

REFERENCE TITLE: **illegal border crossings; state; crime**

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
Second Regular Session  
2024

## **HB 2748**

Introduced by

Representatives Chaplik: Biasiucci, Bliss, Carbone, Carter, Cook, Diaz, Dunn, Gillette, Grantham, Gress, Griffin, Heap, Hendrix, Jones, Kolodin, Livingston, Marshall, Martinez, McGarr, Montenegro, Nguyen, Parker B, Parker J, Payne, Peña, Pingerelli, Smith, Toma, Willoughby, Wilmeth;  
Senators Hoffman, Kern, Petersen, Wadsack

**AN ACT**

**AMENDING TITLE 12, CHAPTER 7, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 12-827, 12-828, 12-829 AND 12-830; AMENDING SECTION 13-603, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 38, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 35; AMENDING SECTIONS 31-402, 31-403 AND 41-1750, ARIZONA REVISED STATUTES; RELATING TO ILLEGAL BORDER CROSSINGS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 12, chapter 7, article 2, Arizona Revised  
3 Statutes, is amended by adding sections 12-827, 12-828, 12-829 and 12-830  
4 to read:

5 12-827. Civil immunity for and indemnification of local  
6 government officials, employees and contractors;  
7 exception

8 A. A LOCAL GOVERNMENT OFFICIAL, EMPLOYEE OR CONTRACTOR IS IMMUNE  
9 FROM CIVIL LIABILITY FOR DAMAGES ARISING FROM A CAUSE OF ACTION UNDER THE  
10 LAWS OF THIS STATE RESULTING FROM AN ACTION TAKEN BY THE LOCAL GOVERNMENT  
11 OFFICIAL, EMPLOYEE OR CONTRACTOR TO ENFORCE TITLE 13, CHAPTER 38, ARTICLE  
12 35 OR AN ORDER ISSUED UNDER SECTION 13-4295.05 DURING THE COURSE AND SCOPE  
13 OF THE LOCAL GOVERNMENT OFFICIAL'S, EMPLOYEE'S OR CONTRACTOR'S OFFICE,  
14 EMPLOYMENT OR CONTRACTUAL PERFORMANCE FOR OR SERVICE ON BEHALF OF THE  
15 LOCAL GOVERNMENT.

16 B. A LOCAL GOVERNMENT SHALL INDEMNIFY A LOCAL GOVERNMENT OFFICIAL,  
17 EMPLOYEE OR CONTRACTOR FOR DAMAGES ARISING FROM A CAUSE OF ACTION UNDER  
18 FEDERAL LAW RESULTING FROM AN ACTION TAKEN BY THE LOCAL GOVERNMENT  
19 OFFICIAL, EMPLOYEE OR CONTRACTOR TO ENFORCE TITLE 13, CHAPTER 38, ARTICLE  
20 35 DURING THE COURSE AND SCOPE OF THE LOCAL GOVERNMENT OFFICIAL'S,  
21 EMPLOYEE'S OR CONTRACTOR'S OFFICE, EMPLOYMENT OR CONTRACTUAL PERFORMANCE  
22 FOR OR SERVICE ON BEHALF OF THE LOCAL GOVERNMENT IN AN AMOUNT NOT TO  
23 EXCEED:

24 1. \$100,000 TO ANY ONE PERSON OR \$300,000 FOR ANY SINGLE OCCURRENCE  
25 IN THE CASE OF PERSONAL INJURY OR DEATH.

26 2. \$10,000 FOR A SINGLE OCCURRENCE OF PROPERTY DAMAGE.

27 C. SUBSECTIONS A AND B OF THIS SECTION DO NOT APPLY IF THE COURT OR  
28 A JURY DETERMINES THAT THE LOCAL GOVERNMENT OFFICIAL, EMPLOYEE OR  
29 CONTRACTOR ACTED IN BAD FAITH, WITH CONSCIOUS INDIFFERENCE OR WITH  
30 RECKLESSNESS.

31 D. A LOCAL GOVERNMENT SHALL INDEMNIFY A LOCAL GOVERNMENT OFFICIAL,  
32 EMPLOYEE OR CONTRACTOR FOR REASONABLE ATTORNEY FEES INCURRED IN DEFENSE OF  
33 A CRIMINAL PROSECUTION AGAINST THE LOCAL GOVERNMENT OFFICIAL, EMPLOYEE OR  
34 CONTRACTOR FOR AN ACTION TAKEN BY THE LOCAL GOVERNMENT OFFICIAL, EMPLOYEE  
35 OR CONTRACTOR TO ENFORCE TITLE 13, CHAPTER 38, ARTICLE 35 DURING THE  
36 COURSE AND SCOPE OF THE LOCAL GOVERNMENT OFFICIAL'S, EMPLOYEE'S OR  
37 CONTRACTOR'S OFFICE, EMPLOYMENT OR CONTRACTUAL PERFORMANCE FOR OR SERVICE  
38 ON BEHALF OF THE LOCAL GOVERNMENT.

39 E. THIS SECTION DOES NOT WAIVE ANY STATUTORY LIMITS ON DAMAGES  
40 UNDER STATE LAW.

41 12-828. Civil immunity for and indemnification of state  
42 officials, employees and contractors; exception

43 A. AN ELECTED OR APPOINTED STATE OFFICIAL OR A STATE EMPLOYEE OR  
44 CONTRACTOR IS IMMUNE FROM LIABILITY FOR DAMAGES ARISING FROM A CAUSE OF  
45 ACTION UNDER THE LAWS OF THIS STATE RESULTING FROM AN ACTION TAKEN BY THE

1 STATE OFFICIAL, EMPLOYEE OR CONTRACTOR TO ENFORCE TITLE 13, CHAPTER 38,  
2 ARTICLE 35 OR AN ORDER ISSUED UNDER SECTION 13-4295.05 DURING THE COURSE  
3 AND SCOPE OF THE STATE OFFICIAL'S, EMPLOYEE'S OR CONTRACTOR'S OFFICE,  
4 EMPLOYMENT OR CONTRACTUAL PERFORMANCE FOR OR SERVICE ON BEHALF OF THIS  
5 STATE.

