona Revised Statutes, is amended to read:  
28 14-5419. Accounts; definition

29 A. Except as provided pursuant to subsection F of this section, every  
30 conservator must account to the court for the administration of the estate  
31 ~~not less than~~ annually PURSUANT TO RULES ADOPTED BY THE SUPREME COURT ~~on the~~  
32 ~~anniversary date of qualifying as conservator and also on resignation or~~  
33 ~~substitution,~~ and on termination of the protected person's minority or  
34 disability, except that for good cause shown on the application of an  
35 interested person, the court may relieve the conservator of filing annual or  
36 other accounts by an order entered in the minutes.

37 B. The court may take any appropriate action on filing of annual or  
38 other accounts. In connection with any account, the court may require a  
39 conservator to submit to a physical check of the estate in the conservator's  
40 control, to be made in any manner the court may specify.

41 C. An adjudication allowing an intermediate or final account can be  
42 made only on petition, notice and a hearing. Notice must be given to:

- 43 1. The protected person.
- 44 2. A guardian of the protected person if one has been appointed,  
45 unless the same person is serving as both guardian and conservator.

1           3. If no guardian has been appointed or the same person is serving as  
2 both guardian and conservator, a spouse or, if the spouse is the conservator,  
3 there is no spouse or the spouse is incapacitated, a parent or an adult child  
4 who is not serving as a conservator.

5           4. A representative appointed for the protected person, if the court  
6 determines in accordance with section 14-1408 that representation of the  
7 interest of the protected person would otherwise be inadequate.

8           D. An order, made on notice and a hearing, allowing an intermediate  
9 account of a conservator, adjudicates as to the conservator's liabilities  
10 concerning the matters considered in connection therewith. An order, made on  
11 notice and a hearing, allowing a final account adjudicates as to all  
12 previously unsettled liabilities of the conservator to the protected person  
13 or the protected person's successors relating to the conservatorship.

14           E. In any case in which the estate consists, in whole or in part, of  
15 benefits paid by the ~~veterans-administration~~ UNITED STATES DEPARTMENT OF  
16 VETERANS AFFAIRS to the conservator or the conservator's predecessor for the  
17 benefit of the protected person, the ~~veterans-administration~~ UNITED STATES  
18 DEPARTMENT OF VETERANS AFFAIRS office that has jurisdiction over the area is  
19 entitled to a copy of any account filed under this article. Each year in  
20 which an account is not filed with the court, the conservator, if requested,  
21 shall submit an account to the appropriate ~~veterans-administration~~ UNITED  
22 STATES DEPARTMENT OF VETERANS AFFAIRS office. If an account is not submitted  
23 as requested, or if it is found unsatisfactory by the ~~veterans-administration~~  
24 UNITED STATES DEPARTMENT OF VETERANS AFFAIRS, the court on receipt of notice  
25 of the deficiency shall require the conservator to immediately file an  
26 account with the court promptly.

27           F. Unless prohibited by order of the court, the conservator may file  
28 with the court, in lieu of a final account, a verified statement stating  
29 that:

30           1. The protected person has died. The conservator shall attach a  
31 certified copy of the protected person's death certificate to the statement.

32           2. The protected person's successors have all waived in writing their  
33 right to have the conservator submit to the court a final account of the  
34 conservator's administration of the protected person's estate. The  
35 conservator shall attach the originals of the written waivers to the  
36 statement.

37           3. The conservator has delivered a copy of a closing statement to the  
38 protected person's successors. The conservator shall attach a copy of the  
39 closing statement to the statement.

40           G. The closing statement that is to be delivered to the protected  
41 person's successors shall be a verified statement stating the following:

42           1. The protected person has died and the date of the person's death.

43           2. The persons receiving the closing statement have a right to have  
44 the conservator submit to the court a final account of the conservator's  
45 administration of the protected person's estate.

1           3. If the person wishes to have the final accounting reviewed by the  
2 court, the person should not sign a waiver that waives this right.

3           4. If all persons receiving the closing statement choose to waive the  
4 right to have the conservator submit to the court a final account, the final  
5 account will not be reviewed by the court.

6           5. A list of the property owned by the protected person, as of the  
7 date of the protected person's death, is attached to the closing statement  
8 and that the list states the fair market value of the property as of the date  
9 of the protected person's death.

10          6. The conservator, by the closing statement, shall inform the  
11 protected person's successors that if they waive court review of the  
12 conservator's final account, the conservatorship will be terminated, the  
13 conservator will be discharged from all liabilities relating to the  
14 conservatorship, the bond or other security posted by the conservator will be  
15 exonerated and any restrictions previously imposed on the assets of the  
16 conservatorship will be lifted.

