

REFERENCE TITLE: graffiti implements; unlawful acts; minors

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

HB 2561

Introduced by
Representative Campbell

AN ACT

AMENDING SECTIONS 8-341 AND 13-1602, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 29, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 13-2931, 13-2932, 13-2933 AND 13-2934; AMENDING SECTIONS 28-3304, 28-3320 AND 41-1750, ARIZONA REVISED STATUTES; RELATING TO OFFENSES AGAINST PUBLIC ORDER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-341, Arizona Revised Statutes, is amended to
3 read:

4 8-341. Disposition and commitment; definitions

5 A. After receiving and considering the evidence on the proper
6 disposition of the case, the court may enter judgment as follows:

7 1. It may award a delinquent juvenile:

8 (a) To the care of the juvenile's parents, subject to the supervision
9 of a probation department.

10 (b) To a probation department, subject to any conditions the court may
11 impose, including a period of incarceration in a juvenile detention center of
12 not more than one year.

13 (c) To a reputable citizen of good moral character, subject to the
14 supervision of a probation department.

15 (d) To a private agency or institution, subject to the supervision of
16 a probation officer.

17 (e) To the department of juvenile corrections.

18 (f) To maternal or paternal relatives, subject to the supervision of a
19 probation department.

20 (g) To an appropriate official of a foreign country of which the
21 juvenile is a foreign national who is unaccompanied by a parent or guardian
22 in this state to remain on unsupervised probation for at least one year on
23 the condition that the juvenile cooperate with that official.

24 2. It may award an incorrigible child:

25 (a) To the care of the child's parents, subject to the supervision of
26 a probation department.

27 (b) To the protective supervision of a probation department, subject
28 to any conditions the court may impose.

29 (c) To a reputable citizen of good moral character, subject to the
30 supervision of a probation department.

31 (d) To a public or private agency, subject to the supervision of a
32 probation department.

33 (e) To maternal or paternal relatives, subject to the supervision of a
34 probation department.

35 B. If a juvenile is placed on probation pursuant to this section, the
36 period of probation may continue until the juvenile's eighteenth birthday,
37 except that the term of probation shall not exceed one year if all of the
38 following apply:

39 1. The juvenile is not charged with a subsequent offense.

40 2. The juvenile has not been found in violation of a condition of
41 probation.

42 3. The court has not made a determination that it is in the best
43 interests of the juvenile or the public to require continued supervision.
44 The court shall state by minute entry or written order its reasons for
45 finding that continued supervision is required.

1 4. The offense for which the juvenile is placed on probation does not
2 involve a dangerous offense as defined in section 13-105.

3 5. The offense for which the juvenile is placed on probation does not
4 involve a violation of title 13, chapter 14 or 35.1.

5 6. Restitution ordered pursuant to section 8-344 has been made.

6 7. The juvenile's parents have not requested that the court continue
7 the juvenile's probation for more than one year.

8 C. If a juvenile is adjudicated as a first time felony juvenile
9 offender, the court shall provide the following written notice to the
10 juvenile:

11 You have been adjudicated a first time felony juvenile
12 offender. You are now on notice that if you are adjudicated of
13 another offense that would be a felony offense if committed by
14 an adult and if you commit the other offense when you are
15 fourteen years of age or older, you will be placed on juvenile
16 intensive probation, which may include home arrest and
17 electronic monitoring, or you may be placed on juvenile
18 intensive probation and may be incarcerated for a period of time
19 in a juvenile detention center, or you may be committed to the
20 department of juvenile corrections or you may be prosecuted as
21 an adult. If you are convicted as an adult of a felony offense
22 and you commit any other offense, you will be prosecuted as an
23 adult.

24 D. If a juvenile is fourteen years of age or older and is adjudicated
25 as a repeat felony juvenile offender, the juvenile court shall place the
26 juvenile on juvenile intensive probation, which may include home arrest and
27 electronic monitoring, may place the juvenile on juvenile intensive
28 probation, which may include incarceration for a period of time in a juvenile
29 detention center, or may commit the juvenile to the department of juvenile
30 corrections pursuant to subsection A, paragraph 1, subdivision (e) of this
31 section for a significant period of time.

32 E. If the juvenile is adjudicated as a repeat felony juvenile
33 offender, the court shall provide the following written notice to the
34 juvenile:

35 You have been adjudicated a repeat felony juvenile
36 offender. You are now on notice that if you are arrested for
37 another offense that would be a felony offense if committed by
38 an adult and if you commit the other offense when you are
39 fifteen years of age or older, you will be tried as an adult in
40 the criminal division of the superior court. If you commit the
41 other offense when you are fourteen years of age or older, you
42 may be tried as an adult in the criminal division of the
43 superior court. If you are convicted as an adult, you will be
44 sentenced to a term of incarceration. If you are convicted as

1 an adult of a felony offense and you commit any other offense,
2 you will be prosecuted as an adult.

3 F. The failure or inability of the court to provide the notices
4 required under subsections C and E of this section does not preclude the use
5 of the prior adjudications for any purpose otherwise permitted.

6 G. Except as provided in subsection S of this section, after
7 considering the nature of the offense and the age, physical and mental
8 condition and earning capacity of the juvenile, the court shall order the
9 juvenile to pay a reasonable monetary assessment if the court determines that
10 an assessment is in aid of rehabilitation. If the director of the department
11 of juvenile corrections determines that enforcement of an order for monetary
12 assessment as a term and condition of conditional liberty is not
13 cost-effective, the director may require the youth to perform an equivalent
14 amount of community restitution in lieu of the payment ordered as a condition
15 of conditional liberty.

16 H. If a child is adjudicated incorrigible, the court may impose a
17 monetary assessment on the child of not more than one hundred fifty dollars.

18 I. A juvenile who is charged with unlawful purchase, possession or
19 consumption of spirituous liquor is subject to section 8-323. The monetary
20 assessment for a conviction of unlawful purchase, possession or consumption
21 of spirituous liquor by a juvenile shall not exceed five hundred dollars.
22 The court of competent jurisdiction may order a monetary assessment or
23 equivalent community restitution.

24 J. The court shall require the monetary assessment imposed under
25 subsection G or H of this section on a juvenile who is not committed to the
26 department of juvenile corrections to be satisfied in one or both of the
27 following forms:

28 1. Monetary reimbursement by the juvenile in a lump sum or installment
29 payments through the clerk of the superior court for appropriate
30 distribution.

