

REFERENCE TITLE: crimes; hostility towards victims; sentencing

State of Arizona
House of Representatives
Fifty-seventh Legislature
Second Regular Session
2026

HB 2175

Introduced by
Representative Willoughby

AN ACT

AMENDING TITLE 13, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-722; AMENDING SECTIONS 13-1203, 13-1602, 13-4903, 13-4904 AND 41-1750, ARIZONA REVISED STATUTES; RELATING TO SENTENCING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 13, chapter 7, Arizona Revised Statutes, is
3 amended by adding section 13-722, to read:

4 13-722. Special sentencing provisions; offenses committed out
5 of malice towards the victim; exception

6 A. A PERSON WHO IS CONVICTED OF COMMITTING A FELONY VIOLATION OF
7 CHAPTER 11 OF THIS TITLE, SECTION 13-1204 OR 13-1602, CHAPTER 17 OF THIS
8 TITLE OR SECTION 13-2308.02, 13-2904 OR 13-2922 OUT OF HOSTILITY TOWARD A
9 VICTIM BECAUSE OF THE VICTIM'S IDENTITY IN A GROUP LISTED IN SECTION
10 41-1750, SUBSECTION A, PARAGRAPH 3 OR BECAUSE OF THE DEFENDANT'S
11 PERCEPTION OF THE VICTIM'S IDENTITY IN A GROUP LISTED IN SECTION 41-1750,
12 SUBSECTION A, PARAGRAPH 3 IS NOT ELIGIBLE FOR SUSPENSION OF SENTENCE,
13 PROBATION, PARDON OR RELEASE FROM CONFINEMENT ON ANY BASIS EXCEPT AS
14 AUTHORIZED BY SECTION 31-233, SUBSECTION A OR B UNTIL THE SENTENCE IMPOSED
15 BY THE COURT HAS BEEN SERVED, THE PERSON IS ELIGIBLE FOR RELEASE PURSUANT
16 TO SECTION 41-1604.07 OR THE SENTENCE IS COMMUTED. THE PRESUMPTIVE,
17 MINIMUM AND MAXIMUM SENTENCE FOR THE OFFENSE SHALL BE INCREASED BY THREE
18 YEARS IF THE OFFENSE IS A CLASS 4, 5 OR 6 FELONY OR SHALL BE INCREASED BY
19 FIVE YEARS IF THE OFFENSE IS A CLASS 2 OR 3 FELONY. THE ADDITIONAL
20 SENTENCE IMPOSED PURSUANT TO THIS SECTION IS IN ADDITION TO ANY ENHANCED
21 SENTENCE THAT MAY BE APPLICABLE.

22 B. THIS SECTION DOES NOT APPLY TO A PERSON WHO IS CONVICTED OF A
23 VIOLATION OF SECTION 13-1203, SUBSECTION C OR SECTION 13-1602, SUBSECTION
24 C, PARAGRAPH 6.

25 C. THIS SECTION DOES NOT AFFECT OR LIMIT A PERSON'S CONSTITUTIONAL
26 RIGHT TO THE LAWFUL EXPRESSION OF FREE SPEECH OR OTHER RECOGNIZED RIGHTS
27 THAT ARE SECURED BY THE CONSTITUTION OR LAWS OF THIS STATE OR BY THE
28 CONSTITUTION OR LAWS OF THE UNITED STATES.

29 Sec. 2. Section 13-1203, Arizona Revised Statutes, is amended to
30 read:

31 13-1203. Assault; classification

32 A. A person commits assault by:

33 1. Intentionally, knowingly or recklessly causing any physical
34 injury to another person; or

35 2. Intentionally placing another person in reasonable apprehension
36 of imminent physical injury; or

37 3. Knowingly touching another person with the intent to injure,
38 insult or provoke such person.

39 B. Assault committed intentionally or knowingly pursuant to
40 subsection A, paragraph 1 is a class 1 misdemeanor. Assault committed
41 recklessly pursuant to subsection A, paragraph 1 is a class 2
42 misdemeanor. Assault committed pursuant to subsection A, paragraph 2 or 3
43 is a class 3 misdemeanor.

