

REFERENCE TITLE: juvenile court jurisdiction; age

State of Arizona
Senate
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SB 1653

Introduced by
Senators Quezada: Gonzales, Mendez; Representative Andrade

AN ACT

AMENDING SECTIONS 8-201, 8-202, 8-204, 8-208, 8-246, 8-272, 8-273, 8-291, 8-291.09, 8-302, 8-305, 8-323, 8-341, 8-341.01, 8-342, 8-344, 8-348, 8-349, 8-371, 13-501, 13-921, 41-1750, 41-2801 AND 41-2820, ARIZONA REVISED STATUTES; RELATING TO THE JUVENILE COURT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-201, Arizona Revised Statutes, is amended to
3 read:

4 8-201. Definitions

5 In this title, unless the context otherwise requires:

6 1. "Abandoned" means the failure of the parent to provide
7 reasonable support and to maintain regular contact with the child,
8 including providing normal supervision. Abandoned includes a judicial
9 finding that a parent has made only minimal efforts to support and
10 communicate with the child. Failure to maintain a normal parental
11 relationship with the child without just cause for a period of six months
12 constitutes prima facie evidence of abandonment.

13 2. "Abuse" means the infliction or allowing of physical injury,
14 impairment of bodily function or disfigurement or the infliction of or
15 allowing another person to cause serious emotional damage as evidenced by
16 severe anxiety, depression, withdrawal or untoward aggressive behavior and
17 which emotional damage is diagnosed by a medical doctor or psychologist
18 and is caused by the acts or omissions of an individual who has the care,
19 custody and control of a child. Abuse includes:

20 (a) Inflicting or allowing sexual abuse pursuant to section
21 13-1404, sexual conduct with a minor pursuant to section 13-1405, sexual
22 assault pursuant to section 13-1406, molestation of a child pursuant to
23 section 13-1410, commercial sexual exploitation of a minor pursuant to
24 section 13-3552, sexual exploitation of a minor pursuant to section
25 13-3553, incest pursuant to section 13-3608 or child sex trafficking
26 pursuant to section 13-3212.

27 (b) Physical injury that results from permitting a child to enter
28 or remain in any structure or vehicle in which volatile, toxic or
29 flammable chemicals are found or equipment is possessed by any person for
30 the purpose of manufacturing a dangerous drug as defined in section
31 13-3401.

32 (c) Unreasonable confinement of a child.

33 3. "Adult" means a person who is ~~eighteen~~ TWENTY-TWO years of age
34 or older.

35 4. "Adult court" means the appropriate justice court, municipal
36 court or criminal division of the superior court that has jurisdiction to
37 hear proceedings concerning offenses committed by juveniles as provided in
38 sections 8-327 and 13-501.

39 5. "Award" or "commit" means to assign legal custody.

40 6. "Child", "youth" or "juvenile" means an individual who is under
41 ~~the age of eighteen~~ TWENTY-TWO years OF AGE.

42 7. "Complaint" means a written statement of the essential facts
43 constituting a public offense that is any of the following:

44 (a) Made on an oath before a judge or commissioner of the superior
45 court or an authorized juvenile hearing officer.

1 (b) Made pursuant to section 13-3903.

2 (c) Accompanied by an affidavit of a law enforcement officer or
3 employee that swears on information and belief to the accuracy of the
4 complaint pursuant to section 13-4261.

5 8. "Criminal conduct allegation" means an allegation of conduct by
6 a parent, guardian or custodian of a child or an adult member of the
7 victim's household that, if true, would constitute any of the following:

8 (a) A violation of section 13-3623 involving child abuse.

9 (b) A felony offense that constitutes domestic violence as defined
10 in section 13-3601.

11 (c) A violation of section 13-1404 or 13-1406 involving a minor.

12 (d) A violation of section 13-1405, 13-1410 or 13-1417.

13 (e) Any other act of abuse that is classified as a felony.

14 (f) An offense that constitutes domestic violence as defined in
15 section 13-3601 and that involves a minor who is a victim of or was in
16 imminent danger during the domestic violence.

17 9. "Custodian" means a person, other than a parent or legal
18 guardian, who stands in loco parentis to the child or a person to whom
19 legal custody of the child has been given by order of the juvenile court.

20 10. "DCS report" means a communication received by the centralized
21 intake hotline that alleges child abuse or neglect and that meets the
22 criteria for a report as prescribed in section 8-455.

23 11. "Delinquency hearing" means a proceeding in the juvenile court
24 to determine whether a juvenile has committed a specific delinquent act as
25 set forth in a petition.

26 12. "Delinquent act" means an act by a juvenile that if committed
27 by an adult would be a criminal offense or a petty offense, a violation of
28 any law of this state, or of another state if the act occurred in that
29 state, or a law of the United States, or a violation of any law that can
30 only be violated by a minor and that has been designated as a delinquent
31 offense, or any ordinance of a city, county or political subdivision of
32 this state defining crime. Delinquent act does not include an offense
33 under section 13-501, subsection A or B if the offense is filed in adult
34 court. Any juvenile who is prosecuted as an adult or who is remanded for
35 prosecution as an adult shall not be adjudicated as a delinquent juvenile
36 for the same offense.

37 13. "Delinquent juvenile" means a child who is adjudicated to have
38 committed a delinquent act.

39 14. "Department" means the department of child safety.

40 15. "Dependent child":

41 (a) Means a child who is adjudicated to be:

42 (i) In need of proper and effective parental care and control and
43 who has no parent or guardian, or one who has no parent or guardian
44 willing to exercise or capable of exercising such care and control.

1 (ii) Destitute or who is not provided with the necessities of life,
2 including adequate food, clothing, shelter or medical care.

3 (iii) A child whose home is unfit by reason of abuse, neglect,
4 cruelty or depravity by a parent, a guardian or any other person having
5 custody or care of the child.

6 (iv) Under eight years of age and who is found to have committed an
7 act that would result in adjudication as a delinquent juvenile or
8 incorrigible child if committed by an older juvenile or child.

9 (v) Incompetent or not restorable to competency and who is alleged
10 to have committed a serious offense as defined in section 13-706.

11 (b) Does not include a child who in good faith is being furnished
12 Christian Science treatment by a duly accredited practitioner if none of
13 the circumstances described in subdivision (a) of this paragraph exists.

14 16. "Detention" means the temporary confinement of a juvenile who
15 requires secure care in a physically restricting facility that is
16 completely surrounded by a locked and physically secure barrier with
17 restricted ingress and egress for the protection of the juvenile or the
18 community pending court disposition or as a condition of probation.

19 17. "Director" means the director of the department.

20 18. "Health professional" has the same meaning prescribed in
21 section 32-3201.

22 19. "Incorrigible child" means a child who:

23 (a) Is adjudicated as a child who refuses to obey the reasonable
24 and proper orders or directions of a parent, guardian or custodian and who
25 is beyond the control of that person.

26 (b) Is habitually truant from school as defined in section 15-803,
27 subsection C.

28 (c) Is a runaway from the child's home or parent, guardian or
29 custodian.

30 (d) Habitually behaves in such a manner as to injure or endanger
31 the morals or health of self or others.

32 (e) Commits any act constituting an offense that can only be
33 committed by a minor and that is not designated as a delinquent act.

34 (f) Fails to obey any lawful order of a court of competent
35 jurisdiction given in a noncriminal action.

36 20. "Independent living program" includes a residential program
37 with supervision of less than twenty-four hours a day.

38 21. "Juvenile court" means the juvenile division of the superior
39 court when exercising its jurisdiction over children in any proceeding
40 relating to delinquency, dependency or incorrigibility.

41 22. "Law enforcement officer" means a peace officer, sheriff,
42 deputy sheriff, municipal police officer or constable.

43 23. "Medical director of a mental health agency" means a
44 psychiatrist, or licensed physician experienced in psychiatric matters,
45 who is designated in writing by the governing body of the agency as the

1 person in charge of the medical services of the agency, or a psychiatrist
2 designated by the governing body to act for the director. The term
3 includes the superintendent of the state hospital.

4 24. "Mental health agency" means any private or public facility
5 that is licensed by this state as a mental health treatment agency, a
6 psychiatric hospital, a psychiatric unit of a general hospital or a
7 residential treatment center for emotionally disturbed children and that
8 uses secure settings or mechanical restraints.

9 25. "Neglect" or "neglected" means:

10 (a) The inability or unwillingness of a parent, guardian or
11 custodian of a child to provide that child with supervision, food,
12 clothing, shelter or medical care if that inability or unwillingness
13 causes unreasonable risk of harm to the child's health or welfare, except
14 if the inability of a parent, guardian or custodian to provide services to
15 meet the needs of a child with a disability or chronic illness is solely
16 the result of the unavailability of reasonable services.

17 (b) Permitting a child to enter or remain in any structure or
18 vehicle in which volatile, toxic or flammable chemicals are found or
19 equipment is possessed by any person for the purposes of manufacturing a
20 dangerous drug as defined in section 13-3401.

21 (c) A determination by a health professional that a newborn infant
22 was exposed prenatally to a drug or substance listed in section 13-3401
23 and that this exposure was not the result of a medical treatment
24 administered to the mother or the newborn infant by a health
25 professional. This subdivision does not expand a health professional's
26 duty to report neglect based on prenatal exposure to a drug or substance
27 listed in section 13-3401 beyond the requirements prescribed pursuant to
28 section 13-3620, subsection E. The determination by the health
29 professional shall be based on one or more of the following:

30 (i) Clinical indicators in the prenatal period including maternal
31 and newborn presentation.

32 (ii) History of substance use or abuse.

33 (iii) Medical history.

34 (iv) Results of a toxicology or other laboratory test on the mother
35 or the newborn infant.

36 (d) Diagnosis by a health professional of an infant under one year
37 of age with clinical findings consistent with fetal alcohol syndrome or
38 fetal alcohol effects.

39 (e) Deliberate exposure of a child by a parent, guardian or
40 custodian to sexual conduct as defined in section 13-3551 or to sexual
41 contact, oral sexual contact or sexual intercourse as defined in section
42 13-1401, bestiality as prescribed in section 13-1411 or explicit sexual
43 materials as defined in section 13-3507.

1 (f) Any of the following acts committed by the child's parent,
2 guardian or custodian with reckless disregard as to whether the child is
3 physically present:

4 (i) Sexual contact as defined in section 13-1401.

5 (ii) Oral sexual contact as defined in section 13-1401.

6 (iii) Sexual intercourse as defined in section 13-1401.

7 (iv) Bestiality as prescribed in section 13-1411.

8 26. "Newborn infant" means a child who is under thirty days of age.

9 27. "Petition" means a written statement of the essential facts
10 that allege delinquency, incorrigibility or dependency.

11 28. "Prevention" means the creation of conditions, opportunities
12 and experiences that encourage and develop healthy, self-sufficient
13 children and that occur before the onset of problems.

14 29. "Protective supervision" means supervision that is ordered by
15 the juvenile court of children who are found to be dependent or
16 incorrigible.

17 30. "Qualified young adult" means a former dependent child who is
18 at least eighteen years of age and not over twenty-one years of age, who
19 meets the criteria for an extended foster care program pursuant to section
20 8-521.02 and who signs a voluntary agreement to participate in the
21 program.

22 31. "Referral" means a report that is submitted to the juvenile
23 court and that alleges that a child is dependent or incorrigible or that a
24 juvenile has committed a delinquent or criminal act.

25 32. "Secure care" means confinement in a facility that is
26 completely surrounded by a locked and physically secure barrier with
27 restricted ingress and egress.

28 33. "Serious emotional injury" means an injury that is diagnosed by
29 a medical doctor or a psychologist and that does any one or a combination
30 of the following:

31 (a) Seriously impairs mental faculties.

32 (b) Causes serious anxiety, depression, withdrawal or social
33 dysfunction behavior to the extent that the child suffers dysfunction that
34 requires treatment.

35 (c) Is the result of sexual abuse pursuant to section 13-1404,
36 sexual conduct with a minor pursuant to section 13-1405, sexual assault
37 pursuant to section 13-1406, molestation of a child pursuant to section
38 13-1410, child sex trafficking pursuant to section 13-3212, commercial
39 sexual exploitation of a minor pursuant to section 13-3552, sexual
40 exploitation of a minor pursuant to section 13-3553 or incest pursuant to
41 section 13-3608.

42 34. "Serious physical injury" means an injury that is diagnosed by
43 a medical doctor and that does any one or a combination of the following:

44 (a) Creates a reasonable risk of death.

45 (b) Causes serious or permanent disfigurement.

- 1 (c) Causes significant physical pain.
- 2 (d) Causes serious impairment of health.
- 3 (e) Causes the loss or protracted impairment of an organ or limb.
- 4 (f) Is the result of sexual abuse pursuant to section 13-1404,
- 5 sexual conduct with a minor pursuant to section 13-1405, sexual assault
- 6 pursuant to section 13-1406, molestation of a child pursuant to section
- 7 13-1410, child sex trafficking pursuant to section 13-3212, commercial
- 8 sexual exploitation of a minor pursuant to section 13-3552, sexual
- 9 exploitation of a minor pursuant to section 13-3553 or incest pursuant to
- 10 section 13-3608.

11 35. "Shelter care" means the temporary care of a child in any
12 public or private facility or home that is licensed by this state and that
13 offers a physically nonsecure environment that is characterized by the
14 absence of physically restricting construction or hardware and that
15 provides the child access to the surrounding community.

16 36. "Young adult administrative review" means an administrative
17 review of a voluntary extended foster care case plan with the qualified
18 young adult, the department's case specialist or designee, an independent
19 party who is not responsible for the case management of or the delivery of
20 services to the qualified young adult and any other individual the young
21 adult invites.

