

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

CHAPTER 26
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:

46 1. The ward.

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

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

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

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

25 Sec. 5. Section 14-5419, Arizona Revised Statutes, is amended to read:
26 14-5419. Accounts; definition

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

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

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

41 1. The protected person.

42 2. A guardian of the protected person if one has been appointed,
43 unless the same person is serving as both guardian and conservator.

44 3. If no guardian has been appointed or the same person is serving as
45 both guardian and conservator, a spouse or, if the spouse is the conservator,

1 there is no spouse or the spouse is incapacitated, a parent or an adult child
2 who is not serving as a conservator.

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

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

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

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

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

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

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

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

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

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

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

1 pertinent to all persons who have been charged with, arrested for, convicted
2 of or summoned to court as a criminal defendant for a felony offense or an
3 offense involving domestic violence as defined in section 13-3601 or a
4 violation of title 13, chapter 14 or title 28, chapter 4.

5 2. Collect information concerning the number and nature of offenses
6 known to have been committed in this state and of the legal steps taken in
7 connection with these offenses, such other information that is useful in the
8 study of crime and in the administration of criminal justice and all other
9 information deemed necessary to operate the statewide uniform crime reporting
10 program and to cooperate with the federal government uniform crime reporting
11 program.

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

15 4. Cooperate with the central state repositories in other states and
16 with the appropriate agency of the federal government in the exchange of
17 information pertinent to violators of the law.

18 5. Ensure the rapid exchange of information concerning the commission
19 of crime and the detection of violators of the law among the criminal justice
20 agencies of other states and of the federal government.

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

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

28 8. Establish and enforce the necessary physical and system safeguards
29 to ensure that the criminal justice information maintained and disseminated
30 by the central state repository or through the Arizona criminal justice
31 information system is appropriately protected from unauthorized inquiry,
32 modification, destruction or dissemination as required by this section.

33 9. Aid and encourage coordination and cooperation among criminal
34 justice agencies through the statewide and interstate exchange of criminal
35 justice information.

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

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

41 12. Provide criminal history record information to the fingerprinting
42 division for the purpose of screening applicants for fingerprint clearance
43 cards.

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

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

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

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

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

22 G. The director shall authorize the exchange of criminal justice
23 information between the central state repository, or through the Arizona
24 criminal justice information system, whether directly or through any
25 intermediary, only as follows:

26 1. With criminal justice agencies of the federal government, Indian
27 tribes, this state or its political subdivisions and other states, on request
28 by the chief officers of such agencies or their designated representatives,
29 specifically for the purposes of the administration of criminal justice and
30 for evaluating the fitness of current and prospective criminal justice
31 employees.

32 2. With any noncriminal justice agency pursuant to a statute,
33 ordinance or executive order that specifically authorizes the noncriminal
34 justice agency to receive criminal history record information for the purpose
35 of evaluating the fitness of current or prospective licensees, employees,
36 contract employees or volunteers, on submission of the subject's fingerprints
37 and the prescribed fee. Each statute, ordinance, or executive order that
38 authorizes noncriminal justice agencies to receive criminal history record
39 information for these purposes shall identify the specific categories of
40 licensees, employees, contract employees or volunteers, and shall require
41 that fingerprints of the specified individuals be submitted in conjunction
42 with such requests for criminal history record information.

43 3. With the board of fingerprinting for the purpose of conducting good
44 cause exceptions pursuant to section 41-619.55 and central registry
45 exceptions pursuant to section 41-619.57.

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

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

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

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

27 8. With individuals and agencies pursuant to a specific agreement with
28 a criminal justice agency to provide services required for the administration
29 of criminal justice pursuant to that agreement if the agreement specifically
30 authorizes access to data, limits the use of data to purposes for which given
31 and ensures the security and confidentiality of the data consistent with this
32 section.

33 9. With individuals and agencies for the express purpose of research,
34 evaluative or statistical activities pursuant to an agreement with a criminal
35 justice agency if the agreement specifically authorizes access to data,
36 limits the use of data to research, evaluative or statistical purposes and
37 ensures the confidentiality and security of the data consistent with this
38 section.

39 10. With the auditor general for audit purposes.