6 B. THIS STATE SHALL INDEMNIFY AN ELECTED OR APPOINTED STATE  
7 OFFICIAL OR A STATE EMPLOYEE OR CONTRACTOR FOR DAMAGES ARISING FROM A  
8 CAUSE OF ACTION UNDER FEDERAL LAW RESULTING FROM AN ACTION TAKEN BY THE  
9 STATE OFFICIAL, EMPLOYEE OR CONTRACTOR TO ENFORCE TITLE 13, CHAPTER 38,  
10 ARTICLE 35 DURING THE COURSE AND SCOPE OF THE STATE OFFICIAL'S, EMPLOYEE'S  
11 OR CONTRACTOR'S OFFICE, EMPLOYMENT OR CONTRACTUAL PERFORMANCE FOR OR  
12 SERVICE ON BEHALF OF THIS STATE. NOTWITHSTANDING ANY OTHER LAW, AN  
13 INDEMNIFICATION PAYMENT MADE UNDER THIS SUBSECTION IS NOT SUBJECT TO AN  
14 INDEMNIFICATION LIMIT UNDER THE LAWS OF THIS STATE.

15 C. SUBSECTIONS A AND B OF THIS SECTION DO NOT APPLY IF THE COURT OR  
16 A JURY DETERMINES THAT THE STATE OFFICIAL, EMPLOYEE OR CONTRACTOR ACTED IN  
17 BAD FAITH, WITH CONSCIOUS INDIFFERENCE OR WITH RECKLESSNESS.

18 D. THIS STATE SHALL INDEMNIFY A STATE OFFICIAL, EMPLOYEE OR  
19 CONTRACTOR FOR REASONABLE ATTORNEY FEES INCURRED IN DEFENSE OF A CRIMINAL  
20 PROSECUTION AGAINST THE STATE OFFICIAL, EMPLOYEE OR CONTRACTOR FOR AN  
21 ACTION TAKEN BY THE OFFICIAL, EMPLOYEE OR CONTRACTOR TO ENFORCE TITLE 13,  
22 CHAPTER 38, ARTICLE 35 DURING THE COURSE AND SCOPE OF THE STATE  
23 OFFICIAL'S, EMPLOYEE'S OR CONTRACTOR'S OFFICE, EMPLOYMENT OR CONTRACTUAL  
24 PERFORMANCE FOR OR SERVICE ON BEHALF OF THIS STATE.

25 E. THE ATTORNEY GENERAL SHALL REPRESENT A STATE OFFICIAL, EMPLOYEE  
26 OR CONTRACTOR IN ANY ACTION IN WHICH THE STATE OFFICIAL, EMPLOYEE OR  
27 CONTRACTOR MAY BE ENTITLED TO INDEMNIFICATION UNDER SUBSECTION B OF THIS  
28 SECTION.

29 F. THIS SECTION DOES NOT WAIVE ANY STATUTORY LIMITS ON DAMAGES  
30 UNDER STATE LAW.

31 12-829. Appeal to supreme court

32 FOR A CIVIL ACTION THAT IS BROUGHT AGAINST A PERSON WHO MAY BE  
33 ENTITLED TO IMMUNITY OR INDEMNIFICATION UNDER SECTION 12-827 OR 12-828, AN  
34 APPEAL MUST BE TAKEN DIRECTLY TO THE SUPREME COURT.

35 12-830. Other laws not affected

36 SECTIONS 12-827, 12-828 AND 12-829 DO NOT AFFECT A DEFENSE, IMMUNITY  
37 OR JURISDICTIONAL BAR AVAILABLE TO THIS STATE OR A LOCAL GOVERNMENT OR AN  
38 OFFICIAL, EMPLOYEE OR CONTRACTOR OF THIS STATE OR A LOCAL GOVERNMENT.

39 Sec. 2. Section 13-603, Arizona Revised Statutes, is amended to  
40 read:

41 13-603. Authorized disposition of offenders

42 A. Every person convicted of any offense defined in this title or  
43 defined outside this title shall be sentenced in accordance with this  
44 chapter and chapters 7, 8 and 9 of this title unless otherwise provided by  
45 law.

1           B. If a person is convicted of an offense, the court, if authorized  
2 by chapter 9 of this title, may suspend the imposition or execution of  
3 sentence and grant such person a period of probation except as otherwise  
4 provided by law. The sentence is tentative to the extent that it may be  
5 altered or revoked in accordance with chapter 9 of this title, but for all  
6 other purposes it is a final judgment of conviction.

7           C. If a person is convicted of an offense, the court shall require  
8 the convicted person to make restitution to the person who is the victim  
9 of the crime or to the immediate family of the victim if the victim has  
10 died, in the full amount of the economic loss as determined by the court  
11 and in the manner as determined by the court or the court's designee  
12 pursuant to chapter 8 of this title. Restitution ordered pursuant to this  
13 subsection shall be paid to the clerk of the court for disbursement to the  
14 victim and is a criminal penalty for the purposes of a federal bankruptcy  
15 involving the person convicted of an offense.

16           D. If the court imposes probation it may also impose a fine as  
17 authorized by chapter 8 of this title.

18           E. If a person is convicted of an offense and not granted a period  
19 of probation, or when probation is revoked, any of the following sentences  
20 may be imposed:

21           1. A term of imprisonment authorized by this chapter or chapter 7  
22 of this title.

23           2. A fine authorized by chapter 8 of this title. The sentence is  
24 tentative to the extent it may be modified or revoked in accordance with  
25 chapter 8 of this title, but for all other purposes it is a final judgment  
26 of conviction. If the conviction is of a class 2, 3 or 4 felony, the  
27 sentence cannot consist solely of a fine.

28           3. Both imprisonment and a fine.

29           4. Intensive probation, subject to the provisions of chapter 9 of  
30 this title.

31           5. Intensive probation, subject to the provisions of chapter 9 of  
32 this title, and a fine.

33           6. A new term of probation or intensive probation.

34           7. If the conviction is for a misdemeanor, in addition to any  
35 sentence authorized by law, a term of:

36           (a) Community restitution pursuant to section 13-717, subsection A.

37           (b) Education or treatment pursuant to section 13-717,  
38 subsection B.

39           F. If an enterprise is convicted of any offense, a fine may be  
40 imposed as authorized by chapter 8 of this title.

41           G. If a person or an enterprise is convicted of any felony, the  
42 court, in addition to any other sentence authorized by law, may order the  
43 forfeiture, suspension or revocation of any charter, license, permit or  
44 prior approval granted to the person or enterprise by any department or  
45 agency of the state or of any political subdivision.

1 H. A court authorized to pass sentence on a person convicted of any  
2 offense defined within or without this title shall have a duty to  
3 determine and impose the punishment prescribed for such offense.