22 Sec. 2. Section 8-202, Arizona Revised Statutes, is amended to
23 read:

24 8-202. Jurisdiction of juvenile court

25 A. The juvenile court has original jurisdiction over all
26 delinquency proceedings brought under the authority of this title.

27 B. The juvenile court has exclusive original jurisdiction over all
28 proceedings brought under the authority of this title except for
29 delinquency proceedings.

30 C. The juvenile court may consolidate any matter, except that the
31 juvenile court shall not consolidate any of the following:

32 1. A criminal proceeding that is filed in another division of
33 superior court and that involves a child who is subject to the
34 jurisdiction of the juvenile court.

35 2. A delinquency proceeding with any other proceeding that does not
36 involve delinquency, unless the juvenile delinquency adjudication
37 proceeding is not heard at the same time or in the same hearing as a
38 nondelinquency proceeding.

39 D. The juvenile court has jurisdiction of proceedings to:

40 1. Obtain judicial consent to the marriage, employment or
41 enlistment in the armed services of a child, if consent is required by
42 law.

43 2. In an action in which parental rights are terminated pursuant to
44 chapter 4, article 5 or 11 of this title, change the name of a minor child
45 who is the subject of the action. If the minor child who is the subject

1 of the action is twelve years of age or older, the court shall consider
2 the wishes of the child with respect to the name change.

3 E. The juvenile court has jurisdiction over both civil traffic
4 violations and offenses listed in section 8-323, subsection B that are
5 committed within the county by persons who are under ~~eighteen~~ TWENTY-TWO
6 years of age unless the presiding judge of the county declines
7 jurisdiction of these cases. The presiding judge of the county may
8 decline jurisdiction of civil traffic violations committed within the
9 county by juveniles if the presiding judge finds that the declination
10 would promote the more efficient use of limited judicial and law
11 enforcement resources located within the county. If the presiding judge
12 declines jurisdiction, juvenile civil traffic violations shall be
13 processed, heard and disposed of in the same manner and with the same
14 penalties as adult civil traffic violations.

15 F. The orders of the juvenile court under the authority of this
16 chapter or chapter 3 or 4 of this title take precedence over any order of
17 any other court of this state except the court of appeals and the supreme
18 court to the extent that they are inconsistent with orders of other
19 courts.

20 G. ~~Except as provided in subsection H of this section,~~ Jurisdiction
21 of a child that is obtained by the juvenile court in a proceeding under
22 this chapter or chapter 3 or 4 of this title shall be retained by it, for
23 the purposes of implementing the orders made and filed in that proceeding,
24 until the child becomes ~~eighteen~~ TWENTY-TWO years of age, unless
25 terminated by order of the court before the child's ~~eighteenth~~
26 TWENTY-SECOND birthday.

27 ~~H. If the state files a notice of intent to retain jurisdiction~~
28 ~~when proceedings are commenced pursuant to section 8-301, paragraph 1 or~~
29 ~~2, the court shall retain jurisdiction over a juvenile who is at least~~
30 ~~seventeen years of age and who has been adjudicated a delinquent juvenile~~
31 ~~until the juvenile reaches nineteen years of age, unless before the~~
32 ~~juvenile's nineteenth birthday either:~~

33 ~~1. Jurisdiction is terminated by order of the court.~~

34 ~~2. The juvenile is discharged from the jurisdiction of the~~
35 ~~department of juvenile corrections pursuant to section 41-2820.~~

36 ~~H.~~ H. Persons who are under ~~eighteen~~ TWENTY-TWO years of age shall
37 be prosecuted in the same manner as adults if either:

38 1. The juvenile court transfers jurisdiction pursuant to section
39 8-327.

40 2. The juvenile is charged as an adult with an offense listed in
41 section 13-501.

42 ~~I.~~ I. The juvenile court shall retain jurisdiction after a
43 juvenile's ~~eighteenth~~ TWENTY-SECOND birthday for the purpose of
44 designating an undesignated felony offense as a misdemeanor or felony,
45 including after an adjudication is set aside pursuant to section 8-348.

1 ~~K~~ J. The juvenile court has jurisdiction to make the initial
2 determination prescribed in section 8-829 whether the voluntary
3 participation of a qualified young adult in an extended foster care
4 program pursuant to section 8-521.02 is in the young adult's best
5 interests.

6 Sec. 3. Section 8-204, Arizona Revised Statutes, is amended to
7 read:

8 8-204. Juvenile court employees; merit system

9 A. The director of juvenile court services shall serve at the
10 pleasure of the presiding judge of the juvenile court.

11 B. In counties ~~which~~ THAT have adopted or hereafter adopt a limited
12 county employee merit system pursuant to title 11, chapter 2, article 10
13 or a judicial merit system, juvenile probation officers, juvenile
14 surveillance officers and juvenile detention officers other than the
15 director and deputy director of juvenile court services shall be included
16 in ~~such~~ THE county merit system or judicial merit system and entitled to
17 the same privileges and protections provided in ~~such~~ THE merit system for
18 other county employees or court employees. Deputy directors and all other
19 employees of the juvenile court may be included in the county merit system
20 or judicial merit system at the discretion of the presiding judge of the
21 superior court in each county.

22 ~~C. The director of juvenile court services, in addition to all
23 other duties, must submit an annual report to the presiding judge of the
24 superior court and the legislature that includes the number of juveniles
25 that the court has retained jurisdiction over pursuant to section 8-202,
26 subsection H. The director shall provide a copy of this report to the
27 secretary of state.~~

28 Sec. 4. Section 8-208, Arizona Revised Statutes, is amended to
29 read:

30 8-208. Juvenile court records; public inspection; exceptions

31 A. The following records relating to a juvenile who is referred to
32 juvenile court are open to public inspection:

33 1. Referrals involving delinquent acts, after the referrals have
34 been made to the juvenile court or the county attorney has diverted the
35 matter according to section 8-321.

36 2. Arrest records, after the juvenile is an accused as defined by
37 section 13-501.

38 3. Delinquency hearings.

39 4. Disposition hearings.

40 5. A summary of delinquency, disposition and transfer hearings.

41 6. Revocation of probation hearings.

42 7. Appellate review.

43 8. Diversion proceedings involving delinquent acts.

1 B. On the request of an adult probation officer or state or local
2 prosecutor, the juvenile court shall release to an adult probation
3 department or prosecutor all information in its possession concerning a
4 person who is charged with a criminal offense.

5 C. The juvenile court shall release all information in its
6 possession concerning a person who is arrested for a criminal offense to
7 superior court programs or departments, other court divisions or judges or
8 as authorized by the superior court for the purpose of assisting in the
9 determination of release from custody, bond and pretrial supervision.

10 D. On request by the appropriate jail authorities for the purpose
11 of determining classification, treatment and security, the juvenile court
12 shall release all information in its possession concerning persons who are
13 under ~~eighteen~~ TWENTY-TWO years of age, who have been transferred from
14 juvenile court for criminal prosecution and who are being held in a county
15 jail pending trial.

16 E. The court shall edit the records to protect the identity of the
17 victim or the immediate family of the victim if the victim has died as a
18 result of the alleged offense.

19 F. Except as otherwise provided by law, the records of an adoption,
20 severance or dependency proceeding shall not be open to public inspection.

21 G. The court may order that the records be kept confidential and
22 withheld from public inspection if the court determines that the subject
23 matter of any record involves a clear public interest in confidentiality.

24 H. The disclosure of educational records received pursuant to
25 section 15-141 shall comply with the family educational RIGHTS and privacy
26 rights act of 1974 (20 United States Code section 1232g).

27 Sec. 5. Section 8-246, Arizona Revised Statutes, is amended to
28 read:

29 8-246. Jurisdiction; length of commitment; placement;
30 assessment

31 A. When jurisdiction of a juvenile has been acquired by the
32 juvenile court, the juvenile shall continue under the jurisdiction of the
33 juvenile court until the juvenile attains ~~eighteen~~ TWENTY-TWO years of age
34 ~~or, if the juvenile court has retained jurisdiction over the person~~
35 ~~pursuant to section 8-202, subsection H, nineteen years of age,~~ unless
36 sooner discharged pursuant to law. From the time of commitment to the
37 department of juvenile corrections, a juvenile shall be subject to the
38 control of the department of juvenile corrections until the juvenile's
39 discharge pursuant to section 41-2820.

40 B. Except pursuant to section 8-341, subsection N and section
41 ~~8-344, and unless the court has retained jurisdiction over the person~~
42 ~~pursuant to section 8-202, subsection H:~~

43 1. The awarding of a juvenile shall not extend beyond the
44 juvenile's ~~eighteenth~~ TWENTY-SECOND birthday.

1 2. Commitment to the department of juvenile corrections shall be
2 until the juvenile attains ~~eighteen~~ TWENTY-TWO years of age unless sooner
3 discharged by the department of juvenile corrections.

4 C. The supreme court in cooperation with the department of juvenile
5 corrections and other state agencies shall develop a common risk needs
6 assessment instrument to be used for each juvenile who is referred to the
7 juvenile court. The juvenile court shall update the risk needs assessment
8 on each subsequent referral of the juvenile to the juvenile court, and the
9 court shall use the risk needs assessment to determine the appropriate
10 disposition of the juvenile. The supreme court in cooperation with the
11 department of juvenile corrections shall develop guidelines to be used by
12 juvenile court judges in determining those juveniles who should be
13 committed to the department of juvenile corrections.

14 ~~D. For the purposes of this section, "juvenile" includes a person
15 who is under eighteen years of age or, if the juvenile court has retained
16 jurisdiction over the person pursuant to section 8-202, subsection H,
17 under nineteen years of age.~~

18 Sec. 6. Section 8-272, Arizona Revised Statutes, is amended to
19 read:

20 8-272. Psychiatric acute care services; outpatient and
21 inpatient assessments; definition

22 A. If a child exhibits behavior that indicates the child may suffer
23 from a mental disorder or is a danger to self or others, an entity may
24 request that the child receive an outpatient assessment or inpatient
25 assessment.

26 B. A psychologist, psychiatrist or physician shall conduct an
27 outpatient assessment at a time and place that is convenient for the
28 psychologist, psychiatrist or physician and the child. At the conclusion
29 of the outpatient assessment, the psychologist, psychiatrist or physician
30 shall recommend that the child be either:

- 31 1. Provided with outpatient treatment services.
- 32 2. Admitted to a psychiatric acute care facility for inpatient
33 assessment or inpatient psychiatric acute care services.
- 34 3. Provided with residential treatment services.
- 35 4. Discharged to the entity without further psychological or
36 psychiatric services because the child does not suffer from a mental
37 disorder, is not a danger to self or others or is not a child with a
38 persistent or acute disability or grave disability.

39 C. A psychologist, psychiatrist or physician shall conduct an
40 inpatient assessment within seventy-two hours after a child is admitted to
41 an inpatient assessment facility, excluding weekends and holidays. At the
42 conclusion of the inpatient assessment, the psychologist, psychiatrist or
43 physician shall recommend that the child be either:

- 44 1. Admitted to a psychiatric acute care facility for inpatient
45 psychiatric acute care services.

1 2. Discharged to an entity and provided with outpatient treatment
2 services.

3 3. Provided with residential treatment services.

4 4. Discharged to the entity without further psychological or
5 psychiatric services because the child does not suffer from a mental
6 disorder, is not a danger to self or others or is not a child with a
7 persistent or acute disability or grave disability.

8 D. Within twenty-four hours after a child is admitted for an
9 inpatient assessment, excluding weekends and holidays, the entity shall
10 file a motion for approval of admission for inpatient assessment with the
11 juvenile court. The motion shall include all of the following:

12 1. The name and address of the inpatient assessment facility.

13 2. The name of the psychologist, psychiatrist or physician who is
14 likely to perform the inpatient assessment.

15 3. The date and time the child was admitted to the inpatient
16 assessment facility.

17 4. A short statement explaining why the child needs an inpatient
18 assessment.

19 E. An entity that files a motion under subsection D of this section
20 shall provide a copy of the motion to all of the parties and their
21 attorneys. The court shall rule on the motion without response from any
22 party, except that any party may request a hearing to review the child's
23 admission for an inpatient assessment. If the court grants a hearing, the
24 court shall set the hearing on an accelerated basis.

25 F. If the psychologist, psychiatrist or physician who performed the
26 outpatient assessment or inpatient assessment of the child recommends that
27 the child receive inpatient acute care psychiatric services, the entity
28 may file a motion for inpatient psychiatric acute care services with the
29 juvenile court. If the psychologist, psychiatrist or physician makes this
30 recommendation after conducting an inpatient assessment, the entity shall
31 file the motion for inpatient psychiatric acute care services within
32 twenty-four hours after the completion of the inpatient assessment,
33 excluding weekends and holidays. The motion shall include all of the
34 following:

35 1. A copy of the written report of the results of the inpatient
36 assessment or outpatient assessment, including:

37 (a) The reason why inpatient psychiatric acute care services are in
38 the child's best interests.

39 (b) The reason why inpatient psychiatric acute care services are
40 the least restrictive available treatment.

41 (c) A diagnosis of the child's condition that requires inpatient
42 psychiatric acute care services.

43 (d) The estimated length of time that the child will require
44 inpatient psychiatric acute care services.

1 2. A written statement from the medical director of the proposed
2 inpatient psychiatric acute care facility or the medical director's
3 designee that the facility's services are appropriate to meet the child's
4 mental health needs.

