

State of Arizona
Senate
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First Regular Session
2015

CHAPTER 160
SENATE BILL 1295

AN ACT

AMENDING SECTIONS 13-607, 13-3903 AND 41-1750, ARIZONA REVISED STATUTES;
RELATING TO FINGERPRINTING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-607, Arizona Revised Statutes, is amended to
3 read:

4 13-607. Judgment of guilt and sentence document; fingerprint;
5 contents of document; recitations

6 A. At the time of sentencing a person convicted of a felony offense ~~or~~
7 ~~a violation of section 13-1802, 13-1805, 28-1381 or 28-1382~~, A DOMESTIC
8 VIOLENCE OFFENSE AS DEFINED IN SECTION 13-3601 OR A VIOLATION OF CHAPTER 14
9 OF THIS TITLE OR TITLE 28, CHAPTER 4, the court shall execute a judgment of
10 guilt and sentence document or minute order as prescribed by this section.

11 B. The court or a person appointed by the court shall at the time of
12 sentencing and in open court EITHER permanently affix ~~the A~~ defendant's ~~right~~
13 ~~index~~ fingerprint to the document or order OR OBTAIN AND RECORD THE
14 DEFENDANT'S TWO FINGERPRINT BIOMETRIC-BASED IDENTIFIER IN THE COURT CASE
15 FILE.

16 C. The document or order shall recite all of the following in addition
17 to any information deemed appropriate by the court:

18 1. The defendant's full name and date of birth.

19 2. The name of the counsel for the defendant or, if counsel was
20 waived, the fact that the defendant knowingly, voluntarily and intelligently
21 waived the defendant's right to counsel after having been fully apprised of
22 the defendant's right to counsel.

23 3. The name, statutory citation and classification of the offense.

24 4. Whether there was a finding by the trier of fact that the offense
25 was of a dangerous or repetitive nature pursuant to section 13-703, OR 13-704
26 or WAS COMMITTED WHILE RELEASED FROM CONFINEMENT PURSUANT TO SECTION 13-708.

27 5. Whether the basis of the finding of guilt was by trial to a jury or
28 to the court, or by plea of guilty or no contest.

29 6. That there was a knowing, voluntary and intelligent waiver of the
30 right to a jury trial if the finding of guilt was based on a trial to the
31 court.

32 7. That there was a knowing, voluntary and intelligent waiver of all
33 pertinent rights if the finding of guilt was based on a plea of guilty or no
34 contest.

35 8. A certification by the court or the clerk of the court that at the
36 time of sentencing and in open court THAT EITHER the defendant's ~~right-index~~
37 fingerprint was permanently affixed to the document or order OR THE
38 DEFENDANT'S TWO FINGERPRINT BIOMETRIC-BASED IDENTIFIER WAS OBTAINED AND
39 RECORDED IN THE COURT CASE FILE.

40 D. The document or order shall be made a permanent part of the public
41 records of the court, and the recitations contained in the document or order
42 are prima facie evidence of the facts stated in the recitations.

43 E. If the supreme court has authorized the clerk of the court to
44 maintain an electronic court record, the clerk may maintain only an
45 electronic reproduction or image of the original document or order.

46 Sec. 2. Section 13-3903, Arizona Revised Statutes, is amended to read:

1 13-3903. Notice to appear and complaint

2 A. In any case in which a person is arrested for a misdemeanor offense
3 or a petty offense, the arresting officer may release the arrested person
4 from custody in lieu of taking the person to a law enforcement facility by
5 use of the procedure prescribed in this section.

6 B. At any time after taking a person arrested for a misdemeanor
7 offense or a petty offense to a law enforcement facility, the arresting
8 officer, instead of taking the person to a magistrate, may release the person
9 from further custody by use of the procedure prescribed in this section.

10 C. If a person is arrested for a misdemeanor offense or a petty
11 offense and the offense is listed in section 41-1750, subsection C, the
12 person shall not be released pursuant to this section until the person
13 provides **EITHER** a ~~right-index~~ fingerprint **OR A TWO FINGERPRINT**
14 **BIOMETRIC-BASED IDENTIFIER** to the arresting agency. The arresting agency
15 shall provide to the arrested person a mandatory fingerprint compliance form
16 that includes instructions on reporting for ten-print fingerprinting,
17 including available times and locations for reporting for ten-print
18 fingerprinting.