4 I. If a person is convicted of a felony offense and the court  
5 sentences the person to a term of imprisonment, the court at the time of  
6 sentencing shall impose on the convicted person a term of community  
7 supervision. The term of community supervision shall be served  
8 consecutively to the actual period of imprisonment if the person signs and  
9 agrees to abide by conditions of supervision established by the state  
10 department of corrections. Except pursuant to subsection J of this  
11 section, the term of community supervision imposed by the court shall be  
12 for a period equal to one day for every seven days of the sentence or  
13 sentences imposed.

14 J. In calculating the term of community supervision, all fractions  
15 shall be decreased to the nearest month, except for a class 5 or 6 felony  
16 which shall not be less than one month.

17 K. Notwithstanding subsection I of this section, if the court  
18 sentences a person to serve a consecutive term of probation immediately  
19 after the person serves a term of imprisonment, the court may waive  
20 community supervision and order that the person begin serving the term of  
21 probation on the person's release from confinement. The court may  
22 retroactively waive the term of community supervision or that part  
23 remaining to be served if the community supervision was imposed before  
24 July 21, 1997. If the court waives community supervision, the term of  
25 probation imposed shall be equal to or greater than the term of community  
26 supervision that would have been imposed. If the court does not waive  
27 community supervision, the person shall begin serving the term of  
28 probation after the person serves the term of community supervision. The  
29 state department of corrections shall provide reasonable notice to the  
30 probation department of the scheduled release of the inmate from  
31 confinement by the department.

32 L. NOTWITHSTANDING SUBSECTIONS I, J AND K OF THIS SECTION, A  
33 DEFENDANT WHO IS CONVICTED OF AN OFFENSE UNDER CHAPTER 38, ARTICLE 35 OF  
34 THIS TITLE IS NOT ELIGIBLE FOR COMMUNITY SUPERVISION.

35 ~~L.~~ M. If at the time of sentencing the court is of the opinion  
36 that a sentence that the law requires the court to impose is clearly  
37 excessive, the court may enter a special order allowing the person  
38 sentenced to petition the board of executive clemency for a commutation of  
39 sentence within ninety days after the person is committed to the custody  
40 of the state department of corrections. If the court enters a special  
41 order regarding commutation, the court shall set forth in writing its  
42 specific reasons for concluding that the sentence is clearly  
43 excessive. The court shall allow both the state and the victim to submit  
44 a written statement on the matter. The court's order, and reasons for its

1 order, and the statements of the state and the victim shall be sent to the  
2 board of executive clemency.

3 Sec. 3. Title 13, chapter 38, Arizona Revised Statutes, is amended  
4 by adding article 35, to read:

5 ARTICLE 35. ILLEGAL ENTRY INTO THIS STATE

6 13-4295. Definitions

7 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

8 1. "ALIEN" MEANS A PERSON WHO IS NOT A CITIZEN OR NATIONAL OF THE  
9 UNITED STATES AS DESCRIBED IN 8 UNITED STATES CODE SECTION 1101.

10 2. "PORT OF ENTRY" MEANS A PORT OF ENTRY IN THE UNITED STATES AS  
11 DESCRIBED IN 19 CODE OF FEDERAL REGULATIONS PART 101.1.

12 13-4295.01. Illegal entry from foreign nation; affirmative  
13 defense; classification

14 A. IT IS UNLAWFUL FOR A PERSON WHO IS AN ALIEN TO ENTER OR ATTEMPT  
15 TO ENTER THIS STATE DIRECTLY FROM A FOREIGN NATION AT ANY LOCATION OTHER  
16 THAN A LAWFUL PORT OF ENTRY.

17 B. IT IS AN AFFIRMATIVE DEFENSE TO A VIOLATION OF SUBSECTION A OF  
18 THIS SECTION IF ANY OF THE FOLLOWING APPLIES:

19 1. THE FEDERAL GOVERNMENT HAS GRANTED THE DEFENDANT LAWFUL PRESENCE  
20 IN THE UNITED STATES OR ASYLUM UNDER 8 UNITED STATES CODE SECTION 1158.

21 2. THE DEFENDANT'S CONDUCT DOES NOT CONSTITUTE A VIOLATION OF 8  
22 UNITED STATES CODE SECTION 1325(a).

23 3. THE DEFENDANT WAS APPROVED FOR BENEFITS UNDER THE DEFERRED  
24 ACTION FOR CHILDHOOD ARRIVALS PROGRAM BETWEEN JUNE 15, 2012 AND JULY 16,  
25 2021.

26 C. NOTWITHSTANDING SUBSECTION B OF THIS SECTION, THE FOLLOWING  
27 FEDERAL PROGRAMS DO NOT PROVIDE AN AFFIRMATIVE DEFENSE FOR THE PURPOSES OF  
28 SUBSECTION B, PARAGRAPH 1 OF THIS SECTION:

29 1. THE DEFERRED ACTION FOR PARENTS OF AMERICANS AND LAWFUL  
30 PERMANENT RESIDENTS PROGRAM.

31 2. ANY PROGRAM NOT ENACTED BY THE UNITED STATES CONGRESS THAT IS A  
32 SUCCESSOR TO OR MATERIALLY SIMILAR TO THE PROGRAM DESCRIBED IN SUBSECTION  
33 B, PARAGRAPH 3 OF THIS SECTION OR PARAGRAPH 1 OF THIS SUBSECTION.

34 D. A VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR, EXCEPT  
35 THAT A VIOLATION OF THIS SECTION IS A CLASS 6 FELONY IF THE DEFENDANT HAS  
36 BEEN PREVIOUSLY CONVICTED OF A VIOLATION OF THIS SECTION.

37 13-4295.02. Illegal reentry by certain aliens;  
38 classification; definition

39 A. IT IS UNLAWFUL FOR A PERSON WHO IS AN ALIEN TO ENTER, TO ATTEMPT  
40 TO ENTER OR TO BE FOUND AT ANY TIME IN THIS STATE IF EITHER OF THE  
41 FOLLOWING APPLIES:

42 1. THE PERSON HAS BEEN DENIED ADMISSION TO OR EXCLUDED, DEPORTED OR  
43 REMOVED FROM THE UNITED STATES.

44 2. THE PERSON HAS DEPARTED FROM THE UNITED STATES WHILE AN ORDER OF  
45 EXCLUSION, DEPORTATION OR REMOVAL IS OUTSTANDING.

