

REFERENCE TITLE: public safety employees; records; assault

State of Arizona
Senate
Fifty-fourth Legislature
Second Regular Session
2020

SCR 1005

Introduced by
Senator Livingston

A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING
TO PUBLIC SAFETY EMPLOYEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the Senate of the State of Arizona, the House of
2 Representatives concurring:

3 1. Under the power of the referendum, as vested in the Legislature,
4 the following measure, relating to public safety employees, is enacted to
5 become valid as a law if approved by the voters and on proclamation of the
6 Governor:

7 AN ACT

8 AMENDING SECTIONS 13-1204, 13-2401, 16-153 AND 28-454, ARIZONA
9 REVISED STATUTES; RELATING TO PUBLIC SAFETY EMPLOYEES.

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

11 Section 1. Section 13-1204, Arizona Revised Statutes,
12 is amended to read:

13 13-1204. Aggravated assault; classification;
14 definitions

15 A. A person commits aggravated assault if the person
16 commits assault as prescribed by section 13-1203 under any of
17 the following circumstances:

18 1. If the person causes serious physical injury to
19 another.

20 2. If the person uses a deadly weapon or dangerous
21 instrument.

22 3. If the person commits the assault by any means of
23 force that causes temporary but substantial disfigurement,
24 temporary but substantial loss or impairment of any body organ
25 or part or a fracture of any body part.

26 4. If the person commits the assault while the victim
27 is bound or otherwise physically restrained or while the
28 victim's capacity to resist is substantially impaired.

29 5. If the person commits the assault after entering the
30 private home of another with the intent to commit the assault.

31 6. If the person is eighteen years of age or older and
32 commits the assault on a minor under fifteen years of age.

33 7. If the person commits assault as prescribed by
34 section 13-1203, subsection A, paragraph 1 or 3 and the person
35 is in violation of an order of protection issued against the
36 person pursuant to section 13-3602 or 13-3624.

37 8. If the person commits the assault knowing or having
38 reason to know that the victim is any of the following:

39 (a) A peace officer or a person summoned and directed
40 by the officer.

41 (b) A constable or a person summoned and directed by
42 the constable while engaged in the execution of any official
43 duties or if the assault results from the execution of the
44 constable's official duties.

1 (c) A firefighter, fire investigator, fire inspector,
2 emergency medical technician or paramedic engaged in the
3 execution of any official duties or a person summoned and
4 directed by such individual while engaged in the execution of
5 any official duties or if the assault results from the
6 execution of the official duties of the firefighter, fire
7 investigator, fire inspector, emergency medical technician or
8 paramedic.

9 (d) A teacher or other person employed by any school
10 and the teacher or other employee is on the grounds of a
11 school or grounds adjacent to the school or is in any part of
12 a building or vehicle used for school purposes, any teacher or
13 school nurse visiting a private home in the course of the
14 teacher's or nurse's professional duties or any teacher
15 engaged in any authorized and organized classroom activity
16 held on other than school grounds.

17 (e) A health care practitioner who is certified or
18 licensed pursuant to title 32, chapter 13, 15, 17 or 25, or a
19 person summoned and directed by the licensed health care
20 practitioner while engaged in the person's professional
21 duties. This subdivision does not apply if the person who
22 commits the assault is seriously mentally ill, as defined in
23 section 36-550, or is afflicted with alzheimer's disease or
24 related dementia.

25 (f) A prosecutor while engaged in the execution of any
26 official duties or if the assault results from the execution
27 of the prosecutor's official duties.

28 (g) A code enforcement officer as defined in section
29 39-123 while engaged in the execution of any official duties
30 or if the assault results from the execution of the code
31 enforcement officer's official duties.

32 (h) A state or municipal park ranger while engaged in
33 the execution of any official duties or if the assault results
34 from the execution of the park ranger's official duties.

35 (i) A public defender while engaged in the execution of
36 any official duties or if the assault results from the
37 execution of the public defender's official duties.

38 (j) A judicial officer while engaged in the execution
39 of any official duties or if the assault results from the
40 execution of the judicial officer's official duties.