5 G. As soon as practicable after the filing of a motion under
6 subsection D or F of this section, the court shall appoint an attorney for
7 the child if an attorney has not been previously appointed. The court may
8 also appoint a guardian ad litem for the child.

9 H. If a motion is filed pursuant to subsection F of this section,
10 the court shall hold a hearing on the motion within seventy-two hours
11 after the motion is filed, excluding weekends and holidays. If the child
12 has been admitted for an inpatient assessment, the child may remain at the
13 inpatient assessment facility until the court rules on the motion.

14 I. If a child is admitted for an inpatient assessment and an entity
15 fails to file a motion pursuant to and within the time limit prescribed in
16 subsection F of this section, the child shall be discharged from the
17 inpatient assessment facility.

18 J. If the court approves the admission of the child for inpatient
19 psychiatric acute care services, the court shall find by clear and
20 convincing evidence that both:

21 1. The child is suffering from a mental disorder or is a danger to
22 self or others and requires inpatient psychiatric acute care services.

23 2. Available alternatives to inpatient psychiatric acute care
24 services were considered, but that inpatient psychiatric acute care
25 services are the least restrictive available alternative.

26 K. The court shall review the child's continuing need for inpatient
27 psychiatric acute care services at least every sixty days after the date
28 of the treatment order. The inpatient psychiatric acute care facility
29 shall submit a progress report to the court at least five days before the
30 review and shall provide copies of the progress report to all of the
31 parties, including the child's attorney and guardian ad litem. On its own
32 motion or on the motion of a party, the court may hold a hearing on the
33 child's continuing need for inpatient psychiatric acute care services. If
34 requested by the child, the court shall hold a hearing unless the court
35 has held a review hearing within sixty days before the child's request.
36 If requested by the child, the court may hold a hearing at any time for
37 good cause shown. The progress report shall make recommendations and
38 shall include at least the following:

39 1. The nature of the treatment provided, including any medications
40 and the child's current diagnosis.

41 2. The child's need for continued inpatient psychiatric acute care
42 services, including the estimated length of the services.

43 3. A projected discharge date.

44 4. The level of care required by the child and the potential
45 placement options that are available to the child on discharge.

1 5. A statement from the medical director of the inpatient
2 psychiatric acute care facility or the medical director's designee as to
3 whether inpatient psychiatric acute care services are necessary to meet
4 the child's mental health needs and whether the facility that is providing
5 the inpatient psychiatric acute care services to the child is the least
6 restrictive available alternative.

7 L. If a child is transferred from an inpatient psychiatric acute
8 care facility to another inpatient psychiatric acute care facility, no new
9 inpatient assessment or outpatient assessment is required. Unless the
10 court orders otherwise due to an emergency, an entity shall file a notice
11 of transfer with the juvenile court at least five days before the transfer
12 of the child. The notice shall include all of the following:

13 1. The name and address of the facility to which the child is being
14 transferred and the date of the transfer.

15 2. A statement from the medical director of the receiving inpatient
16 psychiatric acute care facility or the medical director's designee that
17 the receiving facility is an appropriate facility to meet the child's
18 mental health needs and that it is the least restrictive available
19 alternative.

20 3. A statement that the entity has contacted the child's attorney
21 or guardian ad litem and whether the child or the child's attorney or
22 guardian ad litem opposes the transfer.

23 M. Any party may request a hearing to review the transfer of a
24 child to another inpatient psychiatric acute care facility pursuant to
25 subsection L of this section.

26 N. Within fifteen days after a child is discharged, the inpatient
27 psychiatric acute care facility shall prepare a discharge summary. Within
28 twenty days after a child is discharged, an entity shall file a notice of
29 discharge with the juvenile court. The notice shall include:

30 1. A statement of the child's current placement.

31 2. A statement of the mental health services that are being
32 provided to the child and the child's family.

33 3. A copy of the discharge summary that is prepared by a mental
34 health professional.

35 O. When possible, the child's attorney shall communicate with the
36 child within twenty-four hours after a motion is filed pursuant to
37 subsection D or F of this section, excluding weekends and holidays. The
38 child's attorney shall discuss treatment recommendations and shall advise
39 the child of the child's right to request a hearing. The child's attorney
40 or designee shall attend all court hearings related to the child's
41 inpatient assessment or inpatient psychiatric acute care services and
42 shall be prepared to report to the court the child's position on any
43 recommended assessments or treatment. The child may attend any hearing
44 unless the court finds by a preponderance of the evidence that allowing
45 the child to attend would not be in the child's best interests.

1 P. If the child is a dually adjudicated child, the entity that
2 requests an order for inpatient psychiatric acute care services shall
3 notify any other entity of all notices, motions, hearings or other
4 proceedings related to the provision of inpatient psychiatric acute care
5 services. Any entity may attend and participate in all hearings or other
6 proceedings relating to the provision of inpatient psychiatric acute care
7 services to a dually adjudicated child.

8 Q. Section 8-273 applies if residential treatment services are
9 recommended after an inpatient assessment or outpatient assessment or any
10 inpatient psychiatric acute care treatment. Section 8-341.01 applies if a
11 child who is adjudicated delinquent or incorrigible and who is subject to
12 the jurisdiction of the juvenile court requires residential treatment
13 services. Section 41-2815 applies if a child who is committed to the
14 department of juvenile corrections requires residential treatment
15 services.

16 R. Information and records that are obtained or created in the
17 course of any assessment, examination or treatment are subject to the
18 confidentiality requirements of section 36-509, except that information
19 and records may be provided to the department of juvenile corrections
20 pursuant to section 8-341.

21 S. For the purposes of this section, "child" means a person who is
22 under ~~eighteen TWENTY-TWO~~ years of age ~~or, if the juvenile court has~~
23 ~~retained jurisdiction over the person pursuant to section 8-202,~~
24 ~~subsection H, under nineteen years of age~~ and who is either:

- 25 1. Found to be dependent or temporarily subject to court
26 jurisdiction pending an adjudication of a dependency petition.
- 27 2. In the temporary custody of the department pursuant to section
28 8-821.
- 29 3. Detained in a juvenile court detention facility.
- 30 4. Committed to the department of juvenile corrections.
- 31 5. Found to be delinquent and subject to probation supervision.

32 Sec. 7. Section 8-273, Arizona Revised Statutes, is amended to
33 read:

34 8-273. Residential treatment services; definition

35 A. If a child exhibits behavior that indicates the child may suffer
36 from a mental disorder or if it is recommended as a result of an
37 outpatient assessment or inpatient assessment pursuant to section 8-272
38 that a child receive residential treatment services, an entity may file a
39 motion requesting that the juvenile court order a child to receive
40 residential treatment services. If the motion states that all parties,
41 including counsel for the child, have been contacted and are in agreement,
42 the court is not required to set a hearing on the motion.

43 B. A motion for residential treatment services shall be supported
44 by a written psychological, psychiatric or medical assessment recommending
45 residential treatment services. The court may waive the written

1 assessment on a finding of good cause. The written assessment shall
2 include at least the following:

3 1. The reason why residential treatment services are in the child's
4 best interests.

5 2. The reason why residential treatment services are the least
6 restrictive treatment available.

7 3. The reason why the child's behavioral, psychological, social or
8 mental health needs require residential treatment services.

9 4. The estimated length of time that the child will require
10 residential treatment services.

11 C. A motion for residential treatment services shall be supported
12 by a written statement from the medical or clinical director of the
13 residential treatment facility or the director's designee that the
14 facility's services are appropriate to meet the child's needs.

15 D. As soon as practicable after an entity files a motion under
16 subsection A of this section, the court shall appoint an attorney for the
17 child if an attorney has not been previously appointed. The court may
18 also appoint a guardian ad litem for the child.

19 E. The child's attorney shall discuss the treatment recommendations
20 with the child. The child's attorney or designee shall attend all court
21 hearings related to the child's placement in a residential treatment
22 facility and shall be prepared to report to the court on the child's
23 position regarding any recommendations or requests related to the
24 provision of residential treatment services. The child may appear at any
25 hearing, unless the court finds by a preponderance of the evidence that
26 allowing the child to attend the hearing would not be in the child's best
27 interests.

28 F. If the court orders a child to receive residential treatment
29 services, the court shall find by clear and convincing evidence that both:

30 1. The child requires residential treatment services to address the
31 child's behavioral, psychological, social or mental health needs.

32 2. Available alternatives to residential treatment services were
33 considered, but that residential treatment services are the least
34 restrictive available alternative.

35 G. The court shall review the child's continuing need for
36 residential treatment services at least every sixty days from the date of
37 the treatment order. The residential treatment facility shall submit a
38 progress report to the court at least five days before the review and
39 shall provide copies of its report to all of the parties, including the
40 child's attorney and guardian ad litem. The progress report shall include
41 the recommendations of the child's treatment facility and shall include at
42 least the following:

43 1. The nature of the treatment provided, including any medications
44 and the child's current diagnosis.

1 2. The child's need for continued residential treatment services,
2 including the estimated length of the services.

3 3. A projected discharge date.

4 4. The level of care required by the child and the potential
5 placement options that are available to the child on discharge.

6 5. A statement from the medical or clinical director of the
7 residential treatment services facility or the director's designee as to
8 whether residential treatment services are necessary to meet the child's
9 needs and whether the facility that is providing the residential treatment
10 services to the child is the least restrictive available alternative.

11 H. On its own motion or on the motion of a party, the court may
12 schedule a hearing concerning the child's continuing need for residential
13 treatment services. If requested by the child, the court shall schedule a
14 hearing unless the court has held a review hearing within sixty days
15 before the child's request. If requested by the child, the court may hold
16 a hearing at any time for good cause shown.

17 I. If the child is a dually adjudicated child, the entity that
18 requests an order for residential treatment services shall notify any
19 other entity of all notices, motions, hearings or other proceedings
20 related to the provision of residential treatment services. Any entity
21 may attend and participate in all hearings or other proceedings relating
22 to the provision of residential treatment services to a dually adjudicated
23 child.

24 J. Information or records that are obtained or created pursuant to
25 any assessment, examination or treatment are subject to the
26 confidentiality requirements of section 36-509, except that information
27 and records may be provided to the department of juvenile corrections
28 pursuant to section 8-341.

29 K. This section does not apply to a child who is either:

30 1. Committed to the department of juvenile corrections. Section
31 41-2815 applies if a child who is committed to the department of juvenile
32 corrections requires residential treatment services.

33 2. Adjudicated delinquent or incorrigible and who is subject to the
34 jurisdiction of the juvenile court. Section 8-341.01 applies if a child
35 who is adjudicated delinquent or incorrigible and who is subject to the
36 jurisdiction of the juvenile court requires residential treatment
37 services.

38 L. For the purposes of this section, "child" means a person who is
39 under ~~eighteen~~ TWENTY-TWO years of age ~~or, if the juvenile court has~~
40 ~~retained jurisdiction over the person pursuant to section 8-202,~~
41 ~~subsection H, under nineteen years of age~~ and who is either:

42 1. Found to be dependent or temporarily subject to court
43 jurisdiction pending an adjudication of a dependency petition.

44 2. In the temporary custody of the department pursuant to section
45 8-821.

1 Sec. 8. Section 8-291, Arizona Revised Statutes, is amended to
2 read:

3 8-291. Definitions

4 In this article, unless the context otherwise requires:

5 1. "Clinical liaison" means a mental health expert or another
6 individual who has experience and training in mental health or
7 developmental disabilities and who is qualified and appointed by the court
8 to aid in coordinating the treatment or training of juveniles who are
9 found incompetent to stand trial. If developmental disability is an
10 issue, the clinical liaison shall be an expert in developmental
11 disability.

12 2. "Incompetent" means a juvenile who does not have sufficient
13 present ability to consult with the juvenile's lawyer with a reasonable
14 degree of rational understanding or who does not have a rational and
15 factual understanding of the proceedings against the juvenile. Age alone
16 does not render a person incompetent.

17 3. "Juvenile" means a person who is under ~~eighteen~~ TWENTY-TWO years
18 of age at the time the issue of competency is raised.

19 4. "Mental health expert" means a physician who is licensed
20 pursuant to title 32, chapter 13 or 17 or a psychologist who is licensed
21 pursuant to title 32, chapter 19.1 and who is all of the following:

22 (a) Familiar with this state's competency standards and statutes.

23 (b) Familiar with the treatment, training and restoration programs
24 that are available in this state.

25 (c) Certified by the court as meeting court developed guidelines.

26 Sec. 9. Section 8-291.09, Arizona Revised Statutes, is amended to
27 read:

28 8-291.09. Restoration order; commitment

29 A. The court may order a juvenile to participate in an outpatient
30 or inpatient competency restoration program or may commit the juvenile for
31 competency restoration to the state hospital or another facility. The
32 juvenile court shall approve all competency restoration programs. In
33 determining the type and location of the program, the court shall select
34 the least restrictive alternative after making a finding of probable cause
35 and considering the following:

36 1. If confinement is necessary for program participation.

37 2. If the juvenile meets the civil commitment criteria under title
38 36, chapter 5.

39 B. The court may appoint a guardian ad litem for a juvenile who is
40 ordered to participate in an inpatient or outpatient program pursuant to
41 this section. The guardian ad litem shall both:

42 1. Coordinate the continuity of care following restoration.

43 2. In cooperation with the restoration program, advise the court on
44 matters relating to the appropriateness of the form and location of the
45 program and, on request of the court, shall submit a written report. The

1 court shall distribute copies of any report to the prosecutor and the
2 defense attorney. The privilege against self-incrimination applies to all
3 reports and communications with the juvenile.