1 B. A VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR, EXCEPT  
2 THAT A VIOLATION OF THIS SECTION IS A CLASS 3 FELONY IF ANY OF THE  
3 FOLLOWING APPLIES:

4 1. THE DEFENDANT'S REMOVAL WAS SUBSEQUENT TO A CONVICTION FOR  
5 COMMISSION OF TWO OR MORE MISDEMEANORS INVOLVING DRUGS OR CRIMES AGAINST A  
6 PERSON, OR BOTH.

7 2. THE DEFENDANT WAS EXCLUDED PURSUANT TO 8 UNITED STATES CODE  
8 SECTION 1225(c) BECAUSE THE DEFENDANT WAS EXCLUDABLE UNDER 8 UNITED STATES  
9 CODE SECTION 1182(a)(3)(B).

10 3. THE DEFENDANT WAS REMOVED PURSUANT TO 8 UNITED STATES CODE  
11 CHAPTER 12, SUBCHAPTER V.

12 4. THE DEFENDANT WAS REMOVED PURSUANT TO 8 UNITED STATES CODE  
13 SECTION 1231(a)(4)(B).

14 C. NOTWITHSTANDING SUBSECTION B OF THIS SECTION, A VIOLATION OF  
15 THIS SECTION IS A CLASS 2 FELONY IF THE DEFENDANT WAS REMOVED SUBSEQUENT  
16 TO A CONVICTION FOR THE COMMISSION OF A FELONY.

17 D. FOR PURPOSES OF THIS SECTION, "REMOVAL" INCLUDES AN ORDER ISSUED  
18 PURSUANT TO SECTION 13-4295.05 OR ANY OTHER AGREEMENT IN WHICH AN ALIEN  
19 STIPULATES TO REMOVAL PURSUANT TO A CRIMINAL PROCEEDING PURSUANT TO EITHER  
20 FEDERAL OR STATE LAW.

21 13-4295.03. Refusal to comply with order to return to a  
22 foreign nation; classification

23 A. A PERSON WHO IS AN ALIEN COMMITS REFUSAL TO COMPLY WITH AN ORDER  
24 TO RETURN TO A FOREIGN NATION IF ALL OF THE FOLLOWING OCCUR:

25 1. THE PERSON IS CHARGED WITH OR CONVICTED OF AN OFFENSE UNDER THIS  
26 ARTICLE.

27 2. A MAGISTRATE OR JUDGE, AS APPLICABLE, ISSUES AN ORDER PURSUANT  
28 TO SECTION 13-4295.05 FOR THE PERSON TO RETURN TO THE FOREIGN NATION FROM  
29 WHICH THE PERSON ENTERED OR ATTEMPTED TO ENTER.

30 3. THE PERSON REFUSES TO COMPLY WITH THE ORDER.

31 B. A VIOLATION OF THIS SECTION IS A CLASS 2 FELONY.

32 13-4295.04. Enforcement prohibited in certain locations

33 A PEACE OFFICER MAY NOT ARREST OR DETAIN A PERSON TO ENFORCE THIS  
34 ARTICLE IF THE PERSON IS ON THE PREMISES OR GROUNDS OF ANY OF THE  
35 FOLLOWING:

36 1. A PUBLIC OR PRIVATE PRIMARY OR POSTSECONDARY EDUCATIONAL  
37 INSTITUTION.

38 2. A CHURCH, SYNAGOGUE OR OTHER ESTABLISHED PLACE OF RELIGIOUS  
39 WORSHIP.

40 3. A HEALTH CARE FACILITY AS DEFINED IN SECTION 36-437, INCLUDING A  
41 FACILITY THAT A STATE AGENCY MAINTAINS OR OPERATES TO PROVIDE HEALTH CARE,  
42 OR THE OFFICE OF A HEALTH CARE PROVIDER AS DEFINED IN SECTION 12-2291, IF  
43 THE PERSON IS ON THE PREMISES OR GROUNDS OF THE HEALTH CARE FACILITY OR  
44 OFFICE OF A HEALTH CARE PROVIDER TO RECEIVE MEDICAL TREATMENT.

1           13-4295.05. Order to return to foreign nation  
2           A. DURING A PERSON'S APPEARANCE BEFORE A MAGISTRATE PURSUANT TO  
3 SECTION 13-3897 OR 13-3898 AND AFTER DETERMINING THAT PROBABLE CAUSE  
4 EXISTS FOR ARREST FOR AN OFFENSE UNDER SECTION 13-4295.01 OR 13-4295.02,  
5 THE MAGISTRATE MAY ORDER THE PERSON TO BE RELEASED FROM CUSTODY AND ISSUE  
6 A WRITTEN ORDER IN ACCORDANCE WITH SUBSECTION C OF THIS SECTION.  
7           B. AT ANY TIME AFTER A PERSON'S APPEARANCE BEFORE A MAGISTRATE  
8 PURSUANT TO SECTION 13-3897 OR 13-3898, THE JUDGE, INSTEAD OF CONTINUING  
9 THE PROSECUTION OF OR ENTERING AN ADJUDICATION REGARDING AN OFFENSE UNDER  
10 SECTION 13-4295.01 OR 13-4295.02, MAY DISMISS THE CHARGE PENDING AGAINST  
11 THE PERSON AND ISSUE A WRITTEN ORDER IN ACCORDANCE WITH SUBSECTION C OF  
12 THIS SECTION.  
13           C. A WRITTEN ORDER AUTHORIZED BY SUBSECTION A OR B OF THIS SECTION  
14 SHALL DISCHARGE THE PERSON AND REQUIRE THE PERSON TO RETURN TO THE FOREIGN  
15 NATION FROM WHICH THE PERSON ENTERED OR ATTEMPTED TO ENTER AND MAY BE  
16 ISSUED IF ALL OF THE FOLLOWING APPLY:  
17           1. THE PERSON AGREES TO THE ORDER.  
18           2. THE PERSON HAS NOT PREVIOUSLY BEEN CONVICTED OF AN OFFENSE UNDER  
19 THIS ARTICLE OR PREVIOUSLY OBTAINED A DISCHARGE UNDER AN ORDER ISSUED  
20 PURSUANT TO THIS SECTION.  
21           3. THE PERSON IS NOT CHARGED WITH ANOTHER CLASS 1 MISDEMEANOR OR  
22 ANY FELONY OFFENSE.  
23           4. BEFORE THE ISSUANCE OF THE ORDER, THE ARRESTING LAW ENFORCEMENT  
24 AGENCY DOES ALL OF THE FOLLOWING:  
25           (a) COLLECTS ALL IDENTIFYING INFORMATION OF THE PERSON, WHICH MUST  
26 INCLUDE TAKING FINGERPRINTS FROM THE PERSON AND USING OTHER APPLICABLE  
27 PHOTOGRAPHIC AND BIOMETRIC MEASURES TO IDENTIFY THE PERSON.  
28           (b) CROSS-REFERENCE THE COLLECTED INFORMATION WITH ALL RELEVANT  
29 LOCAL, STATE AND FEDERAL CRIMINAL DATABASES AND FEDERAL LISTS OR  
30 CLASSIFICATIONS THAT ARE USED TO IDENTIFY A PERSON AS A THREAT OR  
31 POTENTIAL THREAT TO NATIONAL SECURITY.  
32           D. ON CONVICTION OF AN OFFENSE UNDER THIS ARTICLE, THE JUDGE SHALL  
33 ENTER AN ORDER THAT REQUIRES THE PERSON TO RETURN TO THE FOREIGN NATION  
34 FROM WHICH THE PERSON ENTERED OR ATTEMPTED TO ENTER. AN ORDER ISSUED  
35 UNDER THIS SUBSECTION TAKES EFFECT ON COMPLETION OF THE PERSON'S TERM  
36 IMPRISONMENT.  
37           E. AN ORDER THAT IS ISSUED UNDER THIS SECTION MUST INCLUDE BOTH OF  
38 THE FOLLOWING:  
39           1. THE MANNER OF TRANSPORTATION OF THE PERSON TO A PORT OF ENTRY.  
40           2. THE LAW ENFORCEMENT OFFICER OR STATE AGENCY THAT IS RESPONSIBLE  
41 FOR MONITORING COMPLIANCE WITH THE ORDER.  
42           F. AN ORDER THAT IS ISSUED UNDER THIS SECTION MUST BE FILED WITH  
43 EITHER OF THE FOLLOWING:  
44           1. FOR ORDERS ENTERED UNDER SUBSECTION A OF THIS SECTION, THE  
45 COUNTY CLERK OF THE COUNTY IN WHICH THE PERSON WAS ARRESTED.