31 2. A program of work, not in conflict with regular schooling, to
32 repair damage to the victim's property, to provide community restitution or
33 to provide the juvenile with a job for wages. The court order for
34 restitution or monetary assessment shall specify, according to the
35 dispositional program, the amount of reimbursement and the portion of wages
36 of either existing or provided work that is to be credited toward
37 satisfaction of the restitution or assessment, or the nature of the work to
38 be performed and the number of hours to be spent working. The number of
39 hours to be spent working shall be set by the court based on the severity of
40 the offense but shall not be less than sixteen hours.

41 K. If a juvenile is committed to the department of juvenile
42 corrections, the court shall specify the amount of the monetary assessment
43 imposed pursuant to subsection G or H of this section.

1 L. After considering the length of stay guidelines developed pursuant
2 to section 41-2816, subsection C, the court may set forth in the order of
3 commitment the minimum period during which the juvenile shall remain in
4 secure care while in the custody of the department of juvenile corrections.
5 When the court awards a juvenile to the department of juvenile corrections or
6 an institution or agency, it shall transmit with the order of commitment
7 copies of a diagnostic psychological evaluation and educational assessment if
8 one has been administered, copies of the case report, all other psychological
9 and medical reports, restitution orders, any request for postadjudication
10 notice that has been submitted by a victim and any other documents or records
11 pertaining to the case requested by the department of juvenile corrections or
12 an institution or agency. The department shall not release a juvenile from
13 secure care before the juvenile completes the length of stay determined by
14 the court in the commitment order unless the county attorney in the county
15 from which the juvenile was committed requests the committing court to reduce
16 the length of stay. The department may temporarily escort the juvenile from
17 secure care pursuant to section 41-2804, may release the juvenile from secure
18 care without a further court order after the juvenile completes the length of
19 stay determined by the court or may retain the juvenile in secure care for
20 any period subsequent to the completion of the length of stay in accordance
21 with the law.

22 M. Written notice of the release of any juvenile pursuant to
23 subsection L of this section shall be made to any victim requesting notice,
24 the juvenile court that committed the juvenile and the county attorney of the
25 county from which the juvenile was committed.

26 N. Notwithstanding any law to the contrary, if a person is under the
27 supervision of the court as an adjudicated delinquent juvenile at the time
28 the person reaches eighteen years of age, treatment services may be provided
29 until the person reaches twenty-one years of age if the court, the person and
30 the state agree to the provision of the treatment and a motion to transfer
31 the person pursuant to section 8-327 has not been filed or has been
32 withdrawn. The court may terminate the provision of treatment services after
33 the person reaches eighteen years of age if the court determines that any of
34 the following applies:

- 35 1. The person is not progressing toward treatment goals.
- 36 2. The person terminates treatment.
- 37 3. The person commits a new offense after reaching eighteen years of
38 age.
- 39 4. Continued treatment is not required or is not in the best interests
40 of the state or the person.

41 O. On the request of a victim of an act that may have involved
42 significant exposure as defined in section 13-1415 or that if committed by an
43 adult would be a sexual offense, the prosecuting attorney shall petition the
44 adjudicating court to require that the juvenile be tested for the presence of
45 the human immunodeficiency virus. If the victim is a minor the prosecuting

1 attorney shall file this petition at the request of the victim's parent or
2 guardian. If the act committed against a victim is an act that if committed
3 by an adult would be a sexual offense or the court determines that sufficient
4 evidence exists to indicate that significant exposure occurred, it shall
5 order the department of juvenile corrections or the department of health
6 services to test the juvenile pursuant to section 13-1415. Notwithstanding
7 any law to the contrary, the department of juvenile corrections and the
8 department of health services shall release the test results only to the
9 victim, the delinquent juvenile, the delinquent juvenile's parent or guardian
10 and a minor victim's parent or guardian and shall counsel them regarding the
11 meaning and health implications of the results.

12 P. If a juvenile has been adjudicated delinquent for an offense that
13 if committed by an adult would be a felony, the court shall provide the
14 department of public safety Arizona automated fingerprint identification
15 system established in section 41-2411 with the juvenile's fingerprints,
16 personal identification data and other pertinent information. If a juvenile
17 has been committed to the department of juvenile corrections the department
18 shall provide the fingerprints and information required by this subsection to
19 the Arizona automated fingerprint identification system. If the juvenile's
20 fingerprints and information have been previously submitted to the Arizona
21 automated fingerprint identification system the information is not required
22 to be resubmitted.

23 Q. Access to fingerprint records submitted pursuant to subsection P of
24 this section shall be limited to the administration of criminal justice as
25 defined in section 41-1750. Dissemination of fingerprint information shall
26 be limited to the name of the juvenile, juvenile case number, date of
27 adjudication and court of adjudication.

28 R. If a juvenile is adjudicated delinquent for an offense that if
29 committed by an adult would be a misdemeanor, the court may prohibit the
30 juvenile from carrying or possessing a firearm while the juvenile is under
31 the jurisdiction of the department of juvenile corrections or the juvenile
32 court.

33 S. If a juvenile is adjudicated delinquent for a violation of section
34 13-1602, subsection A, paragraph 1 OR 5, the court SHALL DO ALL OF THE
35 FOLLOWING:

36 1. Order the juvenile to pay a fine of at least three hundred dollars
37 but not more than one thousand dollars.

38 2. ORDER THE JUVENILE TO MAKE FULL RESTITUTION FOR THE ECONOMIC LOSS
39 INCURRED BY THE VICTIM OF THE OFFENSE. Any restitution ordered shall be paid
40 in accordance with section 13-809, subsection A.

41 3. ORDER THE JUVENILE TO PERFORM AT LEAST ___ HOURS OF COMMUNITY
42 RESTITUTION. The court may order the juvenile to perform ADDITIONAL
43 community restitution in lieu of the payment for all or part of the fine
44 IMPOSED PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION if it is in the best
45 interests of the juvenile. The amount of community restitution ORDERED IN

1 LIEU OF THE FINE shall be equivalent to the amount of the fine by crediting
2 any service performed at a rate of ten dollars per hour. If the juvenile is
3 convicted of a second or subsequent violation of section 13-1602, subsection
4 A, paragraph 1 OR 5 and is ordered to perform community restitution, the
5 court may order the parent or guardian of the juvenile to assist the juvenile
6 in the performance of the community restitution if both of the following
7 apply:

8 ~~1-~~ (a) The parent or guardian had knowledge that the juvenile
9 intended to engage in or was engaging in the conduct that gave rise to the
10 violation.