41 (k) A MEMBER OF THE NATIONAL GUARD WHILE ENGAGED IN THE
42 EXECUTION OF ANY OFFICIAL DUTIES OR IF THE ASSAULT RESULTS
43 FROM THE EXECUTION OF THE NATIONAL GUARD MEMBER'S OFFICIAL
44 DUTIES.

1 (1) A BORDER PATROL AGENT WHILE ENGAGED IN THE
2 EXECUTION OF ANY OFFICIAL DUTIES OR IF THE ASSAULT RESULTS
3 FROM THE EXECUTION OF THE BORDER PATROL AGENT'S OFFICIAL
4 DUTIES.

5 9. If the person knowingly takes or attempts to
6 exercise control over any of the following:

7 (a) A peace officer's or other officer's firearm and
8 the person knows or has reason to know that the victim is a
9 peace officer or other officer employed by one of the agencies
10 listed in paragraph 10, subdivision (a), item (i), (ii),
11 (iii), (iv) or (v) of this subsection.

12 (b) Any weapon other than a firearm that is being used
13 by a peace officer or other officer or that the officer is
14 attempting to use, and the person knows or has reason to know
15 that the victim is a peace officer or other officer employed
16 by one of the agencies listed in paragraph 10, subdivision
17 (a), item (i), (ii), (iii), (iv) or (v) of this subsection.

18 (c) Any implement that is being used by a peace officer
19 or other officer or that the officer is attempting to use, and
20 the person knows or has reason to know that the victim is a
21 peace officer or other officer employed by one of the agencies
22 listed in paragraph 10, subdivision (a), item (i), (ii),
23 (iii), (iv) or (v) of this subsection. For the purposes of
24 this subdivision, "implement" means an object that is designed
25 for or that is capable of restraining or injuring an
26 individual. Implement does not include handcuffs.

27 10. If the person meets both of the following
28 conditions:

29 (a) Is imprisoned or otherwise subject to the custody
30 of any of the following:

31 (i) The state department of corrections.

32 (ii) The department of juvenile corrections.

33 (iii) A law enforcement agency.

34 (iv) A county or city jail or an adult or juvenile
35 detention facility of a city or county.

36 (v) Any other entity that is contracting with the state
37 department of corrections, the department of juvenile
38 corrections, a law enforcement agency, another state, any
39 private correctional facility, a county, a city or the federal
40 bureau of prisons or other federal agency that has
41 responsibility for sentenced or unsentenced prisoners.

42 (b) Commits an assault knowing or having reason to know
43 that the victim is acting in an official capacity as an
44 employee of any of the entities listed in subdivision (a) of
45 this paragraph.

1 11. If the person uses a simulated deadly weapon.
2 B. A person commits aggravated assault if the person
3 commits assault by either intentionally, knowingly or
4 recklessly causing any physical injury to another person,
5 intentionally placing another person in reasonable
6 apprehension of imminent physical injury or knowingly touching
7 another person with the intent to injure the person, and both
8 of the following occur:
9 1. The person intentionally or knowingly impedes the
10 normal breathing or circulation of blood of another person by
11 applying pressure to the throat or neck or by obstructing the
12 nose and mouth either manually or through the use of an
13 instrument.
14 2. Any of the circumstances exists that are set forth
15 in section 13-3601, subsection A, paragraph 1, 2, 3, 4, 5
16 or 6.
17 C. A person who is convicted of intentionally or
18 knowingly committing aggravated assault on a peace officer
19 pursuant to subsection A, paragraph 1 or 2 of this section
20 shall be sentenced to imprisonment for not less than the
21 presumptive sentence authorized under chapter 7 of this title
22 and is not eligible for suspension of sentence, commutation or
23 release on any basis until the sentence imposed is served.
24 D. It is not a defense to a prosecution for assaulting
25 a peace officer or a mitigating circumstance that the peace
26 officer was not on duty or engaged in the execution of any
27 official duties.
28 E. Except pursuant to subsections F and G of this
29 section, aggravated assault pursuant to subsection A,
30 paragraph 1 or 2, paragraph 9, subdivision (a) or paragraph 11
31 of this section is a class 3 felony except if the aggravated
32 assault is a violation of subsection A, paragraph 1 or 2 of
33 this section and the victim is under fifteen years of age it
34 is a class 2 felony punishable pursuant to section 13-705.
35 Aggravated assault pursuant to subsection A, paragraph 3,
36 PARAGRAPH 8, SUBDIVISION (c), (k) OR (l) OR PARAGRAPH 10 or
37 subsection B of this section is a class 4 felony. Aggravated
38 assault pursuant to subsection A, paragraph 9, subdivision (b)
39 ~~or paragraph 10~~ of this section is a class 5 felony.
40 Aggravated assault pursuant to subsection A, paragraph 4, 5, 6
41 OR 7, ~~or~~ PARAGRAPH 8, SUBDIVISION (b), (d), (e), (f), (g),
42 (h), (i) OR (j) or paragraph 9, subdivision (c) of this
43 section is a class 6 felony.
44 F. Aggravated assault pursuant to subsection A,
45 paragraph 1 or 2 of this section committed on a peace officer