1 to section 13-603, subsection ~~T~~ M and may make recommendations to the  
2 governor.

3 4. Shall receive petitions from individuals, organizations or the  
4 department for review and commutation of sentences and pardoning of  
5 offenders in extraordinary cases and may make recommendations to the  
6 governor.

7 5. Shall receive petitions from the state department of corrections  
8 alleging that an offender has violated the offender's terms and conditions  
9 of community supervision and has lapsed or is probably about to lapse into  
10 criminal ways or company. If the board determines that an offender on  
11 community supervision has violated the terms and conditions of community  
12 supervision the board may do any of the following:

13 (a) If the offender has not committed an additional offense, place  
14 the offender on electronic monitoring.

15 (b) Revoke community supervision and return the offender to prison  
16 for the remainder of the offender's community supervision.

17 (c) Impose additional terms and conditions on the offender while  
18 keeping the offender on community supervision. If there is reasonable  
19 cause to believe that an offender who has been kept on community  
20 supervision has violated any term or condition of community supervision,  
21 any member of the board may petition the board to revoke community  
22 supervision. After a petition to revoke has been submitted, the  
23 chairperson may issue a summons directing the offender to appear on a  
24 specified date for a revocation hearing or may issue a warrant for the  
25 offender's arrest. This subsection does not limit the state department of  
26 corrections' authority with respect to submitting revocation petitions or  
27 issuing revocation warrants.

28 D. Any recommendation for commutation that is made unanimously by  
29 the members present and voting and that is not acted on by the governor  
30 within ninety days after the board submits its recommendation to the  
31 governor automatically becomes effective.

32 E. The executive director shall perform all administrative,  
33 operational and financial functions for the board.

34 F. The executive director may employ case analysts as deemed  
35 necessary within the limits of legislative appropriation and subject to  
36 title 41, chapter 4, article 4. The analysts shall aid the board in  
37 making investigations, in securing information and in performing necessary  
38 administrative functions to assist the board in passing on applications  
39 for parole and commutation.

40 G. The executive director may employ hearing officers as deemed  
41 necessary within the limits of legislative appropriation and subject to  
42 title 41, chapter 4, article 4. The hearing officers shall conduct  
43 probable cause hearings on parole, work furlough, community supervision  
44 and home arrest revocations or rescissions. Hearing officers shall assist

1 the board in making investigations, securing information and performing  
2 necessary administrative functions.

3 Sec. 5. Section 31-403, Arizona Revised Statutes, is amended to  
4 read:

5 31-403. Commutation; restrictions on consideration

6 A. A person who is otherwise eligible for commutation and who is  
7 denied a commutation of sentence recommendation shall not petition or be  
8 considered by the board for commutation of that sentence for a period of  
9 five years following the date of the board's denial of the commutation  
10 recommendation if the offense for which the commutation recommendation was  
11 denied involved any of the following:

12 1. Death in violation of section 13-1104 or 13-1105.

13 2. Serious physical injury if the person was sentenced pursuant to  
14 section 13-704.

15 3. A dangerous crime against children as defined in section 13-705.

16 4. A felony offense in violation of title 13, chapter 14 or 35.1.

17 B. Notwithstanding subsection A, paragraph 2 of this section, if,  
18 in its sole discretion, the board determines that the person committed an  
19 offense that involved serious physical injury as defined in section 13-105  
20 and that the person was not sentenced pursuant to section 13-704, the  
21 board may order that the person shall not petition or be considered by the  
22 board for commutation of that sentence for a period of five years  
23 following the date of the board's denial of the commutation  
24 recommendation.

25 C. Notwithstanding subsection A or B of this section, the board, at  
26 the time of denial, may lengthen the five year period of time prescribed  
27 in subsection A or B of this section to a period of up to ten years,  
28 except that if the offense for which commutation was denied involved a  
29 violation of an offense listed in subsection A, paragraph 1 of this  
30 section, the board may lengthen the period of time to a period of time  
31 that is greater than ten years and that is specified by the board by one  
32 of the following votes:

33 1. A majority affirmative vote if four or more members consider the  
34 action.

35 2. A unanimous affirmative vote if three members consider the  
36 action.

37 3. A unanimous affirmative vote if two members consider the action  
38 pursuant to section 31-401, subsection I and the chairman concurs after  
39 reviewing the information considered by the two members. If the chairman  
40 is one of the two members constituting a two member quorum under section  
41 31-401, subsection I, and both the chairman and the other member vote to  
42 lengthen the five year period to a period of time greater than ten years,  
43 no further action shall be taken and the decision on whether to lengthen  
44 the five year period shall be considered by the board at a meeting at  
45 which at least three members are present and voting.