19 D. In any case in which a person is arrested for a misdemeanor offense
20 or a petty offense, the arresting officer may prepare in quadruplicate a
21 written notice to appear and complaint, containing the name and address of
22 the person, the offense charged, and the time and place where and when the
23 person shall appear in court, provided:

24 1. The time specified in the notice to appear is at least five days
25 after arrest.

26 2. The place specified in the notice shall be the court specified in
27 section 13-3898.

28 3. The arrested person, in order to secure release as provided in this
29 section, shall give his written promise so to appear in court by signing at
30 least one copy of the written notice and complaint prepared by the arresting
31 officer. The officer shall deliver a copy of the notice and complaint to the
32 person promising to appear. Thereupon, the officer shall forthwith release
33 the person arrested from custody.

34 4. The officer, as soon as practical, shall deliver the original
35 notice and complaint to the magistrate specified therein. Thereupon, the
36 magistrate shall promptly file the notice and complaint and enter it into the
37 docket of the court.

38 E. The Arizona traffic ticket and complaint may be utilized not only
39 for the purposes provided by Arizona supreme court rule, but to satisfy the
40 requirements of this section.

41 F. When a person has given his written promise to appear in court ~~upon~~
42 **ON** a designated date pursuant to this section, and thereafter fails to
43 appear, personally or by counsel, on or before that date, the court clerk or
44 other court staff shall file a complaint, in writing, under oath, setting
45 forth the offense of knowingly violating a written promise to appear in court
46 in accordance with section 13-3904, and the magistrate shall issue a warrant

1 of arrest thereon. ~~Upon such~~ ON THE person's appearance in court for
2 arraignment on the charge of violating section 13-3904, the court shall also
3 arraign the person on the charge stated in the notice to appear and complaint
4 for which the person had previously promised to appear.

5 G. This section does not affect a peace officer's authority to conduct
6 an otherwise lawful search incident to his arrest even though the arrested
7 person is released before being taken to the police station or before a
8 magistrate pursuant to this section.

9 Sec. 3. Section 41-1750, Arizona Revised Statutes, is amended to read:

10 41-1750. Central state repository; department of public safety;
11 duties; funds; accounts; definitions

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

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

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

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

33 4. Cooperate with the central state repositories in other states and
34 with the appropriate agency of the federal government in the exchange of
35 information pertinent to violators of the law.

36 5. Ensure the rapid exchange of information concerning the commission
37 of crime and the detection of violators of the law among the criminal justice
38 agencies of other states and of the federal government.

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

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

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

10 9. Aid and encourage coordination and cooperation among criminal
11 justice agencies through the statewide and interstate exchange of criminal
12 justice information.

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

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

18 12. Provide criminal history record information to the fingerprinting
19 division for the purpose of screening applicants for fingerprint clearance
20 cards.

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

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

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

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

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

45 G. The director shall authorize the exchange of criminal justice
46 information between the central state repository, or through the Arizona

1 criminal justice information system, whether directly or through any
2 intermediary, only as follows:

3 1. With criminal justice agencies of the federal government, Indian
4 tribes, this state or its political subdivisions and other states, on request
5 by the chief officers of such agencies or their designated representatives,
6 specifically for the purposes of the administration of criminal justice and
7 for evaluating the fitness of current and prospective criminal justice
8 employees.

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

20 3. With the board of fingerprinting for the purpose of conducting good
21 cause exceptions pursuant to section 41-619.55 and central registry
22 exceptions pursuant to section 41-619.57.

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

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

30 6. With regional computer centers that maintain authorized
31 computer-to-computer interfaces with the department, that are criminal
32 justice agencies or under the management control of a criminal justice agency
33 and that are established by a statute, ordinance or executive order to
34 provide automated data processing services to criminal justice agencies
35 specifically for the purposes of the administration of criminal justice or
36 evaluating the fitness of regional computer center employees who have access
37 to the Arizona criminal justice information system and the national crime
38 information center system.