11 ~~2-~~ (b) The parent or guardian knowingly provided the juvenile with
12 the means to engage in the conduct that gave rise to the violation.

13 4. PROVIDE NOTICE OF THE JUVENILE'S ADJUDICATION TO THE DEPARTMENT OF
14 TRANSPORTATION.

15 T. IF THE COURT ORDERS RESTITUTION PURSUANT TO SUBSECTION S OF THIS
16 SECTION AND, AFTER CONSIDERING THE DEGREE OF DAMAGE RESULTING FROM THE
17 OFFENSE AND THE AGE, PHYSICAL AND MENTAL CONDITION AND EARNING CAPACITY OF
18 THE JUVENILE, FINDS THE JUVENILE UNFIT OR UNABLE TO MAKE FULL RESTITUTION,
19 THE COURT SHALL ORDER ONE OR BOTH OF THE JUVENILE'S CUSTODIAL PARENTS TO MAKE
20 RESTITUTION TO THE VICTIM OF THE OFFENSE. THE COURT SHALL DETERMINE THE
21 AMOUNT OF RESTITUTION ORDERED PURSUANT TO THIS SUBSECTION, EXCEPT THAT THE
22 AMOUNT SHALL NOT EXCEED THE LIABILITY LIMIT ESTABLISHED PURSUANT TO SECTION
23 12-661. THE COURT MAY ORDER A PARENT OR JUVENILE WHO IS ORDERED TO PAY
24 RESTITUTION TO SATISFY THE ORDER IN A LUMP SUM OR INSTALLMENT PAYMENTS TO THE
25 CLERK OF THE COURT FOR DISBURSEMENT TO THE VICTIM. IF THE COURT ORDERS THE
26 JUVENILE'S PARENTS TO MAKE RESTITUTION PURSUANT TO THIS SUBSECTION, THE COURT
27 SHALL ORDER THE JUVENILE TO MAKE EITHER FULL OR PARTIAL RESTITUTION,
28 REGARDLESS OF THE JUVENILE'S INSUFFICIENT EARNING CAPACITY. THE COURT SHALL
29 NOT CONSIDER THE ABILITY OF THE JUVENILE'S PARENTS TO PAY RESTITUTION BEFORE
30 MAKING A RESTITUTION ORDER.

31 ~~F-~~ U. If a juvenile is adjudicated delinquent for an offense
32 involving the purchase, possession or consumption of spirituous liquor or a
33 violation of title 13, chapter 34 and is placed on juvenile probation, the
34 court may order the juvenile to submit to random drug and alcohol testing at
35 least two times per week as a condition of probation.

36 ~~H-~~ V. A juvenile who is adjudicated delinquent for an offense
37 involving the purchase, possession or consumption of spirituous liquor or a
38 violation of title 13, chapter 34, who is placed on juvenile probation and
39 who is found to have consumed any spirituous liquor or to have used any drug
40 listed in section 13-3401 while on probation is in violation of the
41 juvenile's probation. A juvenile who commits a third or subsequent violation
42 of a condition of probation as prescribed by this subsection shall be brought
43 before the juvenile court and, if the allegations are proven, the court shall
44 either revoke probation and hold a disposition hearing pursuant to this
45 section or select additional conditions of probation as it deems necessary,

1 including detention, global position system monitoring, additional alcohol or
2 drug treatment, community restitution, additional drug or alcohol testing or
3 a monetary assessment.

4 ~~V.~~ W. For the purposes of this section:

5 1. "ECONOMIC LOSS" MEANS ANY LOSS INCURRED BY A PERSON AS A RESULT OF
6 THE COMMISSION OF AN OFFENSE. ECONOMIC LOSS INCLUDES LOST INTEREST, LOST
7 EARNINGS AND OTHER LOSSES THAT WOULD NOT HAVE BEEN INCURRED BUT FOR THE
8 OFFENSE. ECONOMIC LOSS DOES NOT INCLUDE LOSSES INCURRED BY THE ADJUDICATED
9 JUVENILE, DAMAGES FOR PAIN AND SUFFERING, PUNITIVE DAMAGES OR CONSEQUENTIAL
10 DAMAGES EXCEPT FOR LABOR COSTS OF ANY KIND, MATERIAL COSTS OF ANY KIND AND
11 ANY COSTS ATTRIBUTED TO EQUIPMENT INCURRED TO ABATE OR REPAIR DAMAGE TO THE
12 PERSON'S PROPERTY.

13 ~~1.~~ 2. "First time felony juvenile offender" means a juvenile who is
14 adjudicated delinquent for an offense that would be a felony offense if
15 committed by an adult.

16 ~~2.~~ 3. "Repeat felony juvenile offender" means a juvenile to whom both
17 of the following apply:

18 (a) Is adjudicated delinquent for an offense that would be a felony
19 offense if committed by an adult.

20 (b) Previously has been adjudicated a first time felony juvenile
21 offender.

22 ~~3.~~ 4. "Sexual offense" means oral sexual contact, sexual contact or
23 sexual intercourse as defined in section 13-1401.

24 Sec. 2. Section 13-1602, Arizona Revised Statutes, is amended to read:

25 13-1602. Criminal damage; classification

26 A. A person commits criminal damage by recklessly:

27 1. Defacing or damaging property of another person; or

28 2. Tampering with property of another person so as substantially to
29 impair its function or value; or

30 3. Tampering with or damaging the property of a utility.

31 4. Parking any vehicle in such a manner as to deprive livestock of
32 access to the only reasonably available water.

33 5. Drawing or inscribing a message, slogan, sign or symbol that is
34 made on any public or private building, structure or surface, except the
35 ground, and that is made without permission of the owner.

36 B. Criminal damage is punished as follows:

37 1. Criminal damage is a class 4 felony if the person recklessly
38 damages property of another in an amount of ten thousand dollars or more.

39 2. Criminal damage is a class 4 felony if the person recklessly
40 damages the property of a utility in an amount of five thousand dollars or
41 more or if the person recklessly causes impairment of the functioning of any
42 utility.

43 3. Criminal damage is a class 5 felony if the person recklessly
44 damages property of another in an amount of two thousand dollars or more but
45 less than ten thousand dollars.

1 4. Criminal damage is a class 6 felony if the person recklessly
2 damages the property of another in an amount of one thousand dollars or more
3 but less than two thousand dollars.

