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CHAPTER 241

HOUSE BILL 2399

AN ACT

AMENDING SECTIONS 8-241, 8-247 AND 41-1750, ARIZONA REVISED STATUTES;
RELATING TO JUVENILE COURT.

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

2 Section 1. Section 8-241, Arizona Revised Statutes, is amended to
3 read:

4 8-241. Disposition and commitment; definition

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

7 1. It may award a dependent child:

8 (a) To the care of the child's parents, subject to the supervision of
9 the department of economic security.

10 (b) To a suitable institution.

11 (c) To an association willing to receive the child.

12 (d) To a reputable citizen of good moral character.

13 (e) To an appropriate public or private agency licensed to care for
14 children.

15 (f) To a suitable school.

16 (g) To maternal or paternal relatives, as guardian of the person,
17 provided they are physically and financially able to provide proper care.

18 (h) To the protective supervision of a probation department subject
19 to such conditions as the court may impose.

20 (i) To supervision under the independent living program established
21 pursuant to section 8-521.

22 (j) To any adult as a permanent guardian pursuant to chapter 5,
23 article 1 of this title.

1 2. It may award a delinquent child:

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

4 (b) To a probation department, subject to such conditions as the court
5 may impose.

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

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

10 (e) To the department of juvenile corrections without further
11 directions as to placement by that department. From and after September 30,
12 1995, the court may make further directions as to placement by the department
13 concerning the child's length of stay in secure care.

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

16 3. It may award an incorrigible child:

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

19 (b) To the protective supervision of a probation department, subject
20 to such conditions as the court may impose.

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

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

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

27 B. If a child is placed on probation pursuant to this section, the
28 period of probation shall be a maximum of one year unless:

29 1. The child is charged with a subsequent offense.

30 2. The child violates a condition of probation.

31 3. The court determines that it is in the best interests of the child
32 or the public to require continued supervision. The court shall state by
33 minute entry or written order its reasons for finding that continued
34 supervision is required.

35 4. The person has not made the restitution required pursuant to
36 subsection D of this section.

37 C. Notwithstanding section 8-243, the juvenile court shall order the
38 parent of a child to pay a fee of not less than thirty dollars per month for
39 the supervision of the child unless, after determining the inability of the
40 parent to pay the fee, the court orders payment of a lesser amount. If the
41 department of economic security is the supervising agency, monies assessed
42 pursuant to this subsection shall be ordered to be paid and utilized as
43 provided in section 8-243.01. If the juvenile probation office is the
44 supervising agency, monies assessed pursuant to this subsection shall be

1 ordered to be paid to the clerk of the superior court. The clerk of the
2 superior court shall pay all monies collected from this fee to the county
3 treasurer for deposit in the juvenile probation services fund to be utilized
4 as provided in section 12-268. If the department of juvenile corrections is
5 the supervising agency, monies assessed pursuant to this subsection shall be
6 ordered paid to the department of juvenile corrections and used to fund work
7 restitution programs for juveniles. If a person or another state agency or
8 state institution is responsible for supervision, the monies assessed
9 pursuant to this subsection shall be ordered paid to the state treasurer to
10 be deposited in the state general fund.

11 D. The court shall, after considering the nature of the offense and
12 the age, physical and mental condition and earning capacity of the child,
13 order the following dispositions for a delinquent child, either as exclusive
14 dispositions or in addition to the dispositions provided by subsection A,
15 paragraph 2 of this section:

16 1. To make full or partial restitution to the victim of the offense
17 for which the child was adjudicated delinquent. The court shall notify the
18 victim of the dispositional hearing. The court may consider a verified
19 statement from the victim concerning damages for lost wages, reasonable
20 damages for injury to or loss of property and actual expenses of medical
21 treatment for personal injury, excluding pain and suffering.

22 2. To pay a reasonable monetary assessment if the court determines
23 that an assessment is in aid of rehabilitation. If the director of the
24 department of juvenile corrections determines that enforcement of an order
25 for monetary assessment as a term and condition of parole is not cost
26 effective, the director may require the youth to perform an equivalent amount
27 of community service in lieu of the payment ordered as a condition of parole.

28 E. If a youth is adjudicated incorrigible, the court may impose a
29 monetary assessment on the youth of not more than one hundred fifty dollars.

30 F. A juvenile who is charged with unlawful purchase, possession or
31 consumption of spirituous liquor is subject to section 8-232. The monetary
32 assessment for a conviction of unlawful possession or consumption of
33 spirituous liquor by a minor shall not exceed five hundred dollars. The
34 court of competent jurisdiction may order a monetary assessment or equivalent
35 community service.