4 C. An order entered pursuant to this section shall state if the
5 juvenile is incompetent to refuse treatment pursuant to section 13-4511,
6 including medication.

7 D. The state shall pay the costs of an inpatient competency
8 restoration program at the state hospital until either:

9 1. Ten days, excluding Saturdays, Sundays or other legal holidays,
10 after the hospital submits a report to the court stating that the juvenile
11 has regained competence or that there is no substantial probability that
12 the juvenile will regain competency within six months after the date of
13 the original finding of incompetency.

14 2. The restoration order expires.

15 3. Seven days, excluding Saturdays, Sundays or other legal
16 holidays, after the charges are dismissed.

17 E. The state shall pay the costs of a restoration program for a
18 juvenile who is a ward of the court unless the court orders otherwise. If
19 the court orders otherwise, the county shall pay the costs of the
20 restoration program, or if the proceeding arises out of municipal court,
21 the political subdivision shall pay the costs of the restoration program.

22 F. A restoration order that is issued pursuant to this section is
23 valid for one hundred eighty days from the date of the initial finding of
24 incompetency or until one of the following occurs, whichever occurs first:

25 1. The restoration program submits a report that the juvenile has
26 regained competency or that there is no substantial probability that the
27 juvenile will regain competency within the period of the order.

28 2. The charges are dismissed.

29 3. The juvenile reaches ~~eighteen~~ TWENTY-TWO years of age.

30 Sec. 10. Section 8-302, Arizona Revised Statutes, is amended to
31 read:

32 8-302. Transfer between juvenile and criminal courts

33 A. If during the pendency of a criminal charge in any court of this
34 state the court determines that the defendant is a juvenile who is not
35 subject to prosecution as an adult pursuant to section 13-501, the court
36 shall transfer the case to the juvenile court, together with all of the
37 original accusatory pleadings and other papers, documents and transcripts
38 of any testimony relating to the case. On transfer, the court shall order
39 that the defendant be taken to a place of detention designated by the
40 juvenile court or to that court itself or shall release the juvenile to
41 the custody of the juvenile's parent or guardian or any other person
42 legally responsible for the juvenile. If the juvenile is released to the
43 juvenile's parent or guardian or any other person legally responsible for
44 the juvenile, the court shall require that the parent, guardian or other
45 person bring the juvenile to appear before the juvenile court at a

1 designated time. The juvenile court shall then proceed with all further
2 proceedings as if a petition alleging delinquency had been filed with the
3 juvenile court under section 8-301 on the effective date of the
4 transfer. This subsection does not apply to a juvenile who is subject to
5 prosecution pursuant to section 13-501 but who is convicted of an offense
6 not listed in section 13-501.

7 B. If during the pendency of a criminal charge in any court of this
8 state the court determines that the defendant is a juvenile who is subject
9 to prosecution as an adult pursuant to section 13-501, subsection B, on
10 motion of the prosecutor the court shall transfer the case to the juvenile
11 court, together with all of the original accusatory pleadings and other
12 papers, documents and transcripts of any testimony relating to the case.
13 On transfer, the court shall order that the juvenile be taken to a place
14 of detention designated by the juvenile court or to that court itself or
15 shall release the juvenile to the custody of the juvenile's parent or
16 guardian or any other person legally responsible for the juvenile. If the
17 juvenile is released to the juvenile's parent or guardian or any other
18 person legally responsible for the juvenile, the court shall require that
19 the parent, guardian or other person bring the juvenile to appear before
20 the juvenile court at a designated time. The juvenile court shall then
21 proceed with all further proceedings as if a petition alleging delinquency
22 had been filed with the juvenile court under section 8-301 on the
23 effective date of the transfer.

24 C. During the pendency of a delinquency action in any court of this
25 state, on the motion of the prosecution and before the adjudication
26 hearing, the court shall dismiss without prejudice any count in the
27 petition charging an offense for which the juvenile is subject to
28 prosecution as an adult pursuant to section 13-501 to allow criminal
29 charges to be filed.

30 D. If a juvenile reaches ~~eighteen~~ TWENTY-TWO years of age during
31 the pendency of a delinquency action or before completion of the sentence
32 in any court in this state for an act that if committed by an adult would
33 be a misdemeanor or petty offense or a civil traffic violation, the court
34 shall transfer the case to the appropriate criminal court, together with
35 all of the original accusatory pleadings and other papers, documents and
36 transcripts of any testimony relating to the case and any sentencing
37 order. The appropriate criminal court shall then proceed with all further
38 proceedings as if a uniform Arizona traffic ticket and complaint form or a
39 complaint alleging a misdemeanor or petty offense or a civil traffic
40 violation had been filed with the appropriate criminal court pursuant to
41 section 13-3903 or the Arizona rules of criminal procedure, the rules of
42 procedure in traffic cases or the rules of procedure in civil traffic
43 violation cases.

1 Sec. 11. Section 8-305, Arizona Revised Statutes, is amended to
2 read:

3 8-305. Detention center; jail; separate custody; definition

4 A. The county board of supervisors or the county jail district, if
5 authorized pursuant to title 48, chapter 25, shall maintain a detention
6 center that is separate and apart from a jail or lockup in which adults
7 are confined and where juveniles who are alleged to be delinquent or
8 children who are incorrigible and within the provisions of this article
9 shall be detained when necessary before or after a hearing or as a
10 condition of probation. A juvenile who is charged with an offense that is
11 not a dangerous offense and that is listed in section 13-501 may be
12 detained in a juvenile detention center if the detention is ordered by the
13 court. The board may enter agreements with public or private entities to
14 acquire land for, build, purchase, lease-purchase, lease or expand a
15 detention center required by this section.

16 B. The board of supervisors or the county jail district, if
17 authorized pursuant to title 48, chapter 25, may provide for the detention
18 of juveniles who are accused or convicted of a criminal offense in a jail
19 or lockup in which adults are confined. A juvenile who is confined in a
20 jail or lockup in which adults are confined shall be kept in a physically
21 separate section from any adult who is charged with or convicted of a
22 criminal offense, and no sight or sound contact between the juvenile and
23 any charged or convicted adult is ~~permitted~~ ALLOWED, except to the extent
24 authorized under federal laws or regulations.

25 C. A juvenile, pending a juvenile hearing, shall not be confined
26 with adults charged with or convicted of a crime, except that:

27 1. A juvenile who is accused of a criminal offense or who is
28 alleged to be delinquent may be securely detained in such location for up
29 to six hours until transportation to a juvenile detention center can be
30 arranged if the juvenile is kept in a physically separate section from any
31 adult who is charged with or convicted of a crime and no sight or sound
32 contact between the juvenile and any charged or convicted adult is
33 ~~permitted~~ ALLOWED, except to the extent authorized under federal laws or
34 regulations.

35 2. A juvenile who is transferred as provided in section 8-327 to
36 the criminal division of the superior court may be securely detained if
37 the juvenile is kept in a physically separate section from any adult
38 charged with or convicted of a crime, and no sight or sound contact with
39 any charged or convicted adult is ~~permitted~~ ALLOWED, except to the extent
40 authorized under federal laws or regulations.

41 3. A juvenile who is arrested for an offense listed in section
42 13-501 may be detained in a juvenile detention center until formally
43 charged as an adult. After a juvenile has been formally charged as an
44 adult the juvenile may be either of the following:

1 (a) Detained in a juvenile detention center if the offense is not a
2 dangerous offense and the detention is ordered by the court.

3 (b) Securely detained in an adult facility if the juvenile is
4 detained separately from any adult charged with or convicted of a crime,
5 except to the extent authorized under federal laws or regulations.

6 D. In determining whether to order that a juvenile who is charged
7 with an offense that is not a dangerous offense and that is listed in
8 section 13-501 be detained in a juvenile detention center or an adult
9 facility pursuant to subsection A or subsection C, paragraph 3,
10 subdivision (a) of this section, the court shall consider all of the
11 following:

12 1. The best interests of both the juvenile charged as an adult and
13 the other juveniles detained in the juvenile detention center.

14 2. The severity of the charges against the juvenile charged as an
15 adult.

16 3. The existing programs and facilities for juveniles at both the
17 juvenile detention center and the adult facility.

18 4. Any other factor relevant to the determination of where to
19 detain the juvenile.

20 E. A child who is alleged to be delinquent or who is alleged to be
21 incorrigible shall not be securely detained in a jail or lockup in which
22 adults charged with or convicted of a crime are detained. A child may be
23 nonsecurely detained if necessary to obtain the child's name, age,
24 residence or other identifying information for up to six hours until
25 arrangements for transportation to any shelter care facility, home or
26 other appropriate place can be made. A child who is nonsecurely detained
27 shall be detained separately from any adult charged with or convicted of a
28 crime, and no sight or sound contact with any charged or convicted adult
29 is ~~permitted~~ ALLOWED, except to the extent authorized under federal laws
30 or regulations.

31 F. Any detained juvenile or child who, by the juvenile's or child's
32 conduct, endangers or evidences that the juvenile or child may endanger
33 the safety of other detained children shall not be allowed to intermingle
34 with any other juvenile or child in the detention center.

35 G. Pursuant to section 8-322, the county board of supervisors, the
36 county jail district board of directors or the administrative office of
37 the courts on behalf of the juvenile court may enter into an agreement
38 with public or private entities to provide the detention centers required
39 by subsection A of this section.

40 H. For the purposes of this section:—

41 ~~1.~~ "dangerous offense" has the same meaning prescribed in section
42 13-105.

43 ~~2. "Juvenile" includes a person who is under the jurisdiction of~~
44 ~~the juvenile court pursuant to section 8-202, subsection H.~~

1 Sec. 12. Section 8-323, Arizona Revised Statutes, is amended to
2 read:

3 8-323. Juvenile hearing officer; appointment; term;
4 compensation; hearings; required attendance;
5 contempt

6 A. The judge of the juvenile court, or in counties having more than
7 one judge of the juvenile court, the presiding judge of the juvenile
8 court, may appoint one or more persons of suitable experience who may be
9 magistrates or justices of the peace to serve as juvenile hearing officers
10 on a full-time or part-time basis. The county board of supervisors shall
11 approve the appointment of justices of the peace as juvenile hearing
12 officers. The local governing body shall approve the appointment of
13 municipal judges as juvenile hearing officers. The juvenile hearing
14 officer serves at the pleasure of the appointing judge. The appointing
15 judge, with the approval of the board of supervisors, shall determine
16 whether any compensation shall be paid to a juvenile hearing officer who
17 is not otherwise employed by a public agency or holding another public
18 office and shall establish the amounts and rates of the compensation.

19 B. Subject to the orders of the juvenile court a juvenile hearing
20 officer may hear and determine juvenile pretrial detention hearings and
21 may process, adjudicate and dispose of all cases that are not classified
22 as felonies and in which a juvenile who is under ~~eighteen~~ TWENTY-TWO years
23 of age on the date of the alleged offense is charged with violating any
24 law relating to the following:

- 25 1. Any provision of title 28 not declared to be a felony.
- 26 2. The purchase, possession or consumption of spirituous liquor by
27 a juvenile.
- 28 3. Boating or game and fish.
- 29 4. Curfew.
- 30 5. Truancy.
- 31 6. The damage or disfigurement of property by graffiti or the
32 purchase or possession of materials with the intent to use the materials
33 for graffiti.
- 34 7. The purchase or possession of tobacco.
- 35 8. Any city, town or political subdivision ordinance.
- 36 9. Interference with judicial proceedings involving disobeying or
37 resisting the lawful order, process or other mandate of a juvenile hearing
38 officer or failure to appear related to any offense in this section.

39 C. A hearing before the juvenile hearing officer or a hearing
40 before a commissioner or a judge of the juvenile court in which the
41 juvenile is charged with any offense set forth in this section may be
42 conducted on an exact legible copy of a written notice to appear,
43 including a uniform Arizona traffic ticket and complaint form, that
44 states, at a minimum, the name and address of the juvenile, the offense
45 charged and the time and place the juvenile shall appear in court.

1 D. The juvenile hearing officer, commissioner or judge of the
2 superior court shall not dispose of a petition or citation for any offense
3 under this section unless the parent, guardian or custodian of the
4 juvenile appears in court with the juvenile at the time of disposition of
5 the charge. On a showing of good cause that the parent, guardian or
6 custodian cannot appear on the date and time set by the court, the court
7 may waive the requirement that the parent, guardian or custodian appear.
8 The court shall state on the record the reasons for waiving the
9 requirement that the parent, guardian or custodian appear. At the time
10 the court issues an order to appear or other order pursuant to this
11 section, the court shall inform the juvenile that failure to appear or
12 failure to comply with an order will result in suspension of the
13 juvenile's driver license or privilege to drive. If the juvenile fails to
14 appear pursuant to a citation or an order to appear properly issued under
15 this section or if on disposition fails to comply with any court order,
16 the juvenile hearing officer shall order the department of transportation
17 to suspend the juvenile's driver license or privilege to drive or shall
18 direct the department of transportation to refuse to issue, renew or
19 restore the juvenile's driver license or privilege to drive until the
20 juvenile reaches ~~eighteen~~ TWENTY-TWO years of age or appears in court as
21 directed or complies with the court's order.

22 E. If a parent, guardian or custodian fails to appear with the
23 juvenile, and good cause for the failure to appear is not found as
24 provided in subsection D of this section, the court shall issue an order
25 to show cause to the parent, guardian or custodian as to why that person
26 shall not be held in contempt.