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

43 12. On submission of the fingerprint card, with the department of
44 economic security to provide criminal history record information on
45 prospective adoptive parents for the purpose of conducting the preadoption
46 certification investigation under title 8, chapter 1, article 1 if the

1 department of economic security is conducting the investigation, or with an
2 agency or a person appointed by the court, if the agency or person is
3 conducting the investigation. Information received under this paragraph
4 shall only be used for the purposes of the preadoption certification
5 investigation.

6 13. With the department of economic security and the superior court for
7 the purpose of evaluating the fitness of custodians or prospective custodians
8 of juveniles, including parents, relatives and prospective guardians.
9 Information received under this paragraph shall only be used for the purposes
10 of that evaluation. The information shall be provided on submission of
11 either:

12 (a) The fingerprint card.

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

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

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

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

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

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

29 19. With licensees of the United States nuclear regulatory commission
30 for the purpose of determining whether an individual should be granted
31 unescorted access to the protected area of a commercial nuclear generating
32 station on submission of the subject of record's fingerprints and the
33 prescribed fee.

34 20. With the state board of education for the purpose of evaluating the
35 fitness of a certificated teacher or administrator or an applicant for a
36 teaching or an administrative certificate provided that the state board of
37 education or its employees or agents have reasonable suspicion that the
38 certificated person engaged in conduct that would be a criminal violation of
39 the laws of this state or was involved in immoral or unprofessional conduct
40 or that the applicant engaged in conduct that would warrant disciplinary
41 action if the applicant were certificated at the time of the alleged conduct.
42 The information shall be provided on the submission of either:

43 (a) The fingerprint card.

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

45 21. With each school district and charter school in this state. The
46 state board of education and the state board for charter schools shall

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

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

- 22 (a) The fingerprints of the person being investigated.
- 23 (b) The name, date of birth and social security number of the person.

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

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

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

33 J. The director shall establish a fee in an amount necessary to cover
34 the cost of federal noncriminal justice fingerprint processing for criminal
35 history record information checks that are authorized by law for noncriminal
36 justice employment, licensing or other lawful purposes. An additional fee
37 may be charged by the department for state noncriminal justice fingerprint
38 processing. Fees submitted to the department for state noncriminal justice
39 fingerprint processing are not refundable.

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

44 L. Except as provided in subsection O of this section, each agency
45 authorized by this section may charge a fee, in addition to any other fees
46 prescribed by law, in an amount necessary to cover the cost of state and

1 federal noncriminal justice fingerprint processing for criminal history
2 record information checks that are authorized by law for noncriminal justice
3 employment, licensing or other lawful purposes.

4 M. A fingerprint account within the records processing fund is
5 established for the purpose of separately accounting for the collection and
6 payment of fees for noncriminal justice fingerprint processing by the
7 department. Monies collected for this purpose shall be credited to the
8 account, and payments by the department to the United States for federal
9 noncriminal justice fingerprint processing shall be charged against the
10 account. Monies in the account not required for payment to the United States
11 shall be used by the department in support of the department's noncriminal
12 justice fingerprint processing duties. At the end of each fiscal year, any
13 balance in the account not required for payment to the United States or to
14 support the department's noncriminal justice fingerprint processing duties
15 reverts to the state general fund.

16 N. A records processing fund is established for the purpose of
17 separately accounting for the collection and payment of fees for department
18 reports and photographs of traffic accident scenes processed by the
19 department. Monies collected for this purpose shall be credited to the fund
20 and shall be used by the department in support of functions related to
21 providing copies of department reports and photographs. At the end of each
22 fiscal year, any balance in the fund not required for support of the
23 functions related to providing copies of department reports and photographs
24 reverts to the state general fund.

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

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

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

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

35 Q. The director shall ensure that the following limitations are
36 observed regarding dissemination of criminal justice information obtained
37 from the central state repository or through the Arizona criminal justice
38 information system:

39 1. Any criminal justice agency that obtains criminal justice
40 information from the central state repository or through the Arizona criminal
41 justice information system assumes responsibility for the security of the
42 information and shall not secondarily disseminate this information to any
43 individual or agency not authorized to receive this information directly from
44 the central state repository or originating agency.