44 C. NOTWITHSTANDING SUBSECTION B OF THIS SECTION, ASSAULT COMMITTED
45 PURSUANT TO SUBSECTION A, PARAGRAPH 1 OF THIS SECTION IS A CLASS 6 FELONY

1 IF THE DEFENDANT COMMITTED THE OFFENSE OUT OF HOSTILITY TOWARD THE VICTIM
2 BECAUSE OF THE VICTIM'S IDENTITY IN A GROUP LISTED IN SECTION 41-1750,
3 SUBSECTION A, PARAGRAPH 3 OR BECAUSE OF THE DEFENDANT'S PERCEPTION OF THE
4 VICTIM'S IDENTITY IN A GROUP LISTED IN SECTION 41-1750, SUBSECTION A,
5 PARAGRAPH 3. THIS SUBSECTION DOES NOT AFFECT OR LIMIT A PERSON'S
6 CONSTITUTIONAL RIGHT TO THE LAWFUL EXPRESSION OF FREE SPEECH OR OTHER
7 RECOGNIZED RIGHTS THAT ARE SECURED BY THE CONSTITUTION OR LAWS OF THIS
8 STATE OR BY THE CONSTITUTION OR LAWS OF THE UNITED STATES.

9 Sec. 3. Section 13-1602, Arizona Revised Statutes, is amended to
10 read:

11 13-1602. Criminal damage; classification

12 A. A person commits criminal damage by:

- 13 1. Recklessly defacing or damaging property of another person.
- 14 2. Recklessly tampering with property of another person so as
15 substantially to impair its function or value.
- 16 3. Recklessly damaging property of a utility.
- 17 4. Recklessly physically obstructing a passageway in such a manner
18 as to deprive livestock of access to the only reasonably available water.
- 19 5. Recklessly drawing or inscribing a message, slogan, sign or
20 symbol that is made on any public or private building, structure or
21 surface, except the ground, and that is made without permission of the
22 owner.
- 23 6. Intentionally tampering with utility property.

24 ~~B.~~ B. For a violation of subsection A, paragraph 5 of this
25 section, in determining the amount of damage to property, damages include
26 reasonable labor costs of any kind, reasonable material costs of any kind
27 and any reasonable costs that are attributed to equipment that is used to
28 abate or repair the damage to the property.

29 ~~B.~~ C. Criminal damage is punished as follows:

- 30 1. Criminal damage is a class 4 felony if the person recklessly
31 damages property of another in an amount of \$10,000 or more.
- 32 2. Criminal damage is a class 4 felony if the person recklessly
33 damages the property of a utility in an amount of \$5,000 or more or if the
34 person intentionally tampers with utility property and the damage causes
35 an imminent safety hazard to any person.
- 36 3. Criminal damage is a class 5 felony if the person recklessly
37 damages property of another in an amount of \$2,000 or more but less than
38 \$10,000 or if the damage is inflicted to promote, further or assist any
39 criminal street gang or criminal syndicate with the intent to intimidate
40 and the person is not subject to paragraph 1 or 2 of this subsection.
- 41 4. Criminal damage is a class 6 felony if the person recklessly
42 damages property of another in an amount of \$1,000 or more but less than
43 \$2,000.

5. Criminal damage is a class 1 misdemeanor if the person recklessly damages property of another in an amount of more than \$250 but less than \$1,000.

6. NOTWITHSTANDING PARAGRAPH 5 OF THIS SUBSECTION, CRIMINAL DAMAGE IS A CLASS 6 FELONY IF THE DEFENDANT RECKLESSLY DAMAGES PROPERTY OF ANOTHER IN AN AMOUNT OF MORE THAN \$250 BUT LESS THAN \$1,000 AND COMMITS THE OFFENSE OUT OF HOSTILITY TOWARD THE VICTIM BECAUSE OF THE VICTIM'S IDENTITY IN A GROUP LISTED IN SECTION 41-1750, SUBSECTION A, PARAGRAPH 3 OR BECAUSE OF THE DEFENDANT'S PERCEPTION OF THE VICTIM'S IDENTITY IN A GROUP LISTED IN SECTION 41-1750, SUBSECTION A, PARAGRAPH 3. THIS PARAGRAPH DOES NOT AFFECT OR LIMIT A PERSON'S CONSTITUTIONAL RIGHT TO THE LAWFUL EXPRESSION OF FREE SPEECH OR OTHER RECOGNIZED RIGHTS THAT ARE SECURED BY THE CONSTITUTION OR LAWS OF THIS STATE OR BY THE CONSTITUTION OR LAWS OF THE UNITED STATES.