27 F. Except as otherwise provided by law, on an admission by the
28 juvenile of a violation charged pursuant to this section, or after a
29 hearing, on the finding that the juvenile committed the violation, the
30 juvenile hearing officer, commissioner or judge of the superior court may
31 do one or more of the following:

32 1. Place the juvenile on probation, except that a city magistrate
33 or justice of the peace may only place the juvenile on unsupervised
34 probation.

35 2. Transfer the citation to the juvenile court for all further
36 proceedings.

37 3. Suspend the driving privileges of the juvenile, or restrict the
38 juvenile's driving privileges for a period of not to exceed one hundred
39 eighty days.

40 4. Order the juvenile to attend a traffic school or a counseling or
41 education program approved by the presiding judge of the juvenile court or
42 the supreme court.

43 5. Order the juvenile to pay the monetary assessment or penalty
44 that is applicable to the offense. Except as provided in section 8-341,
45 subsection S, the monetary assessment or penalty shall not exceed ~~five~~

1 ~~hundred dollars~~ \$500 plus lawful surcharges and assessments payable to the
2 public agency processing the violation. If no monetary assessment or
3 penalty is specified for the offense, the juvenile hearing officer,
4 commissioner or judge of the superior court may order the juvenile to pay
5 not more than ~~one hundred fifty dollars~~ \$150 plus lawful surcharges and
6 assessments payable to the public agency processing the violation.

7 6. In lieu of or in addition to a monetary assessment or penalty,
8 order the juvenile to perform a program of work that does not conflict
9 with the juvenile's regular schooling and employment, to repair the
10 victim's property or to provide community restitution.

11 7. If the juvenile hearing officer, commissioner or judge of the
12 superior court determines that the person charged is ~~eighteen~~ TWENTY-TWO
13 or more years of age, transfer the matter to the appropriate criminal
14 court having jurisdiction.

15 8. If the juvenile violated any truancy laws, require the juvenile
16 and the juvenile's parents or guardians to participate in a specialized
17 program consisting of counseling, supervision and education under the
18 terms and conditions the juvenile hearing officer, commissioner or judge
19 of the superior court orders.

20 9. Order the juvenile and one or both of the juvenile's custodial
21 parents to pay restitution to any person who suffered an economic loss as
22 the result of the juvenile's conduct. The juvenile hearing officer,
23 commissioner or judge of the superior court shall not consider the ability
24 of the juvenile's parents to pay restitution before making a restitution
25 order. If the juvenile hearing officer, commissioner or judge of the
26 superior court orders one or both of the juvenile's custodial parents to
27 pay restitution, the amount of the order shall not exceed the liability
28 limit established pursuant to section 12-661.

29 10. Impose sanctions authorized by section 8-343.

30 11. Reprimand the juvenile and take no further action.

31 G. A record of the proceedings before a juvenile hearing officer
32 may be made by a court reporter, videotape or audiotape or any other
33 method approved by the supreme court that accurately reproduces what
34 occurred at the proceeding.

35 H. Within five days after receiving the citation, the juvenile
36 hearing officer shall notify the juvenile court that the juvenile has been
37 charged with an offense by citation and shall indicate the listed
38 charges. The juvenile hearing officer shall retain jurisdiction of the
39 case until all orders made under this section have been fully complied
40 with. Within five days after disposition, the juvenile hearing officer
41 shall transmit a copy of the citation with the findings and disposition of
42 the court noted on the copy to the juvenile court for record keeping
43 purposes. If appropriate, the juvenile hearing officer shall transmit a
44 copy of the citation to the department of transportation. If on
45 disposition the juvenile fails to comply with any court order, the

1 juvenile hearing officer, in the manner provided by subsection D of this
2 section, may impose any of the sanctions prescribed in subsection F of
3 this section.

4 I. Subject to an appeal pursuant to section 8-325 all orders of the
5 juvenile hearing officer shall be effective immediately.

6 J. A city or town attorney or prosecutor shall act on behalf of the
7 state in matters that are heard in a municipal court by a juvenile hearing
8 officer pursuant to this section. In these matters and on approval of the
9 county attorney, with notice to the presiding judge of the juvenile court,
10 the city or town attorney or the prosecutor may establish diversion
11 programs for offenses other than offenses involving either:

12 1. A violation of section 28-1381, 28-1382 or 28-1383.

13 2. The purchase, possession or consumption of spirituous liquor or
14 misdemeanor violations under title 13, chapter 34 if the juvenile has
15 previously participated in a diversion program established pursuant to
16 this subsection at least two times within twenty-four months before the
17 date of the commission of the current offense.

18 Sec. 13. Section 8-341, Arizona Revised Statutes, is amended to
19 read:

20 8-341. Disposition and commitment; definitions

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

23 1. It may award a delinquent juvenile:

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

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

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

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

33 (e) To the department of juvenile corrections.

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

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

40 2. It may award an incorrigible child:

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

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

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

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

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

7 B. If a juvenile is placed on probation pursuant to this section,
8 the period of probation may continue until the juvenile's ~~eighteenth~~
9 ~~birthday or until the juvenile's nineteenth~~ TWENTY-SECOND birthday ~~if~~
10 ~~jurisdiction is retained pursuant to section 8-202, subsection H~~, except
11 that the term of probation shall not exceed one year if all of the
12 following apply:

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

14 2. The juvenile has not been found in violation of a condition of
15 probation.

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

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

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

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

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

27 C. If a juvenile is adjudicated as a first time felony juvenile
28 offender, the court shall provide the following written notice to the
29 juvenile:

30 You have been adjudicated a first time felony juvenile
31 offender. You are now on notice that if you are adjudicated
32 of another offense that would be a felony offense if committed
33 by an adult and if you commit the other offense when you are
34 fourteen years of age or older, you will be placed on juvenile
35 intensive probation, which may include home arrest and
36 electronic monitoring, or you may be placed on juvenile
37 intensive probation and may be incarcerated for a period of
38 time in a juvenile detention center, or you may be committed
39 to the department of juvenile corrections or you may be
40 prosecuted as an adult. If you are convicted as an adult of a
41 felony offense and you commit any other offense, you will be
42 prosecuted as an adult.

43 D. If a juvenile is fourteen years of age or older and is
44 adjudicated as a repeat felony juvenile offender, the juvenile court shall
45 place the juvenile on juvenile intensive probation, which may include home

1 arrest and electronic monitoring, may place the juvenile on juvenile
2 intensive probation, which may include incarceration for a period of time
3 in a juvenile detention center, or may commit the juvenile to the
4 department of juvenile corrections pursuant to subsection A, paragraph 1,
5 subdivision (e) of this section for a significant period of time.

6 E. If the juvenile is adjudicated as a repeat felony juvenile
7 offender, the court shall provide the following written notice to the
8 juvenile:

9 You have been adjudicated a repeat felony juvenile
10 offender. You are now on notice that if you are arrested for
11 another offense that would be a felony offense if committed by
12 an adult and if you commit the other offense when you are
13 fifteen years of age or older, you will be tried as an adult
14 in the criminal division of the superior court. If you commit
15 the other offense when you are fourteen years of age or older,
16 you may be tried as an adult in the criminal division of the
17 superior court. If you are convicted as an adult, you will be
18 sentenced to a term of incarceration. If you are convicted as
19 an adult of a felony offense and you commit any other offense,
20 you will be prosecuted as an adult.

21 F. The failure or inability of the court to provide the notices
22 required under subsections C and E of this section does not preclude the
23 use of the prior adjudications for any purpose otherwise ~~permitted~~
24 ~~ALLOWED~~.

25 G. Except as provided in subsection S of this section, after
26 considering the nature of the offense and the age, physical and mental
27 condition and earning capacity of the juvenile, the court shall order the
28 juvenile to pay a reasonable monetary assessment if the court determines
29 that an assessment is in aid of rehabilitation. If the director of the
30 department of juvenile corrections determines that enforcement of an order
31 for monetary assessment as a term and condition of conditional liberty is
32 not cost-effective, the director may require the youth to perform an
33 equivalent amount of community restitution in lieu of the payment ordered
34 as a condition of conditional liberty.

35 H. If a child is adjudicated incorrigible, the court may impose a
36 monetary assessment on the child of not more than ~~one hundred fifty~~
37 ~~dollars~~ \$150.

38 I. A juvenile who is charged with unlawful purchase, possession or
39 consumption of spirituous liquor is subject to section 8-323. The
40 monetary assessment for a conviction of unlawful purchase, possession or
41 consumption of spirituous liquor by a juvenile shall not exceed ~~five~~
42 ~~hundred dollars~~ \$500. The court of competent jurisdiction may order a
43 monetary assessment or equivalent community restitution.

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

5 1. Monetary reimbursement by the juvenile in a lump sum or
6 installment payments through the clerk of the superior court for
7 appropriate distribution.

8 2. A program of work, not in conflict with regular schooling, to
9 repair damage to the victim's property, to provide community restitution
10 or to provide the juvenile with a job for wages. The court order for
11 restitution or monetary assessment shall specify, according to the
12 dispositional program, the amount of reimbursement and the portion of
13 wages of either existing or provided work that is to be credited toward
14 satisfaction of the restitution or assessment, or the nature of the work
15 to be performed and the number of hours to be spent working. The number
16 of hours to be spent working shall be set by the court based on the
17 severity of the offense but shall not be less than sixteen hours.

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

21 L. After considering the length of stay guidelines developed
22 pursuant to section 41-2816, subsection C, the court may set forth in the
23 order of commitment the minimum period during which the juvenile shall
24 remain in secure care while in the custody of the department of juvenile
25 corrections. When the court awards a juvenile to the department of
26 juvenile corrections or an institution or agency, it shall transmit with
27 the order of commitment copies of a diagnostic psychological evaluation
28 and educational assessment if one has been administered, copies of the
29 case report, all other psychological and medical reports, restitution
30 orders, any request for postadjudication notice that has been submitted by
31 a victim and any other documents or records pertaining to the case
32 requested by the department of juvenile corrections or an institution or
33 agency. The department shall not release a juvenile from secure care
34 before the juvenile completes the length of stay determined by the court
35 in the commitment order unless the county attorney in the county from
36 which the juvenile was committed requests the committing court to reduce
37 the length of stay. The department may temporarily escort the juvenile
38 from secure care pursuant to section 41-2804, may release the juvenile
39 from secure care without a further court order after the juvenile
40 completes the length of stay determined by the court or may retain the
41 juvenile in secure care for any period subsequent to the completion of the
42 length of stay in accordance with the law.

43 M. Written notice of the release of any juvenile pursuant to
44 subsection L of this section shall be made to any victim requesting

1 notice, the juvenile court that committed the juvenile and the county
2 attorney of the county from which the juvenile was committed.

3 N. Notwithstanding any law to the contrary, if a person is under
4 the supervision of the court as an adjudicated delinquent juvenile at the
5 time the person reaches ~~eighteen~~ TWENTY-TWO years of age, treatment
6 services may be provided until the person reaches ~~twenty-one~~ TWENTY-FOUR
7 years of age if the court, the person and the state agree to the provision
8 of the treatment and a motion to transfer the person pursuant to section
9 8-327 has not been filed or has been withdrawn. The court may terminate
10 the provision of treatment services after the person reaches ~~eighteen~~
11 TWENTY-TWO years of age if the court determines that any of the following
12 applies:

- 13 1. The person is not progressing toward treatment goals.
- 14 2. The person terminates treatment.
- 15 3. The person commits a new offense after reaching ~~eighteen~~
16 TWENTY-TWO years of age.
- 17 4. Continued treatment is not required or is not in the best
18 interests of the state or the person.

19 O. On the request of a victim of an act that may have involved
20 significant exposure as defined in section 13-1415 or that if committed by
21 an adult would be a sexual offense, the prosecuting attorney shall
22 petition the adjudicating court to require that the juvenile be tested for
23 the presence of the human immunodeficiency virus. If the victim is a
24 minor the prosecuting attorney shall file this petition at the request of
25 the victim's parent or guardian. If the act committed against a victim is
26 an act that if committed by an adult would be a sexual offense or the
27 court determines that sufficient evidence exists to indicate that
28 significant exposure occurred, it shall order the department of juvenile
29 corrections or the department of health services to test the juvenile
30 pursuant to section 13-1415. Notwithstanding any law to the contrary, the
31 department of juvenile corrections and the department of health services
32 shall release the test results only to the victim, the delinquent
33 juvenile, the delinquent juvenile's parent or guardian and a minor
34 victim's parent or guardian and shall counsel them regarding the meaning
35 and health implications of the results.

36 P. If a juvenile has been adjudicated delinquent for an offense
37 that if committed by an adult would be an offense listed in section
38 41-1750, subsection C, the court shall provide the department of public
39 safety Arizona automated fingerprint identification system established in
40 section 41-2411 with the juvenile's ten-print fingerprints, personal
41 identification data and other pertinent information. If a juvenile has
42 been committed to the department of juvenile corrections the department
43 shall provide the fingerprints and information required by this subsection
44 to the Arizona automated fingerprint identification system. If the
45 juvenile's fingerprints and information have been previously submitted to

1 the Arizona automated fingerprint identification system the information is
2 not required to be resubmitted.

3 Q. Access to fingerprint records submitted pursuant to subsection P
4 of this section shall be limited to the administration of criminal justice
5 as defined in section 41-1750. Dissemination of fingerprint information
6 shall be limited to the name of the juvenile, juvenile case number, date
7 of adjudication and court of adjudication.

8 R. If a juvenile is adjudicated delinquent for an offense that if
9 committed by an adult would be a misdemeanor, the court may prohibit the
10 juvenile from carrying or possessing a firearm while the juvenile is under
11 the jurisdiction of the department of juvenile corrections or the juvenile
12 court.