45 2. Dissemination to an authorized agency or individual may be
46 accomplished by a criminal justice agency only if the dissemination is for

1 criminal justice purposes in connection with the prescribed duties of the
2 agency and not in violation of this section.

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

7 4. The existence or nonexistence of criminal history record
8 information shall not be confirmed to any individual or agency not authorized
9 to receive the information itself.

10 5. Criminal history record information to be released for noncriminal
11 justice purposes to agencies of other states shall only be released to the
12 central state repositories of those states for dissemination in accordance
13 with the laws of those states.

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

17 R. This section and the rules adopted under this section apply to all
18 agencies and individuals collecting, storing or disseminating criminal
19 justice information processed by manual or automated operations if the
20 collection, storage or dissemination is funded in whole or in part with
21 monies made available by the law enforcement assistance administration after
22 July 1, 1973, pursuant to title I of the crime control act of 1973, and to
23 all agencies that interact with or receive criminal justice information from
24 or through the central state repository and through the Arizona criminal
25 justice information system.

26 S. This section does not apply to criminal history record information
27 contained in:

28 1. Posters, arrest warrants, announcements or lists for identifying or
29 apprehending fugitives or wanted persons.

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

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

36 4. Announcements of executive clemency or pardon.

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

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

1 U. In order to ensure that complete and accurate criminal history
2 record information is maintained and disseminated by the central state
3 repository:

4 1. The arresting authority shall take legible ten-print fingerprints
5 of all persons who are arrested for offenses listed in subsection C of this
6 section including persons who are arrested and released pursuant to section
7 13-3903, subsection C. The arresting authority may transfer an arrestee to a
8 booking agency for ten-print fingerprinting. The arresting authority or
9 booking agency shall obtain a process control number and provide to the
10 person fingerprinted a document that indicates proof of the fingerprinting
11 and that informs the person that the document must be presented to the court.

12 2. The mandatory fingerprint compliance form shall contain the
13 following information:

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

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

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

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

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

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

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

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

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

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

42 7. In every criminal case in which the defendant is incarcerated or
43 fingerprinted as a result of the charge, an originating law enforcement
44 agency or prosecutor, within forty days of the disposition, shall advise the
45 central state repository of all dispositions concerning the termination of
46 criminal proceedings against an individual arrested for an offense specified

1 in subsection C of this section. This information shall be submitted on a
2 form or in a manner required by the department.

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

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

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

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

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

37 X. Nothing in this section creates a cause of action or a right to
38 bring an action including an action based on discrimination due to sexual
39 orientation.

40 Y. For the purposes of this section:

41 1. "Administration of criminal justice" means performance of the
42 detection, apprehension, detention, pretrial release, posttrial release,
43 prosecution, adjudication, correctional supervision or rehabilitation of
44 criminal offenders. Administration of criminal justice includes enforcement
45 of criminal traffic offenses and civil traffic violations, including parking
46 violations, when performed by a criminal justice agency. Administration of

1 criminal justice also includes criminal identification activities and the
2 collection, storage and dissemination of criminal history record information.

3 2. "Administrative records" means records that contain adequate and
4 proper documentation of the organization, functions, policies, decisions,
5 procedures and essential transactions of the agency and that are designed to
6 furnish information to protect the rights of this state and of persons
7 directly affected by the agency's activities.

8 3. "Arizona criminal justice information system" or "system" means the
9 statewide information system managed by the director for the collection,
10 processing, preservation, dissemination and exchange of criminal justice
11 information and includes the electronic equipment, facilities, procedures and
12 agreements necessary to exchange this information.

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

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

26 6. "Criminal justice agency" means either:

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

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

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

44 8. "Disposition" means information disclosing that a decision has been
45 made not to bring criminal charges or that criminal proceedings have been
46 concluded or information relating to sentencing, correctional supervision,

1 release from correctional supervision, the outcome of an appellate review of
2 criminal proceedings or executive clemency.

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

8 10. "Management control":

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

10 (i) Priorities regarding development and operation of criminal justice
11 information systems and programs.

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

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

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

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

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

31 13. "Sexual orientation" means consensual homosexuality or
32 heterosexuality.

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

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