1 is a class 2 felony. Aggravated assault pursuant to
2 subsection A, paragraph 3 of this section committed on a peace
3 officer is a class 3 felony. Aggravated assault pursuant to
4 subsection A, paragraph 8, subdivision (a) of this section
5 committed on a peace officer is a ~~class 5 felony unless the~~
6 ~~assault results in any physical injury to the peace officer,~~
7 ~~in which case it is a~~ class 4 felony.

8 G. Aggravated assault pursuant to:
9 1. Subsection A, paragraph 1 or 2 of this section is a
10 class 2 felony if committed on a prosecutor.
11 2. Subsection A, paragraph 3 of this section is a class
12 3 felony if committed on a prosecutor.
13 3. Subsection A, paragraph 8, subdivision (f) of this
14 section is a class 5 felony if the assault results in physical
15 injury to a prosecutor.

16 H. For the purposes of this section:
17 1. "Judicial officer" means a justice of the supreme
18 court, judge, justice of the peace or magistrate or a
19 commissioner or hearing officer of a state, county or
20 municipal court.
21 2. "Prosecutor" means a county attorney, a municipal
22 prosecutor or the attorney general and includes an assistant
23 or deputy county attorney, municipal prosecutor or attorney
24 general.

25 Sec. 2. Section 13-2401, Arizona Revised Statutes, is
26 amended to read:

27 13-2401. Personal information on the internet;
28 exception; classification; definitions

29 A. It is unlawful for a person to knowingly make
30 available on the ~~world wide web~~ INTERNET the personal
31 information of a FIREFIGHTER, EMERGENCY MEDICAL TECHNICIAN,
32 NATIONAL GUARD MEMBER, BORDER PATROL AGENT, CORRECTIONAL
33 OFFICER, peace officer, justice, judge, commissioner, public
34 defender, employee of the department of child safety or
35 employee of adult protective services who has direct contact
36 with families in the course of employment or prosecutor if the
37 dissemination of the personal information poses an imminent
38 and serious threat to the FIREFIGHTER'S, EMERGENCY MEDICAL
39 TECHNICIAN'S, NATIONAL GUARD MEMBER'S, BORDER PATROL AGENT'S,
40 CORRECTIONAL OFFICER'S, peace officer's, justice's, judge's,
41 commissioner's, public defender's, department of child safety
42 employee's, adult protective services employee's or
43 prosecutor's safety or the safety of that person's immediate
44 family and the threat is reasonably apparent to the person

1 making the information available on the ~~world wide web~~
2 INTERNET to be serious and imminent.

3 B. It is not a violation of this section if an employee
4 of a county recorder, county treasurer or county assessor
5 publishes personal information, in good faith, on the website
6 of the county recorder, county treasurer or county assessor in
7 the ordinary course of carrying out public functions.

8 C. A violation of subsection A of this section is a
9 class 5 felony.

10 D. For the purposes of this section:

11 1. "Commissioner" means a commissioner of the superior
12 court.