1 D. The board may waive the provisions of subsections A, B and C of  
2 this section if any of the following applies:

3 fcondition, as determined by the board.

4 2. The person is the subject of a warrant of execution.

5 3. The sentence for which commutation is sought is the subject of a  
6 special order issued by the court pursuant to section 13-603, subsection  
7 ~~M~~.

8 E. This section applies only to offenses that are committed on or  
9 after January 1, 2006.

10 Sec. 6. Section 41-1750, Arizona Revised Statutes, is amended to  
11 read:

12 41-1750. Central state repository; department of public  
13 safety; duties; funds; accounts; definitions

14 A. The department is responsible for the effective operation of the  
15 central state repository in order to collect, store and disseminate  
16 complete and accurate Arizona criminal history records and related  
17 criminal justice information. The department may procure criminal history  
18 records and related criminal justice information for violations that are  
19 not listed in this section. The department shall:

20 1. Procure from all criminal justice agencies in this state  
21 accurate and complete personal identification data, fingerprints, charges,  
22 process control numbers and dispositions and such other information as may  
23 be pertinent to all persons who have been charged with, arrested for,  
24 convicted of or summoned to court as a criminal defendant for any of the  
25 following:

26 (a) A felony offense or an offense involving domestic violence as  
27 defined in section 13-3601.

28 (b) A violation of title 13, chapter 14 or title 28, chapter 4.

29 (c) An offense listed in:

30 (i) Section 32-2422, subsection A, paragraph 4.

31 (ii) Section 32-2441, paragraph 4.

32 (iii) Section 32-2612, subsection A, paragraph 4.

33 (iv) Section 32-2622, subsection A, paragraph 4.

34 (v) Section 41-1758.03, subsections B and C.

35 (vi) Section 41-1758.07, subsections B and C.

36 (d) A VIOLATION OF SECTION 13-4295.01 OR 13-4295.02 AND FOR WHOM AN  
37 ORDER TO RETURN WAS ISSUED PURSUANT TO SECTION 13-4295.05.

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

- 1           3. Collect information concerning criminal offenses that manifest  
2 evidence of prejudice based on race, color, religion, national origin,  
3 sexual orientation, gender, antisemitism or disability.
- 4           4. Cooperate with the central state repositories in other states  
5 and with the appropriate agency of the federal government in the exchange  
6 of information pertinent to violators of the law.
- 7           5. Ensure the rapid exchange of information concerning the  
8 commission of crime and the detection of violators of the law among the  
9 criminal justice agencies of other states and of the federal government.
- 10          6. Furnish assistance to peace officers throughout this state in  
11 crime scene investigation for the detection of latent fingerprints and in  
12 the comparison of latent fingerprints.
- 13          7. Conduct periodic operational audits of the central state  
14 repository and of a representative sample of other agencies that  
15 contribute records to or receive criminal justice information from the  
16 central state repository or through the Arizona criminal justice  
17 information system.
- 18          8. Establish and enforce the necessary physical and system  
19 safeguards to ensure that the criminal justice information maintained and  
20 disseminated by the central state repository or through the Arizona  
21 criminal justice information system is appropriately protected from  
22 unauthorized inquiry, modification, destruction or dissemination as  
23 required by this section.
- 24          9. Aid and encourage coordination and cooperation among criminal  
25 justice agencies through the statewide and interstate exchange of criminal  
26 justice information.
- 27          10. Provide training and proficiency testing on the use of criminal  
28 justice information to agencies receiving information from the central  
29 state repository or through the Arizona criminal justice information  
30 system.
- 31          11. Operate and maintain the Arizona automated fingerprint  
32 identification system established by section 41-2411.
- 33          12. Provide criminal history record information to the  
34 fingerprinting division for the purpose of screening applicants for  
35 fingerprint clearance cards.
- 36            B. The director may establish guidelines for the submission and  
37 retention of criminal justice information as deemed useful for the study  
38 or prevention of crime and for the administration of criminal justice.
- 39            C. Criminal justice agencies may provide criminal history records  
40 and related criminal justice information for violations that are not  
41 listed in this section. The chief officers of criminal justice agencies  
42 of this state or its political subdivisions shall provide to the central  
43 state repository fingerprints and information concerning personal  
44 identification data, descriptions, crimes for which persons are arrested,  
45 process control numbers and dispositions and such other information as may

1 be pertinent to all persons who have been charged with, arrested for,  
2 convicted of or summoned to court as criminal defendants for any of the  
3 following:

4 1. Felony offenses or offenses involving domestic violence as  
5 defined in section 13-3601.

6 2. Violations of title 13, chapter 14 or title 28, chapter 4 that  
7 have occurred in this state.

8 3. An offense listed in:

9 (a) Section 32-2422, subsection A, paragraph 4.

10 (b) Section 32-2441, paragraph 4.

11 (c) Section 32-2612, subsection A, paragraph 4.

12 (d) Section 32-2622, subsection A, paragraph 4.

13 (e) Section 41-1758.03, subsections B and C.

14 (f) Section 41-1758.07, subsections B and C.

15 D. The chief officers of law enforcement agencies of this state or  
16 its political subdivisions shall provide to the department such  
17 information as necessary to operate the statewide uniform crime reporting  
18 program and to cooperate with the federal government uniform crime  
19 reporting program.

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

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

29 G. The director shall authorize the exchange of criminal justice  
30 information between the central state repository, or through the Arizona  
31 criminal justice information system, whether directly or through any  
32 intermediary, only as follows:

33 1. With criminal justice agencies of the federal government, Indian  
34 tribes, this state or its political subdivisions and other states, on  
35 request by the chief officers of such agencies or their designated  
36 representatives, specifically for the purposes of the administration of  
37 criminal justice and for evaluating the fitness of current and prospective  
38 criminal justice employees. The department may conduct periodic state and  
39 federal criminal history records checks for the purpose of updating the  
40 status of current criminal justice employees or volunteers and may notify  
41 the criminal justice agency of the results of the records check. The  
42 department is authorized to submit fingerprints to the federal bureau of  
43 investigation to be retained for the purpose of being searched by future  
44 submissions to the federal bureau of investigation including latent  
45 fingerprint searches.