13 S. If a juvenile is adjudicated delinquent for a violation of
14 section 13-1602, subsection A, paragraph 5, the court shall order the
15 juvenile to pay a fine of at least ~~three hundred dollars~~ \$300 but not more
16 than ~~one thousand dollars~~ \$1,000. Any restitution ordered shall be paid
17 in accordance with section 13-809, subsection A. The court may order the
18 juvenile to perform community restitution in lieu of the payment for all
19 or part of the fine if it is in the best interests of the juvenile. The
20 amount of community restitution shall be equivalent to the amount of the
21 fine by crediting any service performed at a rate of ~~ten dollars~~ \$10 per
22 hour. If the juvenile is convicted of a second or subsequent violation of
23 section 13-1602, subsection A, paragraph 5 and is ordered to perform
24 community restitution, the court may order the parent or guardian of the
25 juvenile to assist the juvenile in the performance of the community
26 restitution if both of the following apply:

27 1. The parent or guardian had knowledge that the juvenile intended
28 to engage in or was engaging in the conduct that gave rise to the
29 violation.

30 2. The parent or guardian knowingly provided the juvenile with the
31 means to engage in the conduct that gave rise to the violation.

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

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

1 disposition hearing pursuant to this section or select additional
2 conditions of probation as it deems necessary, including detention, global
3 position system monitoring, additional alcohol or drug treatment,
4 community restitution, additional drug or alcohol testing or a monetary
5 assessment.

6 ~~V. If jurisdiction of the juvenile court is retained pursuant to
7 section 8-202, subsection H, the court shall order continued probation
8 supervision and treatment services until a child who has been adjudicated
9 a delinquent juvenile reaches nineteen years of age or until otherwise
10 terminated by the court. The court may terminate continued probation
11 supervision or treatment services before the child's nineteenth birthday
12 if the court determines that continued probation supervision or treatment
13 is not required or is not in the best interests of the juvenile or the
14 state or the juvenile commits a criminal offense after reaching eighteen
15 years of age.~~

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

17 1. "First time felony juvenile offender" means a juvenile who is
18 adjudicated delinquent for an offense that would be a felony offense if
19 committed by an adult.

20 2. "Repeat felony juvenile offender" means a juvenile to whom both
21 of the following apply:

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

24 (b) Previously has been adjudicated a first time felony juvenile
25 offender.

26 3. "Sexual offense" means oral sexual contact, sexual contact or
27 sexual intercourse as defined in section 13-1401.

28 Sec. 14. Section 8-341.01, Arizona Revised Statutes, is amended to
29 read:

30 8-341.01. Residential treatment services

31 A. If at a disposition hearing or a subsequent hearing the court
32 orders a delinquent juvenile or incorrigible child to receive residential
33 treatment services, other than psychiatric acute care services as defined
34 in section 8-271, the placement must be supported by a written
35 psychological, psychiatric or medical evaluation recommending residential
36 treatment services. The court may waive the written evaluation for good
37 cause shown.

38 B. If the court orders a child to receive residential treatment
39 services, the court shall find by clear and convincing evidence that both:

40 1. The child requires residential treatment services to address the
41 child's behavioral, psychological, social or mental health needs.

42 2. Available alternatives to residential treatment services were
43 considered, but that residential treatment services are the least
44 restrictive alternative.

1 C. The court shall review the child's continuing need for
2 residential treatment services at least every sixty days after the date of
3 the treatment order. The residential treatment facility shall submit a
4 progress report to the court at least five days before the review and
5 shall provide copies of its report to all parties, including the child's
6 attorney and guardian ad litem. The progress report shall include the
7 recommendations of the child's treatment facility and shall include at
8 least the following:

9 1. The nature of the treatment provided, including any medications
10 and the child's current diagnosis.

11 2. The child's need for continued residential treatment services,
12 including the estimated length of the services.

13 3. A projected discharge date.

14 4. The level of care required by the child and the potential
15 placement options that are available to the child on discharge.

16 5. A statement from the medical or clinical director of the
17 residential treatment services facility or the director's designee as to
18 whether residential treatment services are necessary to meet the child's
19 needs and whether the facility that is providing the residential treatment
20 services to the child is the least restrictive available alternative.

21 D. On its own motion or the motion of a party, the court may hold
22 an expedited hearing to review the continued placement of the child in
23 residential treatment.

24 E. If the child is also found to be dependent or is temporarily
25 subject to court jurisdiction pending an adjudication of a dependency
26 petition, the probation department shall notify the department of child
27 safety that placement of the child for residential treatment services is
28 being recommended. The department shall receive copies of any reports
29 relating to the child's placement for residential treatment services. The
30 department may attend and participate in all hearings and any other
31 proceedings relating to the placement or continued placement for
32 residential treatment services.

33 ~~F. For the purposes of this section, "child" or "juvenile" includes~~
34 ~~a person who is under eighteen years of age or, if the juvenile court has~~
35 ~~retained jurisdiction over the person pursuant to section 8-202,~~
36 ~~subsection H, under nineteen years of age.~~

37 Sec. 15. Section 8-342, Arizona Revised Statutes, is amended to
38 read:

39 8-342. Commitment of child; medical examination

40 A. A child who is any of the following shall not be committed or
41 awarded to the department of juvenile corrections:

42 1. Adjudicated delinquent for an offense that is not a felony
43 unless the child has been previously adjudicated delinquent for an offense
44 that is a felony or is seriously mentally ill.

45 2. Under fourteen years of age.

1 3. A dependent or incorrigible child unless the child is
2 adjudicated delinquent and is not excluded under paragraph 1 or 2 of this
3 subsection.

4 B. Before commitment to the department of juvenile corrections,
5 every child shall be given a medical examination. If it is determined
6 that any contagious or infectious disease is present, the child shall not
7 be committed to the department of juvenile corrections, but the juvenile
8 court shall order that the child be given the necessary medical treatment
9 at the county hospital or other medical facility. When the child is
10 discharged by competent medical authority, the juvenile court may order
11 the child's commitment to the department of juvenile corrections. In any
12 case copies of records, examinations and evaluations shall be made of the
13 findings of the medical examination and of any subsequent treatment and
14 discharge, which copies shall accompany the child's commitment papers.

15 C. If the child is a dependent child and is committed or awarded to
16 the department of juvenile corrections, the foster care review board shall
17 review the child's case as required by section 8-515.03.

18 ~~D. For the purposes of this section, "child" includes a person who~~
19 ~~is under eighteen years of age or, if the juvenile court has retained~~
20 ~~jurisdiction over the person pursuant to section 8-202, subsection H,~~
21 ~~under nineteen years of age.~~

22 Sec. 16. Section 8-344, Arizona Revised Statutes, is amended to
23 read:

24 8-344. Restitution payments

25 A. If a juvenile is adjudicated delinquent, the court, after
26 considering the nature of the offense and the age, physical and mental
27 condition and earning capacity of the juvenile, shall order the juvenile
28 to make full or partial restitution to the victim of the offense for which
29 the juvenile was adjudicated delinquent or to the estate of the victim if
30 the victim has died. The juvenile shall make restitution payments to the
31 clerk of the court for disbursement to the victim or estate of the victim.

32 B. The court shall notify the victim or estate of the victim of the
33 dispositional hearing. The court may consider a verified statement from
34 the victim or estate of the victim concerning damages for lost wages,
35 reasonable damages for injury to or loss of property and actual expenses
36 of medical treatment for personal injury, excluding pain and suffering.

37 C. In ordering restitution pursuant to subsection A of this
38 section, the court may order one or both of the juvenile's custodial
39 parents to make restitution to the victim of the offense for which the
40 juvenile was adjudicated delinquent or to the estate of the victim if the
41 victim has died. The court shall determine the amount of restitution
42 ordered pursuant to this subsection, except that the amount shall not
43 exceed the liability limit established pursuant to section 12-661. The
44 court may order a parent or juvenile who is ordered to pay restitution to
45 satisfy the order in a lump sum or installment payments to the clerk of

1 the court for disbursement to the victim or estate of the victim. If the
2 court orders the juvenile's parents to make restitution pursuant to this
3 subsection, the court shall order the juvenile to make either full or
4 partial restitution, regardless of the juvenile's insufficient earning
5 capacity. The court shall not consider the ability of the juvenile's
6 parents to pay restitution before making a restitution order.

7 D. The juvenile court shall retain jurisdiction of the case after
8 the juvenile attains ~~eighteen~~ TWENTY-TWO years of age for the purpose of
9 modifying the manner in which court ordered payments are to be made.
10 After a juvenile attains ~~eighteen~~ TWENTY-TWO years of age ~~or if the court~~
11 ~~retains jurisdiction over the juvenile pursuant to section 8-202,~~
12 ~~subsection H on termination of the juvenile's probation,~~ the juvenile
13 court shall enter the following:

14 1. A juvenile restitution order in favor of the state for the
15 unpaid balance, if any, of any costs, fees, surcharges or monetary
16 assessments imposed.

17 2. A juvenile restitution order in favor of each person entitled to
18 restitution for the unpaid balance of any restitution ordered pursuant to
19 this section.

20 E. The clerk of the court shall send a copy of the juvenile
21 restitution order to each person who is entitled to restitution.

22 F. A juvenile restitution order may be recorded and enforced as any
23 civil judgment, except that a juvenile restitution order does not require
24 renewal pursuant to section 12-1611 or 12-1612. A juvenile restitution
25 order does not expire until paid in full. Enforcement of a juvenile
26 restitution order by any person who is entitled to restitution or by the
27 state includes the collection of interest, which accrues at a rate of ten
28 percent per annum.

29 G. A juvenile restitution order is a criminal penalty for the
30 purposes of a federal bankruptcy involving the juvenile.

31 Sec. 17. Section 8-348, Arizona Revised Statutes, is amended to
32 read:

33 8-348. Setting aside adjudication; application; release from
34 disabilities; exceptions

35 A. Except as provided in subsection I of this section, a person who
36 is at least ~~eighteen~~ TWENTY-TWO years of age, who has been adjudicated
37 delinquent or incorrigible and who has fulfilled the conditions of
38 probation and discharge ordered by the court or who is discharged from the
39 department of juvenile corrections pursuant to section 41-2820 on
40 successful completion of the individual treatment plan may apply to the
41 juvenile court to set aside the adjudication. The court shall inform the
42 person of this right in writing at the time of the disposition of the
43 case.

1 B. The person or the person's attorney, probation officer or parole
2 officer may apply to set aside the adjudication. The clerk of the court
3 may not charge a filing fee for an application to set aside an
4 adjudication. The clerk shall transmit a copy of the application to the
5 county attorney in the county where the referral was made.

6 C. The court may consider the following factors when determining
7 whether to set aside an adjudication:

8 1. The nature and circumstances of the offense on which the
9 adjudication is based.

10 2. Whether the person has been convicted of a felony offense.

11 3. Whether the person has any pending criminal charges.

12 4. The victim's input.

13 5. Any other factor that is relevant to the application.

14 D. Except as provided in subsection F of this section, if the court
15 grants the application, the court shall set aside the adjudication,
16 dismiss the petition and order that the person be released from all
17 penalties and disabilities resulting from the adjudication except those
18 imposed by the department of transportation pursuant to section 28-3304,
19 28-3306, 28-3307, 28-3308 or 28-3319.

20 E. On a showing of good cause, the court may modify any monetary
21 obligation that is owed by the person except for victim restitution.

22 F. If the court grants an application, any remaining unpaid
23 monetary obligation continues to be owed and is subject to the remedies
24 included in sections 8-344 and 8-345 until the monetary obligation is
25 paid.

26 G. If the court denies an application, the court shall state its
27 reasons for the denial in writing.

28 H. If a victim has made a request for postadjudication notice, the
29 victim has the right to be present and heard at any hearing on the
30 application. The state shall provide the victim with notice of the
31 application and of the rights provided to the victim in this section.

32 I. This section does not apply to a person who was adjudicated
33 delinquent for any of the following:

34 1. A dangerous offense as defined in section 13-105.

35 2. An offense for which there has been a finding of sexual
36 motivation pursuant to section 13-118.

37 3. An offense in violation of title 13, chapter 14.

38 4. An offense in violation of section 28-1381, 28-1382 or 28-1383
39 if the offense can be alleged as a prior violation pursuant to title 28,
40 chapter 4.

41 5. An offense for which the person has not paid in full the victim
42 restitution ordered by the court.

1 Sec. 18. Section 8-349, Arizona Revised Statutes, is amended to
2 read:

3 8-349. Destruction of juvenile records; electronic research
4 records; definition

5 A. A person who is at least ~~eighteen~~ TWENTY-TWO years of age and
6 who has been adjudicated delinquent or incorrigible may apply for
7 destruction of the person's juvenile court and department of juvenile
8 corrections records if the records involve an adjudication for an offense
9 other than an offense listed in section 13-501, subsection A or B or title
10 28, chapter 4.

11 B. The person shall attest to all of the following in the
12 application:

13 1. The person is at least ~~eighteen~~ TWENTY-TWO years of age.

14 2. The person has not been convicted of a felony offense or
15 adjudicated delinquent for an offense that would be an offense listed in
16 section 13-501, subsection A or B or title 28, chapter 4.

17 3. A criminal charge is not pending.

18 4. The person has completed all of the terms and conditions of
19 court-ordered probation or been discharged from the department of juvenile
20 corrections pursuant to section 41-2820 on successful completion of the
21 individual treatment plan.

22 5. All restitution is paid in full.

23 6. The person is not under the jurisdiction of the juvenile court
24 or the department of juvenile corrections.

25 7. The person is not currently required to register pursuant to
26 section 13-3821.