13 2. "Immediate family" means a FIREFIGHTER'S, EMERGENCY
14 MEDICAL TECHNICIAN'S, NATIONAL GUARD MEMBER'S, BORDER PATROL
15 AGENT'S, CORRECTIONAL OFFICER'S, peace officer's, justice's,
16 judge's, commissioner's, public defender's or prosecutor's
17 spouse, child or parent and any other adult who lives in the
18 same residence as the person.

19 3. "Judge" means a judge of the United States district
20 court, the United States court of appeals, the United States
21 magistrate court, the United States bankruptcy court, the
22 Arizona court of appeals, the superior court or a municipal
23 court.

24 4. "Justice" means a justice of the United States or
25 Arizona supreme court or a justice of the peace.

26 5. "Personal information" means a FIREFIGHTER'S,
27 EMERGENCY MEDICAL TECHNICIAN'S, NATIONAL GUARD MEMBER'S,
28 BORDER PATROL AGENT'S, CORRECTIONAL OFFICER'S, peace
29 officer's, justice's, judge's, commissioner's, public
30 defender's or prosecutor's home address, home telephone
31 number, pager number, personal photograph, directions to the
32 person's home or photographs of the person's home or vehicle.

33 6. "Prosecutor" means a county attorney, a municipal
34 prosecutor, the attorney general or a United States attorney
35 and includes an assistant or deputy United States attorney,
36 county attorney, municipal prosecutor or attorney general.

37 7. "Public defender" means a federal public defender,
38 county public defender, county legal defender or county
39 contract indigent defense counsel and includes an assistant or
40 deputy federal public defender, county public defender or
41 county legal defender.

1 Sec. 3. Section 16-153, Arizona Revised Statutes, is
2 amended to read:

3 16-153. Voter registration; confidentiality;
4 definitions

5 A. Eligible persons, and any other registered voter who
6 resides at the same residence address as the eligible person,
7 may request that the general public be prohibited from
8 accessing the eligible person's identifying information,
9 including any of that person's documents and voting precinct
10 number contained in ~~their~~ THE PERSON'S voter registration
11 record.

12 B. Eligible persons may request this action by filing
13 an affidavit that states all of the following on an
14 application form developed by the administrative office of the
15 courts in agreement with an association of counties and an
16 organization of peace officers:

17 1. The person's full legal name, residential address
18 and date of birth.

19 2. Unless the person is the spouse of a peace officer
20 or the spouse or minor child of a deceased peace officer or
21 the person is a former public official or former judge, the
22 position the person currently holds and a description of the
23 person's duties, except that an eligible person who is
24 protected under an order of protection or injunction against
25 harassment shall instead attach a copy of the order of
26 protection or injunction against harassment.

27 3. The reasons for reasonably believing that the
28 person's life or safety or that of another person is in danger
29 and that sealing the identifying information and voting
30 precinct number of the person's voting record will serve to
31 reduce the danger.

32 C. The affidavit shall be filed with the presiding
33 judge of the superior court in the county in which the affiant
34 resides. To prevent multiple filings, an eligible person who
35 is a peace officer, prosecutor, public defender, code
36 enforcement officer, corrections or detention officer,
37 corrections support staff member or law enforcement support
38 staff member shall deliver the affidavit to the peace
39 officer's commanding officer, or to the head of the
40 prosecuting, public defender, code enforcement, law
41 enforcement, corrections or detention agency, as applicable,
42 or that person's designee, who shall file the affidavits at
43 one time. In the absence of an affidavit that contains a
44 request for immediate action and is supported by facts
45 justifying an earlier presentation, the commanding officer, or

1 the head of the prosecuting, public defender, code
2 enforcement, law enforcement, corrections or detention agency,
3 as applicable, or that person's designee, shall not file
4 affidavits more often than quarterly.

5 D. On receipt of an affidavit or affidavits, the
6 presiding judge of the superior court shall file with the
7 clerk of the superior court a petition on behalf of all
8 requesting affiants. The petition shall have attached each
9 affidavit presented. In the absence of an affidavit that
10 contains a request for immediate action and that is supported
11 by facts justifying an earlier consideration, the presiding
12 judge may accumulate affidavits and file a petition at the end
13 of each quarter.