1           2. With any noncriminal justice agency pursuant to a statute,  
2 ordinance or executive order that specifically authorizes the noncriminal  
3 justice agency to receive criminal history record information for the  
4 purpose of evaluating the fitness of current or prospective licensees,  
5 employees, contract employees or volunteers, on submission of the  
6 subject's fingerprints and the prescribed fee. Each statute, ordinance,  
7 or executive order that authorizes noncriminal justice agencies to receive  
8 criminal history record information for these purposes shall identify the  
9 specific categories of licensees, employees, contract employees or  
10 volunteers, and shall require that fingerprints of the specified  
11 individuals be submitted in conjunction with such requests for criminal  
12 history record information. The department may conduct periodic state and  
13 federal criminal history records checks for the purpose of updating the  
14 status of current licensees, employees, contract employees or volunteers  
15 and may notify the noncriminal justice agency of the results of the  
16 records check. The department is authorized to submit fingerprints to the  
17 federal bureau of investigation to be retained for the purpose of being  
18 searched by future submissions to the federal bureau of investigation  
19 including latent fingerprint searches.

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

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

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

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

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

1 correction of any inaccurate or incomplete information. The review and  
2 challenge process authorized by this paragraph is limited to criminal  
3 history record information.

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

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

16 10. With the auditor general for audit purposes.

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

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

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

35 (a) The fingerprint card.

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

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

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



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

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

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

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

14           20. With the state board of education for the purpose of evaluating  
15 the fitness of a certificated educator, an applicant for a teaching or  
16 administrative certificate or a noncertificated person as defined in  
17 section 15-505 if the state board of education or its employees or agents  
18 have reasonable suspicion that the educator or person engaged in conduct  
19 that would be a criminal violation of the laws of this state or was  
20 involved in immoral or unprofessional conduct or that the applicant  
21 engaged in conduct that would warrant disciplinary action if the applicant  
22 were certificated at the time of the alleged conduct. The information  
23 shall be provided on the submission of either:

24           (a) The fingerprint card.

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

27           21. With each school district and charter school in this state.  
28 The department of education and the state board for charter schools shall  
29 provide the department of public safety with a current list of email  
30 addresses for each school district and charter school in this state and  
31 shall periodically provide the department of public safety with updated  
32 email addresses. If the department of public safety is notified that a  
33 person who is required to have a fingerprint clearance card to be employed  
34 by or to engage in volunteer activities at a school district or charter  
35 school has been arrested for or convicted of an offense listed in section  
36 41-1758.03, subsection B or has been arrested for or convicted of an  
37 offense that amounts to unprofessional conduct under section 15-550, the  
38 department of public safety shall notify each school district and charter  
39 school in this state that the person's fingerprint clearance card has been  
40 suspended or revoked.

41           22. With a tribal social services agency and the department of  
42 child safety as provided by law, which currently is the Adam Walsh child  
43 protection and safety act of 2006 (42 United States Code section 16961),  
44 for the purposes of investigating or responding to reports of child abuse,  
45 neglect or exploitation. Information received pursuant to this paragraph

1 from the national crime information center, the interstate identification  
2 index and the Arizona criminal justice information system network shall  
3 only be used for the purposes of investigating or responding as prescribed  
4 in this paragraph. The information shall be provided on submission to the  
5 department of public safety of either:

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

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

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

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

17 25. With the governor to provide criminal history record  
18 information on prospective gubernatorial nominees, appointees and  
19 employees as provided by law.

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

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

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

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

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

42 M. A fingerprint account within the records processing fund is  
43 established for the purpose of separately accounting for the collection  
44 and payment of fees for noncriminal justice fingerprint processing by the  
45 department. Monies collected for this purpose shall be credited to the

1 account, and payments by the department to the United States for federal  
2 noncriminal justice fingerprint processing shall be charged against the  
3 account. Monies in the account not required for payment to the United  
4 States shall be used by the department in support of the department's  
5 noncriminal justice fingerprint processing duties. At the end of each  
6 fiscal year, any balance in the account not required for payment to the  
7 United States or to support the department's noncriminal justice  
8 fingerprint processing duties reverts to the state general fund.

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

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

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

- 25 1. The collection and disposition of fees pursuant to this section.
- 26 2. The refusal of service to those agencies that are delinquent in  
27 paying these fees.

28 Q. The director shall ensure that the following limitations are  
29 observed regarding dissemination of criminal justice information obtained  
30 from the central state repository or through the Arizona criminal justice  
31 information system:

32 1. Any criminal justice agency that obtains criminal justice  
33 information from the central state repository or through the Arizona  
34 criminal justice information system assumes responsibility for the  
35 security of the information and shall not secondarily disseminate this  
36 information to any individual or agency not authorized to receive this  
37 information directly from the central state repository or originating  
38 agency.

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

43 3. Criminal history record information disseminated to noncriminal  
44 justice agencies or to individuals shall be used only for the purposes for

1 which it was given. Secondary dissemination is prohibited unless  
2 otherwise authorized by law.

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

6 5. Criminal history record information to be released for  
7 noncriminal justice purposes to agencies of other states shall only be  
8 released to the central state repositories of those states for  
9 dissemination in accordance with the laws of those states.

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

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

22 S. This section does not apply to criminal history record  
23 information contained in:

24 1. Posters, arrest warrants, announcements or lists for identifying  
25 or apprehending fugitives or wanted persons.

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

30 3. Transcripts or records of judicial proceedings if released by a  
31 court or legislative or administrative proceedings.

32 4. Announcements of executive clemency or pardon.

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

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

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

4 1. The booking agency shall take legible ten-print fingerprints of  
5 all persons who are arrested for offenses listed in subsection C of this  
6 section. The booking agency shall obtain a process control number and  
7 provide to the person fingerprinted a document that indicates proof of the  
8 fingerprinting and that informs the person that the document must be  
9 presented to the court.

10 2. Except as provided in paragraph 3 of this subsection, if a  
11 person is summoned to court as a result of an indictment or complaint for  
12 an offense listed in subsection C of this section, the court shall order  
13 the person to appear before the county sheriff and provide legible  
14 ten-print fingerprints. The county sheriff shall obtain a process control  
15 number and provide a document to the person fingerprinted that indicates  
16 proof of the fingerprinting and that informs the person that the document  
17 must be presented to the court. For the purposes of this paragraph,  
18 "summoned" includes a written promise to appear by the defendant on a  
19 uniform traffic ticket and complaint.

20 3. If a person is arrested for a misdemeanor offense listed in  
21 subsection C of this section by a city or town law enforcement agency, the  
22 person shall appear before the law enforcement agency that arrested the  
23 defendant and provide legible ten-print fingerprints. The law enforcement  
24 agency shall obtain a process control number and provide a document to the  
25 person fingerprinted that indicates proof of the fingerprinting and that  
26 informs the person that the document must be presented to the court.