17          H. The conservator shall file an affidavit with the court that states  
18 that the closing statement was sent or delivered to the protected person's  
19 successors on a date before the date that the protected person's successors  
20 signed the written waiver.

21          I. Unless proceedings are pending against the conservator, on the  
22 filing of the statement described in subsection F of this section and the  
23 affidavit described in subsection H of this section, the court shall enter an  
24 order terminating the conservatorship, discharging the conservator from all  
25 liabilities relating to the conservatorship, exonerating and releasing any  
26 bond or other security posted by the conservator and releasing any  
27 restrictions previously imposed on the assets of the conservatorship.

28          J. For the purposes of this section, "protected person's successors"  
29 means:

30           1. The personal representative of the protected person's estate if the  
31 personal representative and the conservator are not the same person.

32           2. If the conservator and the personal representative of the protected  
33 person's estate are the same person and if the protected person died  
34 intestate, the protected person's heirs.

35           3. If the conservator and the personal representative of the protected  
36 person's estate are the same person and if the protected person died testate,  
37 the devisees under the protected person's will that has been admitted to  
38 probate.

39          Sec. 6. Section 41-1750, Arizona Revised Statutes, is amended to read:

40          41-1750. Central state repository; department of public safety;  
41                 duties; funds; accounts; definitions

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

- 1           1. Procure from all criminal justice agencies in this state accurate  
2 and complete personal identification data, fingerprints, charges, process  
3 control numbers and dispositions and such other information as may be  
4 pertinent to all persons who have been charged with, arrested for, convicted  
5 of or summoned to court as a criminal defendant for a felony offense or an  
6 offense involving domestic violence as defined in section 13-3601 or a  
7 violation of title 13, chapter 14 or title 28, chapter 4.
- 8           2. Collect information concerning the number and nature of offenses  
9 known to have been committed in this state and of the legal steps taken in  
10 connection with these offenses, such other information that is useful in the  
11 study of crime and in the administration of criminal justice and all other  
12 information deemed necessary to operate the statewide uniform crime reporting  
13 program and to cooperate with the federal government uniform crime reporting  
14 program.
- 15          3. Collect information concerning criminal offenses that manifest  
16 evidence of prejudice based on race, color, religion, national origin, sexual  
17 orientation, gender or disability.
- 18          4. Cooperate with the central state repositories in other states and  
19 with the appropriate agency of the federal government in the exchange of  
20 information pertinent to violators of the law.
- 21          5. Ensure the rapid exchange of information concerning the commission  
22 of crime and the detection of violators of the law among the criminal justice  
23 agencies of other states and of the federal government.
- 24          6. Furnish assistance to peace officers throughout this state in crime  
25 scene investigation for the detection of latent fingerprints and in the  
26 comparison of latent fingerprints.
- 27          7. Conduct periodic operational audits of the central state repository  
28 and of a representative sample of other agencies that contribute records to  
29 or receive criminal justice information from the central state repository or  
30 through the Arizona criminal justice information system.
- 31          8. Establish and enforce the necessary physical and system safeguards  
32 to ensure that the criminal justice information maintained and disseminated  
33 by the central state repository or through the Arizona criminal justice  
34 information system is appropriately protected from unauthorized inquiry,  
35 modification, destruction or dissemination as required by this section.
- 36          9. Aid and encourage coordination and cooperation among criminal  
37 justice agencies through the statewide and interstate exchange of criminal  
38 justice information.
- 39          10. Provide training and proficiency testing on the use of criminal  
40 justice information to agencies receiving information from the central state  
41 repository or through the Arizona criminal justice information system.
- 42          11. Operate and maintain the Arizona automated fingerprint  
43 identification system established by section 41-2411.

1           12. Provide criminal history record information to the fingerprinting  
2 division for the purpose of screening applicants for fingerprint clearance  
3 cards.

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

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

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

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

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

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

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

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

1 licensees, employees, contract employees or volunteers, and shall require  
2 that fingerprints of the specified individuals be submitted in conjunction  
3 with such requests for criminal history record information.

4 3. With the board of fingerprinting for the purpose of conducting good  
5 cause exceptions pursuant to section 41-619.55 and central registry  
6 exceptions pursuant to section 41-619.57.

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

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

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

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

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

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

45 10. With the auditor general for audit purposes.

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

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

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

19           (a) The fingerprint card.