14 E. The presiding judge of the superior court shall
15 review the petition and each attached affidavit to determine
16 whether the action requested by each affiant should be
17 granted. The presiding judge of the superior court shall
18 order the sealing for five years of the information contained
19 in the voter record of the affiant and, on request, any other
20 registered voter who resides at the same residence address if
21 the presiding judge concludes that this action will reduce a
22 danger to the life or safety of the affiant.

23 F. The recorder shall remove the restrictions on all
24 voter records submitted pursuant to subsection E of this
25 section by January 5 in the year after the court order
26 expires. The county recorder shall send by mail one notice to
27 either the former public official, peace officer, spouse of a
28 peace officer, spouse or minor child of a deceased peace
29 officer, public defender, prosecutor, code enforcement
30 officer, corrections or detention officer, corrections support
31 staff member, law enforcement support staff member, employee
32 of the department of child safety or employee of adult
33 protective services who has direct contact with families in
34 the course of employment or the employing agency of a peace
35 officer, public defender, prosecutor, code enforcement
36 officer, corrections or detention officer, corrections support
37 staff member or law enforcement support staff member who was
38 granted an order pursuant to this section of the order's
39 expiration date at least six months before the expiration
40 date. If the notice is sent to the employing agency, the
41 employing agency shall immediately notify the person who was
42 granted the order of the upcoming expiration date. The county
43 recorder may coordinate with the county assessor and county
44 treasurer to prevent multiple notices from being sent to the
45 same person.

1 G. On entry of the court order, the clerk of the
2 superior court shall file the court order with the county
3 recorder. On receipt of the court order the county recorder
4 shall seal the voter registration of the persons listed in the
5 court order no later than one hundred twenty days from the
6 date of receipt of the court order. To include a subsequent
7 voter registration in the court order, a person listed in the
8 court order shall present to the county recorder at the time
9 of registration a certified copy of the court order or shall
10 provide the county recorder the recording number of the court
11 order. The information in the registration shall not be
12 disclosed and is not a public record.

13 H. If the court denies an affiant's requested sealing
14 of the voter registration record, the affiant may request a
15 court hearing. The hearing shall be conducted by the court
16 where the petition was filed.

17 I. On motion to the court, if the presiding judge of
18 the superior court concludes that a voter registration record
19 has been sealed in error or that the cause for the original
20 affidavit no longer exists, the presiding judge may vacate the
21 court order prohibiting public access to the voter
22 registration record.

23 J. On request by a person who is protected under an
24 order of protection or injunction against harassment and
25 presentation of an order of protection issued pursuant to
26 section 13-3602, an injunction against harassment issued
27 pursuant to section 12-1809 or an order of protection or
28 injunction against harassment issued by a court in another
29 state or a program participant in the address confidentiality
30 program pursuant to title 41, chapter 1, article 3, the county
31 recorder shall seal the voter registration record of the
32 person who is protected and, on request, any other registered
33 voter who resides at the residence address of the protected
34 person. The record shall be sealed no later than one hundred
35 twenty days from the date of receipt of the court order. The
36 information in the registration shall not be disclosed and is
37 not a public record.

38 K. For the purposes of this section:

39 1. "Code enforcement officer" means a person who is
40 employed by a state or local government and whose duties
41 include performing field inspections of buildings, structures
42 or property to ensure compliance with and enforce national,
43 state and local laws, ordinances and codes.

44 2. "Commissioner" means a commissioner of the superior
45 court.

1 3. "Corrections support staff member" means an adult or
2 juvenile corrections employee who has direct contact with
3 inmates.

4 4. "Eligible person" means a former public official,
5 peace officer, spouse of a peace officer, spouse or minor
6 child of a deceased peace officer, justice, judge,
7 commissioner, public defender, prosecutor, code enforcement
8 officer, adult or juvenile corrections officer, corrections
9 support staff member, probation officer, member of the board
10 of executive clemency, law enforcement support staff member,
11 employee of the department of child safety or employee of
12 adult protective services who has direct contact with families
13 in the course of employment, national guard member OR BORDER
14 PATROL AGENT who is acting in support of a law enforcement
15 agency, person who is protected under an order of protection
16 or injunction against harassment or firefighter OR EMERGENCY
17 MEDICAL TECHNICIAN who is assigned to the Arizona counter
18 terrorism information center in the department of public
19 safety.