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

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

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

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

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

35 (e) Instructions on reporting for ten-print fingerprinting,  
36 including available times and locations for reporting for ten-print  
37 fingerprinting.

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

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

44 6. On the issuance of a summons for a defendant who is charged with  
45 an offense listed in subsection C of this section, the summons shall

1 direct the defendant to provide ten-print fingerprints to the appropriate  
2 law enforcement agency.

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

10 8. If the defendant fails to present a completed mandatory  
11 fingerprint compliance form or if the court has not received the process  
12 control number, the court, on its own motion, may remand the defendant  
13 into custody for ten-print fingerprinting. If otherwise eligible for  
14 release, the defendant shall be released from custody after being  
15 ten-print fingerprinted.

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

23 10. Dispositions resulting from formal proceedings in a court  
24 having jurisdiction in a criminal action against an individual who is  
25 arrested for an offense specified in subsection C of this section or  
26 section 8-341, subsection Q, paragraph 3 shall be reported to the central  
27 state repository within forty days of the date of the disposition. This  
28 information shall be submitted on a form or in a manner specified by rules  
29 approved by the supreme court.

30 11. The state department of corrections or the department of  
31 juvenile corrections, within forty days, shall advise the central state  
32 repository that it has assumed supervision of a person convicted of an  
33 offense specified in subsection C of this section or section 8-341,  
34 subsection Q, paragraph 3. The state department of corrections or the  
35 department of juvenile corrections shall also report dispositions that  
36 occur thereafter to the central state repository within forty days of the  
37 date of the dispositions. This information shall be submitted on a form  
38 or in a manner required by the department of public safety.

39 12. Each criminal justice agency shall query the central state  
40 repository before dissemination of any criminal history record information  
41 to ensure the completeness of the information. Inquiries shall be made  
42 before any dissemination except in those cases in which time is of the  
43 essence and the repository is technically incapable of responding within  
44 the necessary time period. If time is of the essence, the inquiry shall  
45 still be made and the response shall be provided as soon as possible.

1           V. The director shall adopt rules specifying that any agency that  
2 collects, stores or disseminates criminal justice information that is  
3 subject to this section shall establish effective security measures to  
4 protect the information from unauthorized access, disclosure, modification  
5 or dissemination. The rules shall include reasonable safeguards to  
6 protect the affected information systems from fire, flood, wind, theft,  
7 sabotage or other natural or man-made hazards or disasters.

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

13           X. Nothing in this section creates a cause of action or a right to  
14 bring an action including an action based on discrimination due to sexual  
15 orientation.

16           Y. The definition prescribed in subsection Z, paragraph 3 of this  
17 section does not diminish or infringe on any rights protected under the  
18 first amendment to the United States constitution or the Arizona  
19 constitution.

20           Z. For the purposes of this section:

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

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

35           3. "Antisemitism" includes the definition of antisemitism that was  
36 adopted by the international holocaust remembrance alliance on May 26,  
37 2016 and that has been adopted by the United States department of state,  
38 including the contemporary examples of antisemitism identified in the  
39 adopted definition.

40           4. "Arizona criminal justice information system" or "system" means  
41 the statewide information system managed by the director for the  
42 collection, processing, preservation, dissemination and exchange of  
43 criminal justice information and includes the electronic equipment,  
44 facilities, procedures and agreements necessary to exchange this  
45 information.

1           5. "Booking agency" means the county sheriff or, if a person is  
2 booked into a municipal jail, the municipal law enforcement agency.

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

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

17           8. "Criminal justice agency" means either:

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

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

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

35           10. "Disposition" means information disclosing that a decision has  
36 been made not to bring criminal charges or that criminal proceedings have  
37 been concluded or information relating to sentencing, correctional  
38 supervision, release from correctional supervision, the outcome of an  
39 appellate review of criminal proceedings or executive clemency.

40           11. "Dissemination" means the written, oral or electronic  
41 communication or transfer of criminal justice information to individuals  
42 and agencies other than the criminal justice agency that maintains the  
43 information. Dissemination includes the act of confirming the existence  
44 or nonexistence of criminal justice information.



1           12. "Management control":

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

3           (i) Priorities regarding development and operation of criminal  
4 justice information systems and programs.

5           (ii) Standards for the selection, supervision and termination of  
6 personnel involved in the development of criminal justice information  
7 systems and programs and in the collection, maintenance, analysis and  
8 dissemination of criminal justice information.

9           (iii) Policies governing the operation of computers, circuits and  
10 telecommunications terminals used to process criminal justice information  
11 to the extent that the equipment is used to process, store or transmit  
12 criminal justice information.

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

16           13. "Process control number" means the Arizona automated  
17 fingerprint identification system number that attaches to each arrest  
18 event at the time of fingerprinting and that is assigned to the arrest  
19 fingerprint card, disposition form and other pertinent documents.

20           14. "Secondary dissemination" means the dissemination of criminal  
21 justice information from an individual or agency that originally obtained  
22 the information from the central state repository or through the Arizona  
23 criminal justice information system to another individual or agency.

24           15. "Sexual orientation" means consensual homosexuality or  
25 heterosexuality.

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

28           Sec. 7. Legislative findings

29           A. The legislature finds and declares that:

30           1. The Biden administration has consistently refused to enforce our  
31 nation's federal immigration laws.

32           2. The Biden administration's gross dereliction of duty has  
33 resulted in unprecedented numbers of illegal immigrants pouring over the  
34 United States southern border in what has become a historic invasion.

35           3. The legislature has urged Congress to enact H.R. 9174, the  
36 Senate Immigration Enforcement Act, or similar legislation to bypass the  
37 current Administration's open border policies and restore the rule of law,  
38 but Congress has refused to act.

39           4. An uncontrolled border is a security and humanitarian crisis,  
40 and the increased violence and the smuggling of illegal drugs, weapons,  
41 and human beings pose a direct threat to our communities, our state and  
42 innocent Americans.

1           5. The Arizona Legislature has demanded that the Arizona Governor  
2 and the Arizona Attorney General take executive action and hold President  
3 Biden accountable in court to protect Arizona's citizens and its  
4 sovereignty, but they have refused to do so.

5           B. Based on the findings provided in subsection A of this section,  
6 the legislature's purpose in adopting this section is to exercise  
7 Arizona's sovereign authority pursuant to Article II, section 3 of the  
8 Arizona Constitution and the Tenth Amendment to the United States  
9 Constitution.