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

21           14. On submission of a fingerprint card, provide criminal history  
22 record information to the superior court for the purpose of evaluating the  
23 fitness of investigators appointed under section 14-5303 or 14-5407, ~~or~~  
24 guardians appointed under section 14-5206 OR 14-5304, OR CONSERVATORS  
25 APPOINTED UNDER SECTION 14-5401.

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

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

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

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

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

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

1 the laws of this state or was involved in immoral or unprofessional conduct  
2 or that the applicant engaged in conduct that would warrant disciplinary  
3 action if the applicant were certificated at the time of the alleged conduct.  
4 The information shall be provided on the submission of either:

5 (a) The fingerprint card.

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

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

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

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

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

32 23. With a nonprofit organization that interacts with children or  
33 vulnerable adults for the lawful purpose of evaluating the fitness of all  
34 current and prospective employees, contractors and volunteers of the  
35 organization. The criminal history record information shall be provided on  
36 submission of the applicant fingerprint card and the prescribed fee.

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

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

41 J. The director shall establish a fee in an amount necessary to cover  
42 the cost of federal noncriminal justice fingerprint processing for criminal  
43 history record information checks that are authorized by law for noncriminal  
44 justice employment, licensing or other lawful purposes. An additional fee  
45 may be charged by the department for state noncriminal justice fingerprint

1 processing. Fees submitted to the department for state noncriminal justice  
2 fingerprint processing are not refundable.

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

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

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

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

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

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

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

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

44 Q. The director shall ensure that the following limitations are  
45 observed regarding dissemination of criminal justice information obtained

1 from the central state repository or through the Arizona criminal justice  
2 information system:

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

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

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

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

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

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

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

36 S. This section does not apply to criminal history record information  
37 contained in:

38 1. Posters, arrest warrants, announcements or lists for identifying or  
39 apprehending fugitives or wanted persons.

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

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

1           4. Announcements of executive clemency or pardon.

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

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

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

15           1. The arresting authority shall take legible ten-print fingerprints  
16 of all persons who are arrested for offenses listed in subsection C of this  
17 section including persons who are arrested and released pursuant to section  
18 13-3903, subsection C. The arresting authority may transfer an arrestee to a  
19 booking agency for ten-print fingerprinting. The arresting authority or  
20 booking agency shall obtain a process control number and provide to the  
21 person fingerprinted a document that indicates proof of the fingerprinting  
22 and that informs the person that the document must be presented to the court.

23           2. The mandatory fingerprint compliance form shall contain the  
24 following information:

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

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

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

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

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

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

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

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

41           5. At the initial appearance or on the arraignment of a summoned  
42 defendant who is charged with an offense listed in subsection C of this  
43 section, if the person does not present a completed mandatory fingerprint  
44 compliance form to the court or if the court has not received the process  
45 control number, the court shall order that within twenty calendar days the

1 defendant be ten-print fingerprinted at a designated time and place by the  
2 appropriate law enforcement agency.

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

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

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

21 9. The state department of corrections or the department of juvenile  
22 corrections, within forty days, shall advise the central state repository  
23 that it has assumed supervision of a person convicted of an offense specified  
24 in subsection C of this section or section 8-341, subsection V, paragraph 3.  
25 The state department of corrections or the department of juvenile corrections  
26 shall also report dispositions that occur thereafter to the central state  
27 repository within forty days of the date of the dispositions. This  
28 information shall be submitted on a form or in a manner required by the  
29 department of public safety.

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

37 V. The director shall adopt rules specifying that any agency that  
38 collects, stores or disseminates criminal justice information that is subject  
39 to this section shall establish effective security measures to protect the  
40 information from unauthorized access, disclosure, modification or  
41 dissemination. The rules shall include reasonable safeguards to protect the  
42 affected information systems from fire, flood, wind, theft, sabotage or other  
43 natural or man-made hazards or disasters.

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

6           X. Nothing in this section creates a cause of action or a right to  
7 bring an action including an action based on discrimination due to sexual  
8 orientation.

9           Y. For the purposes of this section:

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

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

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

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

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

41          6. "Criminal justice agency" means either:

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

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

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

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

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

25 10. "Management control":

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

27 (i) Priorities regarding development and operation of criminal justice  
28 information systems and programs.

29 (ii) Standards for the selection, supervision and termination of  
30 personnel involved in the development of criminal justice information systems  
31 and programs and in the collection, maintenance, analysis and dissemination  
32 of criminal justice information.

33 (iii) Policies governing the operation of computers, circuits and  
34 telecommunications terminals used to process criminal justice information to  
35 the extent that the equipment is used to process, store or transmit criminal  
36 justice information.

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

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

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

5           13. "Sexual orientation" means consensual homosexuality or  
6 heterosexuality.

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