27 8. The person has either paid all monetary obligations in full or
28 has requested the court to modify the outstanding monetary obligations
29 pursuant to subsection K of this section.

30 C. The juvenile court may order the destruction of records under
31 subsection A of this section if the court finds all of the following:

32 1. The person is at least ~~eighteen~~ TWENTY-TWO years of age.

33 2. The person has not been convicted of a felony offense.

34 3. A criminal charge is not pending.

35 4. The person was not adjudicated for an offense listed in section
36 13-501, subsection A or B or title 28, chapter 4.

37 5. The person successfully completed the terms and conditions of
38 probation or was discharged from the department of juvenile corrections
39 pursuant to section 41-2820 on successful completion of the individual
40 treatment plan.

41 6. All restitution is paid in full.

42 7. All monetary obligations are either paid in full or have been
43 modified pursuant to subsection K of this section.

1 8. The person is not under the jurisdiction of the juvenile court
2 or the department of juvenile corrections.

3 9. The person is not currently required to register pursuant to
4 section 13-3821.

5 D. A person who is not eligible to have the person's records
6 destroyed pursuant to subsection A of this section may apply to have the
7 person's juvenile court and department of juvenile corrections records
8 destroyed pursuant to subsection E of this section. The person shall
9 attest to all of the following in an application:

10 1. The person is at least twenty-five years of age.

11 2. The person has not been convicted of a felony offense.

12 3. A criminal charge is not pending.

13 4. All restitution is paid in full.

14 5. The person has either paid all monetary obligations in full or
15 has requested the court to modify the outstanding monetary obligations
16 pursuant to subsection K of this section.

17 6. The person is not currently required to register pursuant to
18 section 13-3821.

19 E. The juvenile court may order the destruction of records if the
20 court finds that all of the following apply to a person who files an
21 application pursuant to subsection D of this section:

22 1. The person is at least twenty-five years of age.

23 2. The person has not been convicted of a felony offense.

24 3. A criminal charge is not pending.

25 4. All restitution is paid in full.

26 5. All monetary obligations are either paid in full or have been
27 modified pursuant to subsection K of this section.

28 6. The person is not currently required to register pursuant to
29 section 13-3821.

30 7. The destruction of the records would further the rehabilitative
31 process of the applicant.

32 F. The juvenile court and the department of juvenile corrections
33 may store any records for research purposes.

34 G. At the juvenile's disposition hearing, the court shall inform
35 the juvenile, in writing, of the right to the destruction of the
36 juvenile's court and department of juvenile corrections records.

37 H. The clerk of the court may not charge a filing fee for the
38 application to destroy juvenile records.

39 I. The clerk of the court shall transmit a copy of an application
40 submitted pursuant to this section to the county attorney in the county in
41 which the referral was made.

42 J. The county attorney may file an objection to an application that
43 is submitted pursuant to this section for the destruction of records.

1 K. On a showing of good cause, the court may modify any monetary
2 obligation except for victim restitution.

3 L. The juvenile court, the clerk of the superior court and the
4 juvenile probation department, on notification by the probation
5 department, shall destroy the records that concern a referral or citation
6 that did not result in further action or that resulted in a successful
7 completion of diversion within ninety days after the person who was the
8 subject of the referral or citation reaches ~~eighteen~~ TWENTY-TWO years of
9 age. The probation department shall send a copy of the notice to the
10 department of public safety central state repository.

11 M. Within six months after receiving a notification from the
12 superior court that a person's juvenile delinquency or incorrigibility
13 records were destroyed, the department of child safety shall destroy all
14 court, juvenile probation and department of juvenile corrections records
15 that are in the department of child safety's possession and that were
16 produced in the delinquency or incorrigibility matter.

17 N. For the purposes of this section, "successfully" means, in the
18 discretion of the court, the person satisfied the conditions of probation.

19 Sec. 19. Section 8-371, Arizona Revised Statutes, is amended to
20 read:

21 8-371. Educational rehabilitation

22 A. Juveniles who are subject to the supervision of a probation
23 officer pursuant to an order of the juvenile court, or who are otherwise
24 eligible for absolute discharge or conditional liberty from the department
25 of juvenile corrections in accordance with section 41-2816, shall, as a
26 condition of probation or liberty, be required to do one of the following:

27 1. Attend school in order to obtain vocational training or to
28 achieve an appropriate educational level as prescribed in consultation
29 with the school the juvenile attends by the juvenile's probation officer
30 or by the department of juvenile corrections. If the juvenile fails to
31 attend school regularly, maintain appropriate school behavior, or make
32 satisfactory progress as determined in consultation with the school by the
33 probation officer or department of juvenile corrections as specified in
34 subsection C of this section and the juvenile does not meet the
35 requirements of paragraph 2 of this subsection:

36 (a) If the juvenile court retains jurisdiction, the juvenile court
37 shall take appropriate action to enforce, modify or revoke its order
38 granting probation.

39 (b) If the department of juvenile corrections retains jurisdiction,
40 the department shall act to enforce, modify or revoke its order granting
41 conditional liberty.

42 2. Attend an on-the-job training program or secure and maintain
43 employment. If the juvenile fails to attend the program or maintain
44 employment and does not meet the requirements of paragraph 1 of this
45 subsection:

1 (a) If the juvenile court retains jurisdiction, the juvenile court
2 shall take appropriate action to enforce, modify or revoke its order
3 granting probation.

4 (b) If the department of juvenile corrections retains jurisdiction,
5 the department shall act to enforce, modify or revoke its order granting
6 conditional liberty.

7 B. Subsection A of this section does not apply to juveniles who
8 pass the general educational development test or earn a high school
9 diploma. Subsection A, paragraph 2 of this section does not apply to a
10 juvenile required to attend school under section 15-802.

11 C. If the juvenile chooses to meet the requirements of subsection A
12 of this section by attending a public school:

13 1. If the juvenile had previously been expelled from school, prior
14 to readmission of that juvenile to the school, school officials shall meet
15 with the appropriate juvenile court probation officer or department of
16 juvenile corrections case manager and assist in developing conditions of
17 probation or conditional liberty that will provide specific guidelines for
18 behavior and consequences for misbehavior at school as well as educational
19 objectives that must be achieved. If the juvenile is under the
20 jurisdiction of the juvenile court, the court shall review the conditions
21 of probation for the juvenile and may continue the expulsion or return the
22 child to school under the agreed conditions. If the juvenile is under the
23 jurisdiction of the department of juvenile corrections, the department
24 shall review the terms of conditional liberty for the juvenile and may
25 continue the expulsion or return the child to school under the agreed
26 conditions. The governing board may expel the juvenile for subsequent
27 actions as provided in title 15, chapter 8, article 3.

28 2. The juvenile shall on release be screened by the school to which
29 the juvenile is admitted for possible disabilities as provided in section
30 15-761, paragraph 2 and, if the screening so indicates, be referred for
31 evaluation for possible placement in a special education program.

32 D. The school district of residence and the juvenile court or the
33 department of juvenile corrections may establish education, counseling or
34 other programs in order to improve the behavior and educational
35 performance of juveniles covered by this section.

36 ~~E. For the purposes of this section, "child" or "juvenile" includes~~
37 ~~a person who is under eighteen years of age or, if the juvenile court has~~
38 ~~retained jurisdiction over the person pursuant to section 8-202,~~
39 ~~subsection H, under nineteen years of age.~~

40 Sec. 20. Section 13-501, Arizona Revised Statutes, is amended to
41 read:

42 13-501. Persons under twenty-two years of age; felony
43 charging; definitions

44 A. The county attorney shall bring a criminal prosecution against a
45 juvenile in the same manner as an adult if the juvenile is fifteen,

1 sixteen or seventeen years of age at the time the alleged offense is
2 committed and the juvenile is accused of any of the following offenses:

- 3 1. First degree murder in violation of section 13-1105.
- 4 2. Second degree murder in violation of section 13-1104.
- 5 3. Forcible sexual assault in violation of section 13-1406.
- 6 4. Armed robbery in violation of section 13-1904.
- 7 5. Any other violent felony offense.
- 8 6. Any felony offense committed by a chronic felony offender.
- 9 7. Any offense that is properly joined to an offense listed in this

10 subsection.

11 B. Except as provided in subsection A of this section, the county
12 attorney may bring a criminal prosecution against a juvenile in the same
13 manner as an adult if the juvenile is at least fourteen years of age at
14 the time the alleged offense is committed and the juvenile is accused of
15 any of the following offenses:

- 16 1. A class 1 felony.
- 17 2. A class 2 felony.
- 18 3. A class 3 felony in violation of any offense in chapters 10
19 through 17 or chapter 19 or 23 of this title.
- 20 4. A class 3, 4, 5 or 6 felony involving a dangerous offense.
- 21 5. Any felony offense committed by a chronic felony offender.
- 22 6. Any offense that is properly joined to an offense listed in this

23 subsection.

24 C. A criminal prosecution shall be brought against a juvenile in
25 the same manner as an adult if the juvenile has been accused of a criminal
26 offense and has a historical prior felony conviction.

27 D. At the time the county attorney files a complaint or indictment
28 the county attorney shall file a notice stating that the juvenile is a
29 chronic felony offender. Subject to subsection E of this section, the
30 notice shall establish and confer jurisdiction over the juvenile as a
31 chronic felony offender.

32 E. On motion of the juvenile the court shall hold a hearing after
33 arraignment and before trial to determine if a juvenile is a chronic
34 felony offender. At the hearing the state shall prove by a preponderance
35 of the evidence that the juvenile is a chronic felony offender. If the
36 court does not find that the juvenile is a chronic felony offender, the
37 court shall transfer the juvenile to the juvenile court pursuant to
38 section 8-302. If the court finds that the juvenile is a chronic felony
39 offender or if the juvenile does not file a motion to determine if the
40 juvenile is a chronic felony offender, the criminal prosecution shall
41 continue.

42 F. Except as provided in section 13-921, a person who is charged
43 pursuant to this section shall be sentenced in the criminal court in the
44 same manner as an adult for any offense for which the person is convicted.

1 G. Unless otherwise provided by law, nothing in this section shall
2 be construed as to confer jurisdiction in the juvenile court over any
3 person who is ~~eighteen~~ TWENTY-TWO years of age or older.

4 H. For the purposes of this section:

5 1. "Accused" means a juvenile against whom a complaint, information
6 or indictment is filed.

7 2. "Chronic felony offender" means a juvenile who has had two prior
8 and separate adjudications and dispositions for conduct that would
9 constitute a historical prior felony conviction if the juvenile had been
10 tried as an adult.

11 3. "Forcible sexual assault" means sexual assault pursuant to
12 section 13-1406 that is committed without consent as defined in section
13 13-1401, SUBSECTION A, paragraph 7, subdivision (a).

14 4. "Other violent felony offense" means:

15 (a) Aggravated assault pursuant to section 13-1204, subsection A,
16 paragraph 1.

17 (b) Aggravated assault pursuant to section 13-1204, subsection A,
18 paragraph 2 involving the use of a deadly weapon.

19 (c) Drive by shooting pursuant to section 13-1209.

20 (d) Discharging a firearm at a structure pursuant to section
21 13-1211.

22 Sec. 21. Section 13-921, Arizona Revised Statutes, is amended to
23 read:

24 13-921. Probation for defendants under twenty-two years of
25 age; dual adult juvenile probation

26 A. The court may enter a judgment of guilt and place the defendant
27 on probation pursuant to this section if all of the following apply:

28 1. The defendant is under ~~eighteen~~ TWENTY-TWO years of age at the
29 time the offense is committed.

30 2. The defendant is convicted of a felony offense.

31 3. The defendant is not sentenced to a term of imprisonment.

32 4. The defendant does not have a historical prior felony
33 conviction.

34 B. If the court places a defendant on probation pursuant to this
35 section, all of the following apply:

36 1. Except as provided in paragraphs 2, 3 and 4 of this subsection,
37 if the defendant successfully completes the terms and conditions of
38 probation, the court may set aside the judgment of guilt, dismiss the
39 information or indictment, expunge the defendant's record and order the
40 person to be released from all penalties and disabilities resulting from
41 the conviction. The clerk of the court in which the conviction occurred
42 shall notify each agency to which the original conviction was reported
43 that all penalties and disabilities have been discharged and that the
44 defendant's record has been expunged.

1 2. The conviction may be used as a conviction if it would be
2 admissible pursuant to section 13-703 or 13-704 as if it had not been set
3 aside and the conviction may be pleaded and proved as a prior conviction
4 in any subsequent prosecution of the defendant.

5 3. The conviction is deemed to be a conviction for the purposes of
6 sections 28-3304, 28-3305, 28-3306 and 28-3320.

7 4. The defendant shall comply with sections 13-3821 and 13-3822.

8 C. A defendant who is placed on probation pursuant to this section
9 is deemed to be on adult probation.

10 D. If a defendant is placed on probation pursuant to this section,
11 the court as a condition of probation may order the defendant to
12 participate in services that are available to the juvenile court.

13 E. The court may order that a defendant who is placed on probation
14 pursuant to this section be incarcerated in a county jail at whatever time
15 or intervals, consecutive or nonconsecutive, that the court
16 determines. The incarceration shall not extend beyond the period of court
17 ordered probation, and the length of time the defendant actually spends in
18 a county jail shall not exceed one year.