~~6.~~ 7. In all other cases criminal damage is a class 2 misdemeanor.
Sec. 4. Section 13-4903, Arizona Revised Statutes, is amended to read:

13-4903. Use of force; armed nuclear security guards

A. An armed nuclear security guard is justified in using physical force against another person at a commercial nuclear generating station or structure or fenced yard of a commercial nuclear generating station if the armed nuclear security guard reasonably believes that such force is necessary to prevent or terminate the commission or attempted commission of criminal damage under section 13-1602, subsection A, paragraph 3 and subsection ~~B~~ C, paragraph 1 or 2, misconduct involving weapons under section 13-3102, subsection A, paragraph 13 or criminal trespass on a commercial nuclear generating station under section 13-4902.

B. Notwithstanding sections 13-403, 13-404, 13-405, 13-406, 13-408, 13-409, 13-410 and 13-411, an armed nuclear security guard is justified in using physical force up to and including deadly physical force against another person at a commercial nuclear generating station or structure or fenced yard of a commercial nuclear generating station if the armed nuclear security guard reasonably believes that such force is necessary to:

1. Prevent the commission of manslaughter under section 13-1103, second or first degree murder under section 13-1104 or 13-1105, aggravated assault under section 13-1204, subsection A, paragraph 1 or 2, kidnapping under section 13-1304, burglary in the second or first degree under section 13-1507 or 13-1508, arson of a structure or property under section 13-1703, arson of an occupied structure under section 13-1704, armed robbery under section 13-1904 or an act of terrorism under section 13-2308.01.

2. Defend oneself or a third person from the use or imminent use of deadly physical force.

C. Notwithstanding any other provision of this chapter, an armed nuclear security guard is justified in threatening to use physical or deadly physical force if and to the extent a reasonable armed nuclear security guard believes it necessary to protect oneself or others against another person's potential use of physical force or deadly physical force.

D. An armed nuclear security guard is not subject to civil liability for engaging in conduct that is otherwise justified pursuant to this chapter.

Sec. 5. Section 13-4904, Arizona Revised Statutes, is amended to read:

13-4904. Detention authority; armed nuclear security guards

A. An armed nuclear security guard, with reasonable belief, may detain in or on a commercial nuclear generating station or a structure or fenced yard of a commercial nuclear generating station in a reasonable manner and for a reasonable time any person who is suspected of committing or attempting to commit manslaughter under section 13-1103, second or first degree murder under section 13-1104 or 13-1105, aggravated assault under section 13-1204, subsection A, paragraph 1 or 2, kidnapping under section 13-1304, burglary in the second or first degree under section 13-1507 or 13-1508, criminal damage under section 13-1602, subsection A, paragraph 3 and subsection ~~B~~ C, paragraph 1 or 2, arson of a structure or property under section 13-1703, arson of an occupied structure under section 13-1704, armed robbery under section 13-1904, an act of terrorism under section 13-2308.01, misconduct involving weapons under section 13-3102, subsection A, paragraph 13 or criminal trespass on a commercial nuclear generating station under section 13-4902 for the purpose of summoning a law enforcement officer.

B. Reasonable belief of an armed nuclear security guard is a defense to a civil or criminal action against an armed nuclear security guard for false arrest, false or unlawful imprisonment or wrongful detention.

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

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

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

1. Procure from all criminal justice agencies in this state accurate and complete personal identification data, fingerprints, charges, process control numbers and dispositions and such other information as may be pertinent to all persons who have been charged with, arrested for,

1 convicted of or summoned to court as a criminal defendant for any of the
2 following:

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

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

6 (c) An offense listed in:

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

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

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

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

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

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

13 2. Collect information concerning the number and nature of offenses
14 known to have been committed in this state and of the legal steps taken in
15 connection with these offenses, such other information that is useful in
16 the study of crime and in the administration of criminal justice and all
17 other information deemed necessary to operate the statewide uniform crime
18 reporting program and to cooperate with the federal government uniform
19 crime reporting program.