20 5. "Former public official" means a person who was duly
21 elected or appointed to Congress, the legislature or a
22 statewide office, who ceased serving in that capacity and who
23 was the victim of a dangerous offense as defined in section
24 13-105 while in office.

25 6. "Judge" means a judge or former judge of the United
26 States district court, the United States court of appeals, the
27 United States magistrate court, the United States bankruptcy
28 court, the United States immigration court, the Arizona court
29 of appeals, the superior court or a municipal court.

30 7. "Justice" means a justice of the United States or
31 Arizona supreme court or a justice of the peace.

32 8. "Law enforcement support staff member" means a
33 person who serves in the role of an investigator or
34 prosecutorial assistant in an agency that investigates or
35 prosecutes crimes, who is integral to the investigation or
36 prosecution of crimes and whose name or identity will be
37 revealed in the course of public proceedings.

38 9. "Peace officer":

39 (a) Has the same meaning prescribed in section 1-215.

40 (b) Includes a federal law enforcement officer or agent
41 who resides in this state and who has the power to make
42 arrests pursuant to federal law.

43 10. "Prosecutor" means a United States attorney, a
44 county attorney, a municipal prosecutor or the attorney
45 general and includes an assistant or deputy United States

1 attorney, county attorney, municipal prosecutor or attorney
2 general.

3 11. "Public defender" means a federal public defender,
4 county public defender, county legal defender or county
5 contract indigent defense counsel and includes an assistant or
6 deputy federal public defender, county public defender or
7 county legal defender.

8 Sec. 4. Section 28-454, Arizona Revised Statutes, is
9 amended to read:

10 28-454. Records maintained by department of
11 transportation; redaction; definitions

12 A. Notwithstanding sections 28-447 and 28-455, an
13 eligible person may request that persons be prohibited from
14 accessing the eligible person's identifying information,
15 including any of that person's documents, contained in any
16 record maintained by the department.

17 B. An eligible person may request this action by filing
18 an affidavit that states all of the following on an
19 application form developed by the administrative office of the
20 courts in agreement with an association of counties, an
21 organization of peace officers and the department:

22 1. The person's full legal name and residential
23 address.

24 2. Unless the person is the spouse of a peace officer
25 or the spouse or minor child of a deceased peace officer or
26 the person is a former public official or former judge, the
27 position the person currently holds and a description of the
28 person's duties, except that an eligible person who is
29 protected under an order of protection or injunction against
30 harassment shall attach a copy of the order of protection or
31 injunction against harassment.

32 3. The reasons the person reasonably believes that the
33 person's life or safety or that of another person is in danger
34 and that redacting the identifying information from the
35 department's public records will serve to reduce the danger.

36 C. The affidavit shall be filed with the presiding
37 judge of the superior court in the county in which the affiant
38 resides. To prevent multiple filings, an eligible person who
39 is a peace officer, spouse of a peace officer, spouse or minor
40 child of a deceased peace officer, prosecutor, code
41 enforcement officer, corrections or detention officer,
42 corrections support staff member or law enforcement support
43 staff member shall deliver the affidavit to the peace
44 officer's commanding officer, or to the head of the
45 prosecuting, code enforcement, law enforcement, corrections or

1 detention agency, as applicable, or that person's designee,
2 who shall file the affidavits at one time. In the absence of
3 an affidavit that contains a request for immediate action and
4 that is supported by facts justifying an earlier presentation,
5 the commanding officer, or the head of the prosecuting, code
6 enforcement, law enforcement, corrections or detention agency,
7 as applicable, or that person's designee, shall not file
8 affidavits more often than quarterly.

9 D. On receipt of an affidavit or affidavits, the
10 presiding judge of the superior court shall file with the
11 clerk of the superior court a petition on behalf of all
12 requesting affiants. Each affidavit presented shall be
13 attached to the petition. In the absence of an affidavit that
14 contains a request for immediate action and that is supported
15 by facts justifying an earlier consideration, the presiding
16 judge may accumulate affidavits and file a petition at the end
17 of each quarter.