4 5. Criminal damage is a class 1 misdemeanor if the person recklessly
5 damages property of another PURSUANT TO SUBSECTION A, PARAGRAPH 1, 2, 3 OR 4
6 OF THIS SECTION in an amount of more than two hundred fifty dollars but less
7 than one thousand dollars OR PURSUANT TO SUBSECTION A, PARAGRAPH 5 OF THIS
8 SECTION IN AN AMOUNT THAT IS LESS THAN ONE THOUSAND DOLLARS.

9 6. In all other cases criminal damage is a class 2 misdemeanor.

10 Section 3. Title 13, chapter 29, Arizona Revised Statutes, is amended
11 by adding sections 13-2931, 13-2932, 13-2933 and 13-2934, to read:

12 13-2931. Unlawful possession of a graffiti implement by a
13 minor; exception; classification; definition

14 A. IT IS UNLAWFUL FOR A MINOR TO POSSESS A GRAFFITI IMPLEMENT WHILE ON
15 PUBLIC OR PRIVATE PROPERTY WITHOUT THE EXPRESS CONSENT OF THE OWNER OR
16 RESPONSIBLE AGENT OF THE PROPERTY.

17 B. THIS SECTION DOES NOT APPLY TO A MINOR WHO IS UNDER THE IMMEDIATE
18 SUPERVISION OF A PARENT, LEGAL GUARDIAN, EMPLOYER, TEACHER, OTHER ADULT WHO
19 IS IN A SIMILAR RELATIONSHIP WITH THE MINOR AND THE POSSESSION IS FOR A
20 LAWFUL PURPOSE.

21 C. A VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR.

22 D. FOR THE PURPOSES OF THIS SECTION, "GRAFFITI IMPLEMENT" INCLUDES AN
23 AEROSOL OR PRESSURIZED PAINT CONTAINER, A BROAD TIPPED INDELIBLE MARKER, A
24 SOLIDIFIED PAINT MARKER OR AN ETCHING TOOL OR A SOLUTION THAT MAY BE USED TO
25 COMMIT A VIOLATION OF SECTION 13-1602, SUBSECTION A, PARAGRAPH 1 OR 5,
26 SECTION 13-1604 OR A CITY OR TOWN ORDINANCE THAT PROHIBITS SIMILAR CONDUCT.

27 13-2932. Illegally obtaining graffiti implements by a minor;
28 classification; definition

29 A. A MINOR WHO MISREPRESENTS THE MINOR'S AGE TO ANY PERSON BY MEANS OF
30 A WRITTEN INSTRUMENT OF IDENTIFICATION WITH THE INTENT TO INDUCE ANOTHER
31 PERSON TO SELL, DELIVER, GIVE OR FURNISH A GRAFFITI IMPLEMENT TO THE MINOR IS
32 GUILTY OF A CLASS 1 MISDEMEANOR.

33 B. A MINOR WHO SOLICITS ANOTHER PERSON TO PURCHASE, SELL, GIVE,
34 DELIVER OR FURNISH THE MINOR WITH A GRAFFITI IMPLEMENT IS GUILTY OF A CLASS 3
35 MISDEMEANOR.

36 C. A MINOR WHO USES A WRITTEN INSTRUMENT OF IDENTIFICATION IN
37 VIOLATION OF THIS SECTION IS SUBJECT TO SUSPENSION OF THE MINOR'S DRIVER
38 LICENSE OR PRIVILEGE TO DRIVE PURSUANT TO SECTION 28-3320.

39 D. FOR THE PURPOSES OF THIS SECTION "GRAFFITI IMPLEMENT" HAS THE SAME
40 MEANING PRESCRIBED IN SECTION 13-2931.

41 13-2933. Unlawful distribution, selling, delivering or giving a
42 graffiti implement to a minor; defenses; exception;
43 classification; definitions

44 A. IT IS UNLAWFUL FOR ANY PERSON TO SELL, DELIVER OR GIVE A GRAFFITI
45 IMPLEMENT TO A MINOR.

1 B. IT IS UNLAWFUL FOR A MINOR TO BUY OR RECEIVE A GRAFFITI IMPLEMENT.
2 C. IF ANY PERSON HAS REASON TO BELIEVE THAT THE PERSON ORDERING,
3 PURCHASING, ATTEMPTING TO ORDER OR PURCHASE OR OTHERWISE PROCURING OR
4 ATTEMPTING TO PROCURE A GRAFFITI IMPLEMENT IS A MINOR, THE PERSON SHALL DO
5 ALL OF THE FOLLOWING:
6 1. REQUEST IDENTIFICATION FROM THE PERSON.
7 2. EXAMINE AND DETERMINE THAT THE IDENTIFICATION REASONABLY APPEARS TO
8 BE VALID AND NOT DEFACED OR ALTERED.
9 3. EXAMINE AND DETERMINE THAT THE PERSON PRESENTING THE IDENTIFICATION
10 REASONABLY APPEARS TO BE THE SAME PERSON AS IN THE IDENTIFICATION'S PHOTO.
11 4. DETERMINE THAT THE PERSON IS AT LEAST EIGHTEEN YEARS OF AGE.
12 D. IT IS A DEFENSE TO A PROSECUTION FOR A VIOLATION OF THIS SECTION
13 THAT A PERSON OR AN EMPLOYEE OR AGENT OF THE PERSON HAS EVIDENCE THAT THE
14 PERSON REQUESTED AND EXAMINED IDENTIFICATION AS PRESCRIBED BY SUBSECTION C OF
15 THIS SECTION. FOR THE PURPOSES OF THIS SUBSECTION, "EVIDENCE" MEANS A RECORD
16 THAT IS RETAINED BY THE PERSON AND THAT ILLUSTRATES THAT THE PROCEDURES SET
17 FORTH IN SUBSECTION C OF THIS SECTION WERE FOLLOWED INCLUDING ANY OF THE
18 FOLLOWING:
19 1. A WRITING THAT CONTAINS THE TYPE OF IDENTIFICATION, THE DATE OF
20 ISSUANCE OF THE IDENTIFICATION, THE NAME ON THE IDENTIFICATION, THE DATE OF
21 BIRTH ON THE IDENTIFICATION AND THE SIGNATURE OF THE PERSON BEING IDENTIFIED.
22 2. AN ELECTRONIC FILE OR PRINTED DOCUMENT PRODUCED BY A DEVICE THAT
23 READS THE PERSON'S AGE FROM THE IDENTIFICATION.
24 3. A DATED AND SIGNED PHOTOCOPY OF THE IDENTIFICATION.
25 4. A PHOTOGRAPH OF THE IDENTIFICATION.
26 5. A DIGITAL COPY OF THE IDENTIFICATION.
27 E. SUBSECTION D OF THIS SECTION DOES NOT APPLY TO A PERSON WHO HAS
28 ACTUAL KNOWLEDGE THAT THE PERSON EXHIBITING THE IDENTIFICATION IS A MINOR.
29 F. THIS SECTION DOES NOT APPLY TO THE TRANSFER OF A GRAFFITI IMPLEMENT
30 FROM A PARENT TO A CHILD, A GUARDIAN TO A WARD, AN EMPLOYER TO AN EMPLOYEE, A
31 TEACHER TO A STUDENT OR IN ANY OTHER SIMILAR RELATIONSHIP IF THE TRANSFER IS
32 FOR A LAWFUL PURPOSE.
33 G. IF A LAW ENFORCEMENT AGENCY HAS REASONABLE SUSPICION TO BELIEVE
34 THAT A PERSON IS VIOLATING THIS SECTION, THE LAW ENFORCEMENT AGENCY MAY USE A
35 MINOR WHO IS AT LEAST FIFTEEN YEARS OF AGE BUT NOT MORE THAN SEVENTEEN YEARS
36 OF AGE TO TEST THE PERSON'S COMPLIANCE WITH THIS SECTION. A MINOR WHO
37 PURCHASES OR ATTEMPTS TO PURCHASE A GRAFFITI IMPLEMENT UNDER THE DIRECTION OF
38 A LAW ENFORCEMENT AGENCY PURSUANT TO THIS SUBSECTION IS IMMUNE FROM
39 PROSECUTION FOR THAT PURCHASE OR ATTEMPTED PURCHASE. A LAW ENFORCEMENT
40 AGENCY MAY USE A MINOR PURSUANT TO THIS SUBSECTION ONLY IF ALL OF THE
41 FOLLOWING APPLY:
42 1. THE MINOR IS NOT EMPLOYED ON AN INCENTIVE OR QUOTA BASIS.
43 2. THE MINOR'S APPEARANCE IS THAT OF A PERSON WHO IS UNDER EIGHTEEN
44 YEARS OF AGE.