20 3. Collect information concerning criminal offenses that manifest
21 evidence of prejudice based on race, color, religion, national origin,
22 sexual orientation, gender, **POLITICAL EXPRESSION OR POLITICAL AFFILIATION**,
23 antisemitism or disability.

24 4. Cooperate with the central state repositories in other states
25 and with the appropriate agency of the federal government in the exchange
26 of information pertinent to violators of the law.

27 5. Ensure the rapid exchange of information concerning the
28 commission of crime and the detection of violators of the law among the
29 criminal justice agencies of other states and of the federal government.

30 6. Furnish assistance to peace officers throughout this state in
31 crime scene investigation for the detection of latent fingerprints and in
32 the comparison of latent fingerprints.

33 7. Conduct periodic operational audits of the central state
34 repository and of a representative sample of other agencies that
35 contribute records to or receive criminal justice information from the
36 central state repository or through the Arizona criminal justice
37 information system.

38 8. Establish and enforce the necessary physical and system
39 safeguards to ensure that the criminal justice information maintained and
40 disseminated by the central state repository or through the Arizona
41 criminal justice information system is appropriately protected from
42 unauthorized inquiry, modification, destruction or dissemination as
43 required by this section.

1 9. Aid and encourage coordination and cooperation among criminal
2 justice agencies through the statewide and interstate exchange of criminal
3 justice information.

4 10. Provide training and proficiency testing on the use of criminal
5 justice information to agencies receiving information from the central
6 state repository or through the Arizona criminal justice information
7 system.

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

10 12. Provide criminal history record information to the
11 fingerprinting division for the purpose of screening applicants for
12 fingerprint clearance cards.

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

16 C. Criminal justice agencies may provide criminal history records
17 and related criminal justice information for violations that are not
18 listed in this section. Except for the requirements listed in subsection
19 U of this section, the chief officers of criminal justice agencies of this
20 state or its political subdivisions shall provide to the central state
21 repository fingerprints and information concerning personal identification
22 data, descriptions, crimes for which persons are arrested, process control
23 numbers and dispositions and such other information, including other
24 biometric data, as may be pertinent to all persons who have been charged
25 with, arrested for, convicted of or summoned to court as criminal
26 defendants for any of the following:

27 1. Felony offenses or offenses involving domestic violence as
28 defined in section 13-3601.

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

31 3. An offense listed in:

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

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

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

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

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

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

38 D. The chief officers of law enforcement agencies of this state or
39 its political subdivisions shall provide to the department such
40 information as necessary to operate the statewide uniform crime reporting
41 program and to cooperate with the federal government uniform crime
42 reporting program.

43 E. The chief officers of criminal justice agencies of this state or
44 its political subdivisions shall comply with the training and proficiency

1 testing guidelines as required by the department to comply with the
2 federal national crime information center mandates.

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

8 G. The director shall authorize the exchange of criminal justice
9 information between the central state repository, or through the Arizona
10 criminal justice information system, whether directly or through any
11 intermediary, only as follows:

12 1. With criminal justice agencies of the federal government, Indian
13 tribes, this state or its political subdivisions and other states, on
14 request by the chief officers of such agencies or their designated
15 representatives, specifically for the purposes of the administration of
16 criminal justice and for evaluating the fitness of current and prospective
17 criminal justice employees. Fingerprints submitted pursuant to this
18 paragraph may be searched through the department and the federal bureau of
19 investigation to conduct criminal history records checks. The department
20 may conduct criminal history records checks through state and federal rap
21 back services for the purpose of updating the status of current criminal
22 justice employees or volunteers and may notify the criminal justice agency
23 of the results of the records check. The department is authorized to
24 submit fingerprints to the federal bureau of investigation to be retained
25 for the purpose of being searched by future submissions to the federal
26 bureau of investigation, including latent fingerprint searches. The
27 department may retain fingerprints submitted pursuant to this paragraph
28 for the purpose of being searched by future submissions to the department,
29 including latent fingerprint searches.