18 E. The presiding judge of the superior court shall
19 review the petition and each attached affidavit to determine
20 whether the action requested by each affiant should be
21 granted. The presiding judge of the superior court shall
22 order the redaction of the residence address and telephone
23 number from the public records maintained by the department if
24 the judge concludes that this action will reduce a danger to
25 the life or safety of the affiant or another person.

26 F. On entry of the court order, the clerk of the
27 superior court shall file the court order with the
28 department. ~~NO~~ NOT more than one hundred fifty days after the
29 date the department receives the court order, the department
30 shall redact the identifying information of the affiants
31 listed in the court order from the public records of the
32 department. The identifying information shall not be
33 disclosed and ~~are~~ IS not part of a public record.

34 G. If the court denies an affiant's request pursuant to
35 this section, the affiant may request a court hearing. The
36 hearing shall be conducted by the court in the county where
37 the petition was filed.

38 H. On motion to the court, if the presiding judge of
39 the superior court concludes that identifying information has
40 been sealed in error or that the cause for the original
41 affidavit no longer exists, the presiding judge may vacate the
42 court order prohibiting public access to the identifying
43 information.

1 I. Notwithstanding sections 28-447 and 28-455, the
2 department shall not release a photograph of a peace officer
3 if the peace officer has made a request as prescribed in this
4 section that persons be prohibited from accessing the peace
5 officer's identifying information in any record maintained by
6 the department.

7 J. This section does not prohibit the use of a peace
8 officer's photograph that is either:

9 1. Used by a law enforcement agency to assist a person
10 who has a complaint against an officer to identify the
11 officer.

12 2. Obtained from a source other than the department.

13 K. For the purposes of this section:

14 1. "Code enforcement officer" means a person who is
15 employed by a state or local government and whose duties
16 include performing field inspections of buildings, structures
17 or property to ensure compliance with and enforce national,
18 state and local laws, ordinances and codes.

19 2. "Corrections support staff member" means an adult or
20 juvenile corrections employee who has direct contact with
21 inmates.

22 3. "Eligible person" means a former public official,
23 peace officer, spouse of a peace officer, spouse or minor
24 child of a deceased public officer, justice, judge or former
25 judge, commissioner, public defender, prosecutor, code
26 enforcement officer, adult or juvenile corrections officer,
27 corrections support staff member, probation officer, member of
28 the board of executive clemency, law enforcement support staff
29 member, employee of the department of child safety or employee
30 of adult protective services who has direct contact with
31 families in the course of employment, national guard member **OR**
32 **BORDER PATROL AGENT** who is acting in support of a law
33 enforcement agency, person who is protected under an order of
34 protection or injunction against harassment or firefighter **OR**
35 **EMERGENCY MEDICAL TECHNICIAN** who is assigned to the Arizona
36 counter terrorism information center in the department of
37 public safety.

38 4. "Former public official" means a person who was duly
39 elected or appointed to Congress, the legislature or a
40 statewide office, who ceased serving in that capacity and who
41 was the victim of a dangerous offense as defined in section
42 13-105 while in office.

1 5. "Law enforcement support staff member" means a
2 person who serves in the role of an investigator or
3 prosecutorial assistant in an agency that investigates or
4 prosecutes crimes, who is integral to the investigation or
5 prosecution of crimes and whose name or identity will be
6 revealed in the course of public proceedings.

7 6. "Peace officer":
8 (a) Has the same meaning prescribed in section 1-215.
9 (b) Includes a federal law enforcement officer or agent
10 who resides in this state and who has the power to make
11 arrests pursuant to federal law.

12 7. "Prosecutor" means a county attorney, a municipal
13 prosecutor or the attorney general and includes an assistant
14 or deputy county attorney, municipal prosecutor or attorney
15 general.

16 2. The Secretary of State shall submit this proposition to the
17 voters at the next general election as provided by article IV, part 1,
18 section 1, Constitution of Arizona.