1 3. A PHOTOGRAPH OF THE MINOR IS TAKEN NOT MORE THAN TWELVE HOURS
2 BEFORE THE PURCHASE OR ATTEMPTED PURCHASE. THE PHOTOGRAPH SHALL ACCURATELY
3 DEPICT THE MINOR'S APPEARANCE AND ATTIRE. A PERSON WHO IS CITED FOR SELLING,
4 DELIVERING OR GIVING A GRAFFITI IMPLEMENT TO A MINOR PURSUANT TO THIS SECTION
5 SHALL BE ALLOWED TO INSPECT THE PHOTOGRAPH IMMEDIATELY AFTER THE CITATION IS
6 ISSUED. THE MINOR'S APPEARANCE AT ANY TRIAL OR ADMINISTRATIVE HEARING THAT
7 RESULTS FROM A CITATION SHALL NOT BE SUBSTANTIALLY DIFFERENT FROM THE MINOR'S
8 APPEARANCE AT THE TIME THE CITATION WAS ISSUED.

9 4. THE MINOR PLACES, RECEIVES AND PAYS FOR THE MINOR'S ORDER OF
10 GRAFFITI IMPLEMENTS.

11 5. AN ADULT DOES NOT ACCOMPANY THE MINOR ONTO THE PREMISES IN WHICH
12 TRANSACTION OCCURS.

13 6. THE MINOR DOES NOT USE THE GRAFFITI IMPLEMENTS.

14 H. A PERSON WHO IS CONVICTED OF A VIOLATION OF THIS SECTION IS GUILTY
15 OF A CLASS 1 MISDEMEANOR AND IS PUNISHABLE BY A FINE OF NOT LESS THAN FIVE
16 HUNDRED DOLLARS.

17 I. FOR THE PURPOSES OF THIS SECTION:

18 1. "GRAFFITI IMPLEMENT" HAS THE SAME MEANING PRESCRIBED IN SECTION
19 13-2931.

20 2. "IDENTIFICATION" MEANS:

21 (a) AN UNEXPIRED DRIVER LICENSE ISSUED BY ANY STATE OR CANADA IF THE
22 LICENSE INCLUDES A PICTURE OF THE LICENSEE.

23 (b) A NONOPERATING IDENTIFICATION LICENSE ISSUED PURSUANT TO SECTION
24 28-3165 OR AN EQUIVALENT FORM OF IDENTIFICATION LICENSE ISSUED BY ANY STATE
25 OR CANADA IF THE LICENSE INCLUDES A PICTURE OF THE PERSON AND THE PERSON'S
26 DATE OF BIRTH.

27 (c) AN ARMED FORCES IDENTIFICATION CARD.

28 (d) A VALID UNEXPIRED PASSPORT OR BORDER CROSSING IDENTIFICATION CARD
29 THAT IS ISSUED BY A GOVERNMENT OR A VOTER CARD THAT IS ISSUED BY THE REPUBLIC
30 OF MEXICO IF THE PASSPORT OR CARD CONTAINS A PHOTOGRAPH OF THE PERSON AND THE
31 PERSON'S DATE OF BIRTH.

32 13-2934. Storage and display of graffiti implements; civil
33 penalty; definition

34 A. IT IS UNLAWFUL FOR ANY PERSON WHO OWNS, CONDUCTS, OPERATES OR
35 MANAGES A BUSINESS WHERE GRAFFITI IMPLEMENTS ARE SOLD, OR ANY PERSON WHO
36 SELLS OR OFFERS FOR SALE GRAFFITI IMPLEMENTS, TO STORE OR DISPLAY, OR CAUSE
37 TO BE STORED OR DISPLAYED, THE GRAFFITI IMPLEMENTS IN AN AREA THAT IS
38 ACCESSIBLE TO THE PUBLIC WITHOUT EMPLOYEE ASSISTANCE IN THE REGULAR COURSE OF
39 BUSINESS PENDING LEGAL SALE OR OTHER DISPOSITION.

40 B. THIS SECTION DOES NOT PRECLUDE THE STORAGE OR DISPLAY OF GRAFFITI
41 IMPLEMENTS IN AN AREA VIEWABLE BY THE PUBLIC IF THE ITEMS ARE NOT ACCESSIBLE
42 TO THE PUBLIC WITHOUT EMPLOYEE ASSISTANCE.