19 F. In addition to the provisions of this section, the court may
20 apply any of the provisions of section 13-901.

21 Sec. 22. Section 41-1750, Arizona Revised Statutes, is amended to
22 read:

23 41-1750. Central state repository; department of public
24 safety; duties; funds; accounts; definitions

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

29 1. Procure from all criminal justice agencies in this state
30 accurate and complete personal identification data, fingerprints, charges,
31 process control numbers and dispositions and such other information as may
32 be pertinent to all persons who have been charged with, arrested for,
33 convicted of or summoned to court as a criminal defendant for a felony
34 offense or an offense involving domestic violence as defined in section
35 13-3601 or a violation of title 13, chapter 14 or title 28, chapter 4.

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

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

- 1 4. Cooperate with the central state repositories in other states
2 and with the appropriate agency of the federal government in the exchange
3 of information pertinent to violators of the law.
- 4 5. Ensure the rapid exchange of information concerning the
5 commission of crime and the detection of violators of the law among the
6 criminal justice agencies of other states and of the federal government.
- 7 6. Furnish assistance to peace officers throughout this state in
8 crime scene investigation for the detection of latent fingerprints and in
9 the comparison of latent fingerprints.
- 10 7. Conduct periodic operational audits of the central state
11 repository and of a representative sample of other agencies that
12 contribute records to or receive criminal justice information from the
13 central state repository or through the Arizona criminal justice
14 information system.
- 15 8. Establish and enforce the necessary physical and system
16 safeguards to ensure that the criminal justice information maintained and
17 disseminated by the central state repository or through the Arizona
18 criminal justice information system is appropriately protected from
19 unauthorized inquiry, modification, destruction or dissemination as
20 required by this section.
- 21 9. Aid and encourage coordination and cooperation among criminal
22 justice agencies through the statewide and interstate exchange of criminal
23 justice information.
- 24 10. Provide training and proficiency testing on the use of criminal
25 justice information to agencies receiving information from the central
26 state repository or through the Arizona criminal justice information
27 system.
- 28 11. Operate and maintain the Arizona automated fingerprint
29 identification system established by section 41-2411.
- 30 12. Provide criminal history record information to the
31 fingerprinting division for the purpose of screening applicants for
32 fingerprint clearance cards.
- 33 B. The director may establish guidelines for the submission and
34 retention of criminal justice information as deemed useful for the study
35 or prevention of crime and for the administration of criminal justice.
- 36 C. The chief officers of criminal justice agencies of this state or
37 its political subdivisions shall provide to the central state repository
38 fingerprints and information concerning personal identification data,
39 descriptions, crimes for which persons are arrested, process control
40 numbers and dispositions and such other information as may be pertinent to
41 all persons who have been charged with, arrested for, convicted of or
42 summoned to court as criminal defendants for felony offenses or offenses
43 involving domestic violence as defined in section 13-3601 or violations of
44 title 13, chapter 14 or title 28, chapter 4 that have occurred in this
45 state.

1 D. The chief officers of law enforcement agencies of this state or
2 its political subdivisions shall provide to the department such
3 information as necessary to operate the statewide uniform crime reporting
4 program and to cooperate with the federal government uniform crime
5 reporting program.

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

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

15 G. The director shall authorize the exchange of criminal justice
16 information between the central state repository, or through the Arizona
17 criminal justice information system, whether directly or through any
18 intermediary, only as follows:

19 1. With criminal justice agencies of the federal government, Indian
20 tribes, this state or its political subdivisions and other states, on
21 request by the chief officers of such agencies or their designated
22 representatives, specifically for the purposes of the administration of
23 criminal justice and for evaluating the fitness of current and prospective
24 criminal justice employees.

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

37 3. With the board of fingerprinting for the purpose of conducting
38 good cause exceptions pursuant to section 41-619.55 and central registry
39 exceptions pursuant to section 41-619.57.

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

42 5. With the governor, if the governor elects to become actively
43 involved in the investigation of criminal activity or the administration
44 of criminal justice in accordance with the governor's constitutional duty

1 to ensure that the laws are faithfully executed or as needed to carry out
2 the other responsibilities of the governor's office.

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

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

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

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

34 10. With the auditor general for audit purposes.

35 11. With central state repositories of other states for noncriminal
36 justice purposes for dissemination in accordance with the laws of those
37 states.

38 12. On submission of the fingerprint card, with the department of
39 child safety and a tribal social services agency to provide criminal
40 history record information on prospective adoptive parents for the purpose
41 of conducting the preadoption certification investigation under title 8,
42 chapter 1, article 1 if the department of economic security is conducting
43 the investigation, or with an agency or a person appointed by the court,
44 if the agency or person is conducting the investigation. Information

1 received under this paragraph shall only be used for the purposes of the
2 preadoption certification investigation.

3 13. With the department of child safety, a tribal social services
4 agency and the superior court for the purpose of evaluating the fitness of
5 custodians or prospective custodians of juveniles, including parents,
6 relatives and prospective guardians. Information received under this
7 paragraph shall only be used for the purposes of that evaluation. The
8 information shall be provided on submission of either:

9 (a) The fingerprint card.

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

12 14. On submission of a fingerprint card, provide criminal history
13 record information to the superior court for the purpose of evaluating the
14 fitness of investigators appointed under section 14-5303 or 14-5407,
15 guardians appointed under section 14-5206 or 14-5304 or conservators
16 appointed under section 14-5401.

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

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

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

25 18. With the internet sex offender website database established
26 pursuant to section 13-3827.

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

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

42 (a) The fingerprint card.

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

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

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

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

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

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

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

36 25. With the governor to provide criminal history record
37 information on prospective gubernatorial nominees, appointees and
38 employees as provided by law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 4. Announcements of executive clemency or pardon.

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

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

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

26 1. The booking agency shall take legible ten-print fingerprints of
27 all persons who are arrested for offenses listed in subsection C of this
28 section. The booking agency shall obtain a process control number and
29 provide to the person fingerprinted a document that indicates proof of the
30 fingerprinting and that informs the person that the document must be
31 presented to the court.

32 2. Except as provided in paragraph 3 of this subsection, if a
33 person is summoned to court as a result of an indictment or complaint for
34 an offense listed in subsection C of this section, the court shall order
35 the person to appear before the county sheriff and provide legible
36 ten-print fingerprints. The county sheriff shall obtain a process control
37 number and provide a document to the person fingerprinted that indicates
38 proof of the fingerprinting and that informs the person that the document
39 must be presented to the court. For the purposes of this paragraph,
40 "summoned" includes a written promise to appear by the defendant on a
41 uniform traffic ticket and complaint.

42 3. If a person is arrested for a misdemeanor offense listed in
43 subsection C of this section by a city or town law enforcement agency, the
44 person shall appear before the law enforcement agency that arrested the
45 defendant and provide legible ten-print fingerprints. The law enforcement

1 agency shall obtain a process control number and provide a document to the
2 person fingerprinted that indicates proof of the fingerprinting and that
3 informs the person that the document must be presented to the court.

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

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

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

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

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

12 (e) Instructions on reporting for ten-print fingerprinting,
13 including available times and locations for reporting for ten-print
14 fingerprinting.

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

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

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

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

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

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

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

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

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

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

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

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

39 Y. For the purposes of this section:

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

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

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

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

15 4. "Booking agency" means the county sheriff or, if a person is
16 booked into a municipal jail, the municipal law enforcement agency.

17 5. "Central state repository" means the central location within the
18 department for the collection, storage and dissemination of Arizona
19 criminal history records and related criminal justice information.

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

31 7. "Criminal justice agency" means either:

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

35 (b) A government agency or subunit of a government agency that is
36 specifically authorized to perform as its principal function the
37 administration of criminal justice pursuant to a statute, ordinance or
38 executive order and that allocates more than fifty percent of its annual
39 budget to the administration of criminal justice. This subdivision
40 includes agencies of any foreign sovereignty duly recognized by the
41 federal government.

42 8. "Criminal justice information" means information that is
43 collected by criminal justice agencies and that is needed for the
44 performance of their legally authorized and required functions, such as
45 criminal history record information, citation information, stolen property

1 information, traffic accident reports, wanted persons information and
2 system network log searches. Criminal justice information does not
3 include the administrative records of a criminal justice agency.

4 9. "Disposition" means information disclosing that a decision has
5 been made not to bring criminal charges or that criminal proceedings have
6 been concluded or information relating to sentencing, correctional
7 supervision, release from correctional supervision, the outcome of an
8 appellate review of criminal proceedings or executive clemency.

9 10. "Dissemination" means the written, oral or electronic
10 communication or transfer of criminal justice information to individuals
11 and agencies other than the criminal justice agency that maintains the
12 information. Dissemination includes the act of confirming the existence
13 or nonexistence of criminal justice information.

14 11. "Management control":

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

16 (i) Priorities regarding development and operation of criminal
17 justice information systems and programs.

18 (ii) Standards for the selection, supervision and termination of
19 personnel involved in the development of criminal justice information
20 systems and programs and in the collection, maintenance, analysis and
21 dissemination of criminal justice information.

22 (iii) Policies governing the operation of computers, circuits and
23 telecommunications terminals used to process criminal justice information
24 to the extent that the equipment is used to process, store or transmit
25 criminal justice information.

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

29 12. "Process control number" means the Arizona automated
30 fingerprint identification system number that attaches to each arrest
31 event at the time of fingerprinting and that is assigned to the arrest
32 fingerprint card, disposition form and other pertinent documents.

33 13. "Secondary dissemination" means the dissemination of criminal
34 justice information from an individual or agency that originally obtained
35 the information from the central state repository or through the Arizona
36 criminal justice information system to another individual or agency.

37 14. "Sexual orientation" means consensual homosexuality or
38 heterosexuality.

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

41 Sec. 23. Section 41-2801, Arizona Revised Statutes, is amended to
42 read:

43 41-2801. Definitions

44 In this chapter, unless the context otherwise requires:

1 1. "Committed youth" or "youth" means a person who has been
2 committed according to law to the department of juvenile corrections for
3 supervision, rehabilitation, treatment and education and who is ~~either:~~
4 ~~(a)~~ at least fourteen years of age and under ~~eighteen~~ TWENTY-TWO
5 years of age.

6 ~~(b) Subject to retained jurisdiction pursuant to section 8-202,~~
7 ~~subsection H.~~

8 2. "Department" means the department of juvenile corrections.

9 3. "Director" means the director of the department of juvenile
10 corrections.

11 4. "Educational system" means the state educational system for
12 committed youth.

13 5. "Secure care" means confinement in a facility that is completely
14 surrounded by a locked and physically secure barrier with restricted
15 ingress and egress.

16 Sec. 24. Section 41-2820, Arizona Revised Statutes, is amended to
17 read:

18 41-2820. Discharge

19 A. Each youth shall be discharged from the jurisdiction of the
20 department on attaining ~~eighteen~~ TWENTY-TWO years of age, ~~except that if~~
21 ~~the juvenile court retained jurisdiction over the youth pursuant to~~
22 ~~section 8-202, subsection H, the youth shall be discharged from the~~
23 ~~jurisdiction of the department on or before attaining nineteen years of~~
24 ~~age.~~

25 B. If the department determines that the youth's treatment,
26 rehabilitation and education pursuant to the individual treatment plan
27 have been successfully completed and that there is a reasonable
28 probability that the youth will observe the law and will not be a threat
29 to the public's safety if at liberty, the youth may be granted a
30 discharge. On the discharge of a youth pursuant to this subsection, the
31 department shall promptly notify the committing court, the county attorney
32 in the county in which the youth was committed and the victim or the
33 victim's representative of the discharge.

34 C. Except as provided in subsection D of this section, a youth
35 shall be discharged from the jurisdiction of the department of juvenile
36 corrections if the youth is convicted of a felony offense.

37 D. A youth who is convicted of a felony offense and who committed
38 the offense while residing in a secure care facility operated by the
39 department of juvenile corrections either:

40 1. Shall be discharged from the department of juvenile corrections
41 if the youth is sentenced to the state department of corrections.

42 2. May be discharged from the department of juvenile corrections if
43 the youth is placed on adult probation and all the following apply:

1 (a) The youth has completed the minimum length of stay in secure
2 care, if any, that was assigned by the committing juvenile court pursuant
3 to section 8-341.

4 (b) The youth would have been eligible to be placed on conditional
5 liberty pursuant to section 41-2818.

6 (c) The youth is subject to the jurisdiction of an adult probation
7 department.

8 E. A youth may be discharged from the jurisdiction of the
9 department if the youth is placed by civil commitment under the
10 jurisdiction of another agency.

11 F. A youth shall be conditionally discharged from the jurisdiction
12 of the department if all of the following requirements are satisfied:

13 1. The youth has completed the minimum length of stay in a secure
14 care facility, if any, that was assigned by the committing juvenile court
15 pursuant to section 8-341.

16 2. The United States immigration and customs enforcement enforces a
17 detainer by taking custody of the youth for immigration proceedings.

18 3. The youth signs a condition that the youth's discharge will be
19 vacated if the youth returns to the United States without legal
20 authorization.

21 G. If the department receives actual notice that a youth who
22 received a discharge pursuant to this section has returned to the United
23 States without legal authorization ~~prior to~~ BEFORE the youth's attaining
24 ~~eighteen~~ TWENTY-TWO years of age, the department shall:

25 1. Vacate the discharge.

26 2. Place the youth on conditional liberty status.

27 3. Issue a warrant for the apprehension of the youth.

28 4. Notify the United States immigration and customs enforcement.

29 5. Take the youth into custody.

30 ~~H. Notwithstanding subsection A of this section, a youth who is at~~
31 ~~least eighteen years of age shall be discharged from the jurisdiction of~~
32 ~~the department if the jurisdiction over the youth has been retained~~
33 ~~pursuant to section 8-202, subsection H and the youth is charged with a~~
34 ~~criminal offense.~~