39 7. With an individual who asserts a belief that criminal history
40 record information relating to the individual is maintained by an agency or
41 in an information system in this state that is subject to this section. On
42 submission of fingerprints, the individual may review this information for
43 the purpose of determining its accuracy and completeness by making
44 application to the agency operating the system. Rules adopted under this
45 section shall include provisions for administrative review and necessary
46 correction of any inaccurate or incomplete information. The review and

1 challenge process authorized by this paragraph is limited to criminal history
2 record information.

3 8. With individuals and agencies pursuant to a specific agreement with
4 a criminal justice agency to provide services required for the administration
5 of criminal justice pursuant to that agreement if the agreement specifically
6 authorizes access to data, limits the use of data to purposes for which given
7 and ensures the security and confidentiality of the data consistent with this
8 section.

9 9. With individuals and agencies for the express purpose of research,
10 evaluative or statistical activities pursuant to an agreement with a criminal
11 justice agency if the agreement specifically authorizes access to data,
12 limits the use of data to research, evaluative or statistical purposes and
13 ensures the confidentiality and security of the data consistent with this
14 section.

15 10. With the auditor general for audit purposes.

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

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

27 13. With the department of child safety and the superior court for the
28 purpose of evaluating the fitness of custodians or prospective custodians of
29 juveniles, including parents, relatives and prospective guardians.
30 Information received under this paragraph shall only be used for the purposes
31 of that evaluation. The information shall be provided on submission of
32 either:

33 (a) The fingerprint card.

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

35 14. On submission of a fingerprint card, provide criminal history
36 record information to the superior court for the purpose of evaluating the
37 fitness of investigators appointed under section 14-5303 or 14-5407,
38 guardians appointed under section 14-5206 or 14-5304 or conservators
39 appointed under section 14-5401.

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

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

44 17. On submission of the fingerprint card, provide criminal history
45 record information to the Arizona peace officer standards and training board

1 or a board certified law enforcement academy to evaluate the fitness of
2 prospective cadets.

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

5 19. With licensees of the United States nuclear regulatory commission
6 for the purpose of determining whether an individual should be granted
7 unescorted access to the protected area of a commercial nuclear generating
8 station on submission of the subject of record's fingerprints and the
9 prescribed fee.

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

19 (a) The fingerprint card.

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

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

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

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

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

45 23. With a nonprofit organization that interacts with children or
46 vulnerable adults for the lawful purpose of evaluating the fitness of all

1 current and prospective employees, contractors and volunteers of the
2 organization. The criminal history record information shall be provided on
3 submission of the applicant fingerprint card and the prescribed fee.

4 24. With the superior court for the purpose of determining an
5 individual's eligibility for substance abuse and treatment courts in a family
6 or juvenile case.

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

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

11 J. The director shall establish a fee in an amount necessary to cover
12 the cost of federal noncriminal justice fingerprint processing for criminal
13 history record information checks that are authorized by law for noncriminal
14 justice employment, licensing or other lawful purposes. An additional fee
15 may be charged by the department for state noncriminal justice fingerprint
16 processing. Fees submitted to the department for state noncriminal justice
17 fingerprint processing are not refundable.

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

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

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

40 N. A records processing fund is established for the purpose of
41 separately accounting for the collection and payment of fees for department
42 reports and photographs of traffic accident scenes processed by the
43 department. Monies collected for this purpose shall be credited to the fund
44 and shall be used by the department in support of functions related to
45 providing copies of department reports and photographs. At the end of each
46 fiscal year, any balance in the fund not required for support of the

1 functions related to providing copies of department reports and photographs
2 reverts to the state general fund.

3 O. The department of child safety may pay from appropriated monies the
4 cost of federal fingerprint processing or federal criminal history record
5 information checks that are authorized by law for employees and volunteers of
6 the department, guardians pursuant to section 8-453, subsection A, paragraph
7 ~~7~~ 6, the licensing of foster parents or the certification of adoptive
8 parents.