43 C. A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL PENALTY OF
44 AT LEAST FIVE HUNDRED DOLLARS.

1 D. FOR THE PURPOSES OF THIS SECTION, "GRAFFITI IMPLEMENT" HAS THE SAME
2 MEANING PRESCRIBED IN SECTION 13-2931.

3 Sec. 4. Section 28-3304, Arizona Revised Statutes, is amended to read:
4 28-3304. Mandatory revocation of license; definition

5 A. In addition to the grounds for mandatory revocation provided for in
6 chapters 3, 4 and 5 of this title, the department shall immediately revoke
7 the license of a driver on receipt of a record of the driver's conviction of
8 any of the following offenses if the conviction is final:

9 1. A homicide or aggravated assault resulting from the operation of a
10 motor vehicle.

11 2. Driving a motor vehicle while under the influence of a drug as
12 defined in section 13-3401 or in violation of section 28-1381, subsection A,
13 paragraph 3.

14 3. A felony in the commission of which a motor vehicle is used.

15 4. Theft of a motor vehicle pursuant to section 13-1802.

16 5. Unlawful use of means of transportation pursuant to section
17 13-1803.

18 6. Theft of means of transportation pursuant to section 13-1814.

19 7. Drive by shooting pursuant to section 13-1209.

20 8. Failure to stop and render aid as required under the laws of this
21 state if a motor vehicle accident results in the death or personal injury of
22 another.

23 9. Perjury or the making of a false affidavit or statement under oath
24 to the department under this chapter or under any other law relating to the
25 ownership or operation of a motor vehicle.

26 10. Conviction or forfeiture of bail not vacated on a second or
27 subsequent charge of the following offenses that are committed within
28 eighty-four months:

29 (a) Reckless driving.

30 (b) Racing on highways.

31 (c) Any combination of a violation of section 28-1381 or 28-1382 and
32 reckless driving, of a violation of section 28-1381 or 28-1382 and racing on
33 highways, or of reckless driving and racing on highways, if they do not arise
34 out of the same event.

35 11. Conviction or forfeiture of bail not vacated on a second charge of
36 violating section 28-1381 or 28-1382 within eighty-four months.

37 12. Conviction or forfeiture of bail not vacated on a third or
38 subsequent charge of violating section 28-1381 or 28-1382 within eighty-four
39 months.

40 13. Conviction or forfeiture of bail not vacated on a charge of
41 violating section 28-1381 or 28-1382 and the driver has been convicted within
42 a period of eighty-four months of an offense in another jurisdiction that if
43 committed in this state would be a violation of section 28-1381 or 28-1382.

44 14. CRIMINAL DAMAGE PURSUANT TO SECTION 13-1602, SUBSECTION A,
45 PARAGRAPH 5.

1 B. In determining the starting date for the eighty-four month period
2 prescribed in subsection A, paragraphs 10, ~~through 11, 12~~ AND 13 of this
3 section, the department shall use the date of the commission of the offense.

4 C. For the purposes of this section, "conviction" means a final
5 adjudication or judgment, including an order of a juvenile court finding that
6 a juvenile violated any provision of this title or committed a delinquent act
7 that if committed by an adult would constitute a criminal offense.

8 Sec. 5. Section 28-3320, Arizona Revised Statutes, is amended to read:

9 28-3320. Suspension of license for persons under eighteen years
10 of age; notice; definition

11 A. In addition to the grounds for mandatory suspension or revocation
12 provided for in chapters 3, 4 and 5 of this title, the department shall
13 immediately suspend the driver license or privilege to drive or refuse to
14 issue a driver license or privilege to drive of a person who commits an
15 offense while under eighteen years of age as follows:

16 1. For a period of two years on receiving the record of the person's
17 conviction for a violation of section 4-244, paragraph 34, section 28-1381 or
18 section 28-1382.

19 2. For a period of three years on receiving the record of the person's
20 conviction for a violation of section 28-1383.

21 3. Until the person's eighteenth birthday on receiving the record of
22 the person's conviction for a violation of section 13-1602, subsection A,
23 paragraph 1 or section 13-1604, subsection A involving the damage or
24 disfigurement of property by graffiti.

25 4. Until the person's eighteenth birthday on receiving the record of
26 the person's conviction of criminal damage pursuant to section 13-1602,
27 subsection A, paragraph 5 or a violation of a city or town ordinance that
28 prohibits the type of criminal action prescribed in section 13-1602,
29 subsection A, paragraph 5.

30 5. Until the person's eighteenth birthday on receiving the record of
31 the person's conviction for a violation of SECTION 13-2931, 13-2932 OR
32 13-2933 OR any OTHER statute or ordinance involving the purchase or
33 possession of materials used for graffiti.

34 6. Until the person's eighteenth birthday on receiving the record of
35 the person's conviction for a violation of any provision of title 13,
36 chapter 34.

37 7. Until the person's eighteenth birthday or for a period of two years
38 on receiving the record of the person's conviction for a second or subsequent
39 violation of section 4-244, paragraph 9, if ordered by the court.

40 8. Until the person's eighteenth birthday on receiving the record of
41 the person's conviction of theft of a motor vehicle pursuant to section
42 13-1802, unlawful use of means of transportation pursuant to section 13-1803
43 or theft of means of transportation pursuant to section 13-1814.

44 B. If ordered by the court, the department shall restrict the person's
45 privilege to drive between the person's home, school and place of employment

1 during specified periods of time according to the person's school and
2 employment schedule.

3 C. If a person commits an offense prescribed in subsection A,
4 paragraph 1 of this section and the person's privilege to drive is restricted
5 as prescribed in subsection B of this section, the department shall issue a
6 special ignition interlock restricted driver license to the person pursuant
7 to section 28-1401.

8 D. If ordered by the court pursuant to section 4-246, subsection D,
9 the department shall suspend the driving privilege of a person under eighteen
10 years of age for a period of up to one hundred eighty days on receiving the
11 record of the person's first conviction for a violation of section 4-244,
12 paragraph 9.

13 E. For the purposes of this section, "conviction" means a final
14 conviction or judgment, including an order of the juvenile court finding that
15 a juvenile violated any provision of this title or committed a delinquent act
16 that if committed by an adult would constitute a criminal offense.