30 2. With any noncriminal justice agency pursuant to a statute,
31 ordinance or executive order that specifically authorizes the noncriminal
32 justice agency to receive criminal history record information for the
33 purpose of evaluating the fitness of current or prospective licensees,
34 employees, contract employees or volunteers, on submission of the
35 subject's fingerprints and the prescribed fee. Each statute, ordinance,
36 or executive order that authorizes noncriminal justice agencies to receive
37 criminal history record information for these purposes shall identify the
38 specific categories of licensees, employees, contract employees or
39 volunteers and shall require that fingerprints of the specified
40 individuals be submitted in conjunction with such requests for criminal
41 history record information. Fingerprints submitted pursuant to this
42 paragraph may be searched through the department and the federal bureau of
43 investigation to conduct criminal history records checks. The department
44 may conduct criminal history records checks through state and federal rap
45 back services for the purpose of updating the status of current licensees,

1 employees, contract employees or volunteers and may notify the noncriminal
2 justice agency of the results of the records check. The department is
3 authorized to submit fingerprints to the federal bureau of investigation
4 to be retained for the purpose of being searched by future submissions to
5 the federal bureau of investigation, including latent fingerprint
6 searches. The department is authorized to retain fingerprints submitted
7 pursuant to this paragraph for the purpose of being searched by future
8 submissions to the department, including latent fingerprint searches.

9 3. With the board of fingerprinting for the purpose of conducting
10 good cause exceptions pursuant to section 41-619.55 and central registry
11 exceptions pursuant to section 41-619.57.

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

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

19 6. With regional computer centers that maintain authorized
20 computer-to-computer interfaces with the department, that are criminal
21 justice agencies or under the management control of a criminal justice
22 agency and that are established by a statute, ordinance or executive order
23 to provide automated data processing services to criminal justice agencies
24 specifically for the purposes of the administration of criminal justice or
25 evaluating the fitness of regional computer center employees who have
26 access to the Arizona criminal justice information system and the national
27 crime information center system.

28 7. With an individual who asserts a belief that criminal history
29 record information relating to the individual is maintained by an agency
30 or in an information system in this state that is subject to this section.
31 On submission of fingerprints, the individual may review this information
32 for the purpose of determining its accuracy and completeness by making
33 application to the agency operating the system. Rules adopted under this
34 section shall include provisions for administrative review and necessary
35 correction of any inaccurate or incomplete information. The review and
36 challenge process authorized by this paragraph is limited to criminal
37 history record information.

38 8. With individuals and agencies pursuant to a specific agreement
39 with a criminal justice agency to provide services required for the
40 administration of criminal justice pursuant to that agreement if the
41 agreement specifically authorizes access to data, limits the use of data
42 to purposes for which given and ensures the security and confidentiality
43 of the data consistent with this section.

1 9. With individuals and agencies for the express purpose of
2 research, evaluative or statistical activities pursuant to an agreement
3 with a criminal justice agency if the agreement specifically authorizes
4 access to data, limits the use of data to research, evaluative or
5 statistical purposes and ensures the confidentiality and security of the
6 data consistent with this section.

7 10. With the auditor general for audit purposes.

8 11. With central state repositories of other states for noncriminal
9 justice purposes for dissemination in accordance with the laws of those
10 states.

11 12. On submission of the fingerprint card, with the department of
12 child safety and a tribal social services agency to provide criminal
13 history record information on prospective adoptive parents for the purpose
14 of conducting the preadoption certification investigation under title 8,
15 chapter 1, article 1 if the department of economic security is conducting
16 the investigation, or with an agency or a person appointed by the court,
17 if the agency or person is conducting the investigation. Information
18 received under this paragraph shall only be used for the purposes of the
19 preadoption certification investigation.

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

26 (a) The fingerprint card.

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

29 14. On submission of a fingerprint card, provide criminal history
30 record information to the superior court for the purpose of evaluating the
31 fitness of investigators appointed under section 14-5303 or 14-5407,
32 guardians appointed under section 14-5206 or 14-5304 or conservators
33 appointed under section 14-5401.

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

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

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

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

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

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

16 (a) The fingerprint card.

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

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

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

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

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

1 23. With a nonprofit organization that interacts with children or
2 vulnerable adults for the lawful purpose of evaluating the fitness of all
3 current and prospective employees, contractors and volunteers of the
4 organization. The criminal history record information shall be provided
5 on submission of the applicant's fingerprint card and the prescribed fee.
6 Fingerprints submitted pursuant to this paragraph may be searched by the
7 department to conduct state criminal history records checks.