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

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

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

13 Q. The director shall ensure that the following limitations are
14 observed regarding dissemination of criminal justice information obtained
15 from the central state repository or through the Arizona criminal justice
16 information system:

17 1. Any criminal justice agency that obtains criminal justice
18 information from the central state repository or through the Arizona criminal
19 justice information system assumes responsibility for the security of the
20 information and shall not secondarily disseminate this information to any
21 individual or agency not authorized to receive this information directly from
22 the central state repository or originating agency.

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

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

31 4. The existence or nonexistence of criminal history record
32 information shall not be confirmed to any individual or agency not authorized
33 to receive the information itself.

34 5. Criminal history record information to be released for noncriminal
35 justice purposes to agencies of other states shall only be released to the
36 central state repositories of those states for dissemination in accordance
37 with the laws of those states.

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

41 R. This section and the rules adopted under this section apply to all
42 agencies and individuals collecting, storing or disseminating criminal
43 justice information processed by manual or automated operations if the
44 collection, storage or dissemination is funded in whole or in part with
45 monies made available by the law enforcement assistance administration after
46 July 1, 1973, pursuant to title I of the crime control act of 1973, and to

1 all agencies that interact with or receive criminal justice information from
2 or through the central state repository and through the Arizona criminal
3 justice information system.

4 S. This section does not apply to criminal history record information
5 contained in:

6 1. Posters, arrest warrants, announcements or lists for identifying or
7 apprehending fugitives or wanted persons.

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

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

14 4. Announcements of executive clemency or pardon.

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

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

25 U. In order to ensure that complete and accurate criminal history
26 record information is maintained and disseminated by the central state
27 repository:

28 1. The arresting authority shall take legible ten-print fingerprints
29 of all persons who are arrested for offenses listed in subsection C of this
30 section including persons who are arrested and released pursuant to section
31 13-3903, subsection C. The arresting authority may transfer an arrestee to a
32 booking agency for ten-print fingerprinting. **IF THE BOOKING AGENCY CANNOT
33 DETERMINE WHETHER LEGIBLE TEN-PRINT FINGERPRINTS WERE TAKEN FROM THE
34 ARRESTEE, THE BOOKING AGENCY SHALL TAKE THE ARRESTEE'S TEN-PRINT
35 FINGERPRINTS.** The arresting authority or booking agency shall obtain a
36 process control number and provide to the person fingerprinted a document
37 that indicates proof of the fingerprinting and that informs the person that
38 the document must be presented to the court.

39 2. The mandatory fingerprint compliance form shall contain the
40 following information:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 10. Each criminal justice agency shall query the central state
2 repository before dissemination of any criminal history record information to
3 ensure the completeness of the information. Inquiries shall be made before
4 any dissemination except in those cases in which time is of the essence and
5 the repository is technically incapable of responding within the necessary
6 time period. If time is of the essence, the inquiry shall still be made and
7 the response shall be provided as soon as possible.

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

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

20 X. Nothing in this section creates a cause of action or a right to
21 bring an action including an action based on discrimination due to sexual
22 orientation.

23 Y. For the purposes of this section:

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

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

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

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

45 5. "Criminal history record information" and "criminal history record"
46 means information that is collected by criminal justice agencies on

1 individuals and that consists of identifiable descriptions and notations of
2 arrests, detentions, indictments and other formal criminal charges, and any
3 disposition arising from those actions, sentencing, formal correctional
4 supervisory action and release. Criminal history record information and
5 criminal history record do not include identification information to the
6 extent that the information does not indicate involvement of the individual
7 in the criminal justice system or information relating to juveniles unless
8 they have been adjudicated as adults.

9 6. "Criminal justice agency" means either:

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

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

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

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

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

37 10. "Management control":

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

39 (i) Priorities regarding development and operation of criminal justice
40 information systems and programs.

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

45 (iii) Policies governing the operation of computers, circuits and
46 telecommunications terminals used to process criminal justice information to

1 the extent that the equipment is used to process, store or transmit criminal
2 justice information.

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

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

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

14 13. "Sexual orientation" means consensual homosexuality or
15 heterosexuality.

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

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