17 Sec. 6. Section 41-1750, Arizona Revised Statutes, is amended to read:
18 41-1750. Central state repository; department of public safety;
19 duties; funds; accounts; definitions

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

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

31 2. Collect information concerning the number and nature of offenses
32 known to have been committed in this state and of the legal steps taken in
33 connection with these offenses, such other information that is useful in the
34 study of crime and in the administration of criminal justice and all other
35 information deemed necessary to operate the statewide uniform crime reporting
36 program and to cooperate with the federal government uniform crime reporting
37 program.

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

41 4. Cooperate with the central state repositories in other states and
42 with the appropriate agency of the federal government in the exchange of
43 information pertinent to violators of the law.

1 5. Ensure the rapid exchange of information concerning the commission
2 of crime and the detection of violators of the law among the criminal justice
3 agencies of other states and of the federal government.

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

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

11 8. Establish and enforce the necessary physical and system safeguards
12 to ensure that the criminal justice information maintained and disseminated
13 by the central state repository or through the Arizona criminal justice
14 information system is appropriately protected from unauthorized inquiry,
15 modification, destruction or dissemination as required by this section.

16 9. Aid and encourage coordination and cooperation among criminal
17 justice agencies through the statewide and interstate exchange of criminal
18 justice information.

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

22 11. Operate and maintain the Arizona automated fingerprint
23 identification system established by section 41-2411.

24 12. Provide criminal history record information to the fingerprinting
25 division for the purpose of screening applicants for fingerprint clearance
26 cards.

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

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

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

43 E. The chief officers of criminal justice agencies of this state or
44 its political subdivisions shall comply with the training and proficiency

1 testing guidelines as required by the department to comply with the federal
2 national crime information center mandates.

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

7 G. The director shall authorize the exchange of criminal justice
8 information between the central state repository, or through the Arizona
9 criminal justice information system, whether directly or through any
10 intermediary, only as follows:

11 1. With criminal justice agencies of the federal government, Indian
12 tribes, this state or its political subdivisions and other states, on request
13 by the chief officers of such agencies or their designated representatives,
14 specifically for the purposes of the administration of criminal justice and
15 for evaluating the fitness of current and prospective criminal justice
16 employees.

17 2. With any noncriminal justice agency pursuant to a statute,
18 ordinance or executive order that specifically authorizes the noncriminal
19 justice agency to receive criminal history record information for the purpose
20 of evaluating the fitness of current or prospective licensees, employees,
21 contract employees or volunteers, on submission of the subject's fingerprints
22 and the prescribed fee. Each statute, ordinance, or executive order that
23 authorizes noncriminal justice agencies to receive criminal history record
24 information for these purposes shall identify the specific categories of
25 licensees, employees, contract employees or volunteers, and shall require
26 that fingerprints of the specified individuals be submitted in conjunction
27 with such requests for criminal history record information.

28 3. With the board of fingerprinting for the purpose of conducting good
29 cause exceptions pursuant to section 41-619.55 and central registry
30 exceptions pursuant to section 41-619.57.

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

33 5. With the governor, if the governor elects to become actively
34 involved in the investigation of criminal activity or the administration of
35 criminal justice in accordance with the governor's constitutional duty to
36 ensure that the laws are faithfully executed or as needed to carry out the
37 other responsibilities of the governor's office.

38 6. With regional computer centers that maintain authorized
39 computer-to-computer interfaces with the department, that are criminal
40 justice agencies or under the management control of a criminal justice agency
41 and that are established by a statute, ordinance or executive order to
42 provide automated data processing services to criminal justice agencies
43 specifically for the purposes of the administration of criminal justice or
44 evaluating the fitness of regional computer center employees who have access

1 to the Arizona criminal justice information system and the national crime
2 information center system.

3 7. With an individual who asserts a belief that criminal history
4 record information relating to the individual is maintained by an agency or
5 in an information system in this state that is subject to this section. On
6 submission of fingerprints, the individual may review this information for
7 the purpose of determining its accuracy and completeness by making
8 application to the agency operating the system. Rules adopted under this
9 section shall include provisions for administrative review and necessary
10 correction of any inaccurate or incomplete information. The review and
11 challenge process authorized by this paragraph is limited to criminal history
12 record information.

13 8. With individuals and agencies pursuant to a specific agreement with
14 a criminal justice agency to provide services required for the administration
15 of criminal justice pursuant to that agreement if the agreement specifically
16 authorizes access to data, limits the use of data to purposes for which given
17 and ensures the security and confidentiality of the data consistent with this
18 section.

19 9. With individuals and agencies for the express purpose of research,
20 evaluative or statistical activities pursuant to an agreement with a criminal
21 justice agency if the agreement specifically authorizes access to data,
22 limits the use of data to research, evaluative or statistical purposes and
23 ensures the confidentiality and security of the data consistent with this
24 section.

25 10. With the auditor general for audit purposes.

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

29 12. On submission of the fingerprint card, with the department of
30 economic security to provide criminal history record information on
31 prospective adoptive parents for the purpose of conducting the preadoption
32 certification investigation under title 8, chapter 1, article 1 if the
33 department of economic security is conducting the investigation, or with an
34 agency or a person appointed by the court, if the agency or person is
35 conducting the investigation. Information received under this paragraph
36 shall only be used for the purposes of the preadoption certification
37 investigation.

38 13. With the department of economic security and the superior court for
39 the purpose of evaluating the fitness of custodians or prospective custodians
40 of juveniles, including parents, relatives and prospective guardians.
41 Information received under this paragraph shall only be used for the purposes
42 of that evaluation. The information shall be provided on submission of
43 either:

44 (a) The fingerprint card.