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

11 25. With the governor to provide criminal history record
12 information on prospective gubernatorial nominees, appointees and
13 employees as provided by law.

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

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

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

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

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

36 M. A fingerprint account within the records processing fund is
37 established for the purpose of separately accounting for the collection
38 and payment of fees for noncriminal justice fingerprint processing by the
39 department. Monies collected for this purpose shall be credited to the
40 account, and payments by the department to the United States for federal
41 noncriminal justice fingerprint processing shall be charged against the
42 account. Monies in the account not required for payment to the United
43 States shall be used by the department in support of the department's
44 noncriminal justice fingerprint processing duties. At the end of each
45 fiscal year, any balance in the account not required for payment to the

1 United States or to support the department's noncriminal justice
2 fingerprint processing duties reverts to the state general fund.

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

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

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

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

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

22 Q. The director shall ensure that the following limitations are
23 observed regarding dissemination of criminal justice information obtained
24 from the central state repository or through the Arizona criminal justice
25 information system:

26 1. Any criminal justice agency that obtains criminal justice
27 information from the central state repository or through the Arizona
28 criminal justice information system assumes responsibility for the
29 security of the information and shall not secondarily disseminate this
30 information to any individual or agency not authorized to receive this
31 information directly from the central state repository or originating
32 agency.

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

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

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

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

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

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

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

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

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

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

4. Announcements of executive clemency or pardon.

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

T. This section does not prevent a criminal justice agency from disclosing to the public criminal history record information that is reasonably contemporaneous to the event for which an individual is currently within the criminal justice system, including information noted on traffic accident reports concerning citations, blood alcohol tests or arrests made in connection with the traffic accident being investigated.

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

1. The booking agency shall take legible ten-print fingerprints of all persons who are arrested for offenses listed in subsection C of this section. The booking agency shall obtain a process control number and provide to the person fingerprinted a document that indicates proof of the

1 fingerprinting and that informs the person that the document must be
2 presented to the court.

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

13 3. If a person is arrested for a misdemeanor offense listed in
14 subsection C of this section by a city or town law enforcement agency, the
15 person shall appear before the law enforcement agency that arrested the
16 defendant and provide legible ten-print fingerprints. The law enforcement
17 agency shall obtain a process control number and provide a document to the
18 person fingerprinted that indicates proof of the fingerprinting and that
19 informs the person that the document must be presented to the court.

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

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

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

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

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

28 (e) Instructions on reporting for ten-print fingerprinting,
29 including available times and locations for reporting for ten-print
30 fingerprinting.

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

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

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

41 7. At the initial appearance or on the arraignment of a summoned
42 defendant who is charged with an offense listed in subsection C of this
43 section, if the person does not present a completed mandatory fingerprint
44 compliance form to the court or if the court has not received the process
45 control number, the court shall order that within twenty calendar days the

defendant be ten-print fingerprinted at a designated time and place by the appropriate law enforcement agency.

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

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

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

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

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

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

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

X. This section does not create a cause of action or a right to bring an action including an action based on discrimination due to sexual orientation.

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

Z. For the purposes of this section:

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

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

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

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

5. "Biometric data" means any physical characteristics, including fingerprints and palm prints and face, tattoo and iris images.

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

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

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

12 9. "Criminal justice agency" means either:

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

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

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

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

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

40 13. "Management control":

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

42 (i) Priorities regarding development and operation of criminal
43 justice information systems and programs.

1 (ii) Standards for the selection, supervision and termination of
2 personnel involved in the development of criminal justice information
3 systems and programs and in the collection, maintenance, analysis and
4 dissemination of criminal justice information.

5 (iii) Policies governing the operation of computers, circuits and
6 telecommunications terminals used to process criminal justice information
7 to the extent that the equipment is used to process, store or transmit
8 criminal justice information.

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

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

16 15. "Rap back services" means real-time or near real-time
17 notifications of activity, such as arrests on an individual, for
18 authorized criminal justice or noncriminal justice purposes in which
19 continuous evaluation of the individual's criminal history is required.

20 16. "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 17. "Sexual orientation" means consensual homosexuality or
25 heterosexuality.

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