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

- 1 14. On submission of a fingerprint card, provide criminal history
2 record information to the superior court for the purpose of evaluating the
3 fitness of investigators appointed under section 14-5303 or 14-5407, or
4 guardians appointed under section 14-5206.
- 5 15. With the supreme court to provide criminal history record
6 information on prospective fiduciaries pursuant to section 14-5651.
- 7 16. With the department of juvenile corrections to provide criminal
8 history record information pursuant to section 41-2814.
- 9 17. On submission of the fingerprint card, provide criminal history
10 record information to the Arizona peace officer standards and training board
11 or a board certified law enforcement academy to evaluate the fitness of
12 prospective cadets.
- 13 18. With the internet sex offender web site database established
14 pursuant to section 13-3827.
- 15 19. With licensees of the United States nuclear regulatory commission
16 for the purpose of determining whether an individual should be granted
17 unescorted access to the protected area of a commercial nuclear generating
18 station on submission of the subject of record's fingerprints and the
19 prescribed fee.
- 20 20. With the state board of education for the purpose of evaluating the
21 fitness of a certificated teacher or administrator or an applicant for a
22 teaching or an administrative certificate provided that the state board of
23 education or its employees or agents have reasonable suspicion that the
24 certificated person engaged in conduct that would be a criminal violation of
25 the laws of this state or was involved in immoral or unprofessional conduct
26 or that the applicant engaged in conduct that would warrant disciplinary
27 action if the applicant were certificated at the time of the alleged conduct.
28 The information shall be provided on the submission of either:
- 29 (a) The fingerprint card.
- 30 (b) The name, date of birth and social security number of the person.
- 31 21. With each school district and charter school in this state. The
32 state board of education and the state board for charter schools shall
33 provide the department of public safety with a current list of e-mail
34 addresses for each school district and charter school in this state and shall
35 periodically provide the department of public safety with updated e-mail
36 addresses. If the department of public safety is notified that a person who
37 is required to have a fingerprint clearance card to be employed by or to
38 engage in volunteer activities at a school district or charter school has
39 been arrested for or convicted of an offense listed in section 41-1758.03,
40 subsection B or has been arrested for or convicted of an offense that amounts
41 to unprofessional conduct under section 15-550, the department of public
42 safety shall notify each school district and charter school in this state
43 that the person's fingerprint clearance card has been suspended or revoked.
- 44 22. With the child protective services division of the department of
45 economic security as provided by law, which currently is the Adam Walsh child

1 protection and safety act of 2006 (42 United States Code section 16961), for
2 the purposes of investigating or responding to reports of child abuse,
3 neglect or exploitation. Information received pursuant to this paragraph
4 from the national crime information center, the interstate identification
5 index and the Arizona criminal justice information system network shall only
6 be used for the purposes of investigating or responding as prescribed in this
7 paragraph. The information shall be provided on submission to the department
8 of public safety of either:

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

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

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

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

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

20 J. The director shall establish a fee in an amount necessary to cover
21 the cost of federal noncriminal justice fingerprint processing for criminal
22 history record information checks that are authorized by law for noncriminal
23 justice employment, licensing or other lawful purposes. An additional fee
24 may be charged by the department for state noncriminal justice fingerprint
25 processing. Fees submitted to the department for state noncriminal justice
26 fingerprint processing are not refundable.

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

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

37 M. A fingerprint account within the records processing fund is
38 established for the purpose of separately accounting for the collection and
39 payment of fees for noncriminal justice fingerprint processing by the
40 department. Monies collected for this purpose shall be credited to the
41 account, and payments by the department to the United States for federal
42 noncriminal justice fingerprint processing shall be charged against the
43 account. Monies in the account not required for payment to the United States
44 shall be used by the department in support of the department's noncriminal
45 justice fingerprint processing duties. At the end of each fiscal year, any

1 balance in the account not required for payment to the United States or to
2 support the department's noncriminal justice fingerprint processing duties
3 reverts to the state general fund.

4 N. A records processing fund is established for the purpose of
5 separately accounting for the collection and payment of fees for department
6 reports and photographs of traffic accident scenes processed by the
7 department. Monies collected for this purpose shall be credited to the fund
8 and shall be used by the department in support of functions related to
9 providing copies of department reports and photographs. At the end of each
10 fiscal year, any balance in the fund not required for support of the
11 functions related to providing copies of department reports and photographs
12 reverts to the state general fund.

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

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

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

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

23 Q. The director shall ensure that the following limitations are
24 observed regarding dissemination of criminal justice information obtained
25 from the central state repository or through the Arizona criminal justice
26 information system:

27 1. Any criminal justice agency that obtains criminal justice
28 information from the central state repository or through the Arizona criminal
29 justice information system assumes responsibility for the security of the
30 information and shall not secondarily disseminate this information to any
31 individual or agency not authorized to receive this information directly from
32 the central state repository or originating agency.

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

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

41 4. The existence or nonexistence of criminal history record
42 information shall not be confirmed to any individual or agency not authorized
43 to receive the information itself.

44 5. Criminal history record information to be released for noncriminal
45 justice purposes to agencies of other states shall only be released to the

1 central state repositories of those states for dissemination in accordance
2 with the laws of those states.

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

6 R. This section and the rules adopted under this section apply to all
7 agencies and individuals collecting, storing or disseminating criminal
8 justice information processed by manual or automated operations if the
9 collection, storage or dissemination is funded in whole or in part with
10 monies made available by the law enforcement assistance administration after
11 July 1, 1973, pursuant to title I of the crime control act of 1973, and to
12 all agencies that interact with or receive criminal justice information from
13 or through the central state repository and through the Arizona criminal
14 justice information system.

15 S. This section does not apply to criminal history record information
16 contained in:

17 1. Posters, arrest warrants, announcements or lists for identifying or
18 apprehending fugitives or wanted persons.

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

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

25 4. Announcements of executive clemency or pardon.

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

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

36 U. In order to ensure that complete and accurate criminal history
37 record information is maintained and disseminated by the central state
38 repository:

39 1. The arresting authority shall take legible ten-print fingerprints
40 of all persons who are arrested for offenses listed in subsection C of this
41 section including persons who are arrested and released pursuant to section
42 13-3903, subsection C. The arresting authority may transfer an arrestee to a
43 booking agency for ten-print fingerprinting. The arresting authority or
44 booking agency shall obtain a process control number and provide to the

1 person fingerprinted a document that indicates proof of the fingerprinting
2 and that informs the person that the document must be presented to the court.

3 2. The mandatory fingerprint compliance form shall contain the
4 following information:

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

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

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

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

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

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

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

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

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

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

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

40 8. Dispositions resulting from formal proceedings in a court having
41 jurisdiction in a criminal action against an individual who is arrested for
42 an offense specified in subsection C of this section or section 8-341,
43 subsection ~~V~~ W shall be reported to the central state repository within
44 forty days of the date of the disposition. This information shall be

1 submitted on a form or in a manner specified by rules approved by the supreme
2 court.

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

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

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

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

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

34 Y. For the purposes of this section:

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

43 2. "Administrative records" means records that contain adequate and
44 proper documentation of the organization, functions, policies, decisions,
45 procedures and essential transactions of the agency and that are designed to

1 furnish information to protect the rights of this state and of persons
2 directly affected by the agency's activities.

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

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

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

21 6. "Criminal justice agency" means either:

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

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

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

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

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

6 10. "Management control":

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

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

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

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

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

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

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

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

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