36 G. The court shall require the restitution or monetary assessment
37 imposed under subsection D or E of this section on a youth who is not
38 committed to the department of juvenile corrections to be satisfied in one
39 or both of the following forms:

40 1. Monetary reimbursement by the youth in a lump sum or installment
41 payments through the clerk of the superior court for appropriate
42 distribution.

43 2. A program of work, not in conflict with regular schooling, to
44 repair damage to the victim's property, to provide community service or to

1 provide the youth with a job for wages. The court order for restitution or
2 monetary assessment shall specify, according to the dispositional program,
3 the amount of reimbursement and the portion of wages of either existing or
4 provided work that is to be credited toward satisfaction of the restitution
5 or assessment, or the nature of the work to be performed and the number of
6 hours to be spent working. The number of hours to be spent working shall be
7 set by the court based on the severity of the offense but shall not be less
8 than sixteen hours.

9 H. If a youth is committed to the department of juvenile corrections
10 the court shall specify the amount of monetary restitution or assessment
11 imposed pursuant to subsection D or E of this section.

12 I. From and after September 30, 1995, after considering the length of
13 stay guidelines developed pursuant to section 41-2816, subsection C, the
14 court may set forth in the order of commitment the minimum period during
15 which the child shall remain in secure care while in the custody of the
16 department of juvenile corrections. When the court awards a child to the
17 department of juvenile corrections or an institution or agency, it shall
18 transmit with the order of commitment copies of a diagnostic psychological
19 evaluation and educational assessment if one has been administered, copies
20 of the case report, all other psychological and medical reports, restitution
21 orders and other documents or records pertaining to the case requested by the
22 department of juvenile corrections, institution or agency. From and after
23 September 30, 1995 and except pursuant to subsection J of this section, the
24 department shall not release a child from secure care before the child
25 completes the length of stay determined by the court in the commitment order
26 unless the committing court orders otherwise. The department may release the
27 child from secure care without a further court order after the child
28 completes the length of stay determined by the court or may retain the child
29 in secure care for any period subsequent to the completion of the length of
30 stay in accordance with the law.

31 J. From and after September 30, 1995, if a secure care facility
32 operates at ninety-eight per cent or more of capacity, the director of the
33 department of juvenile corrections may declare that there is a shortage of
34 beds available for youths committed to the department. After a shortage of
35 beds is declared, the director may order the conditional release of those
36 youths from secure care that do not pose any undue risk to the community
37 prior to completion of the minimum stay ordered by the court without a prior
38 court order. A youth shall not be released pursuant to this subsection prior
39 to completion of the minimum stay ordered by the court and without a prior
40 court order if any of the following apply:

41 1. The offense for which the youth was committed involved the
42 discharge, use or threatening exhibition of a deadly weapon or dangerous
43 instrument, or the intentional or knowing infliction of serious physical
44 injury.

1 2. The offense for which the youth was committed constitutes a serious
2 offense as defined by section 13-604.

3 3. The prior offense and referral history of the youth includes an
4 adjudication for an offense described in ~~paragraphs~~ PARAGRAPH 1 or 2 of this
5 subsection; or is an offense which would be a felony offense if committed by
6 an adult.

7 K. From and after September 30, 1995, written notice of the release
8 of any youth pursuant to subsection I of this section shall be made to any
9 victim requesting notice, the juvenile court that committed the youth and the
10 county attorney of the county from which the youth was committed.

11 L. The juvenile court may permit removal from the state of a dependent
12 child or ward of the court by the person to whom the child's or ward's care
13 may be temporarily awarded, upon such recognizance, with or without sureties,
14 as may satisfy the court, obligating the person to produce the child when
15 required by the court.

16 M. Notwithstanding any law to the contrary, if a person is under the
17 supervision of the court as an adjudicated delinquent child at the time the
18 person reaches eighteen years of age, treatment services may be provided
19 until the person reaches twenty-one years of age if the court, the person and
20 the state agree to the provision of the treatment and a motion to waive
21 jurisdiction and transfer the person has not been filed or has been
22 withdrawn. The court may terminate the provision of treatment services after
23 the person reaches eighteen years of age if the court determines that any of
24 the following apply:

- 25 1. The person is not progressing toward treatment goals.
26 2. The person terminates treatment.
27 3. The person commits a new offense after reaching eighteen years of
28 age.
29 4. Continued treatment is not required or is not in the best interests
30 of the state or the person.

31 N. On the request of a victim of a delinquent act that may have
32 involved significant exposure as defined in section 13-1415 or that if
33 committed by an adult would be a sexual offense, the prosecuting attorney
34 shall petition the adjudicating court to require that the delinquent child
35 be tested for the presence of the human immunodeficiency virus. If the
36 victim is a child the prosecuting attorney shall file this petition at the
37 request of the victim's parent or guardian. If the act committed against a
38 victim is an act that if committed by an adult would be a sexual offense or
39 the court determines that sufficient evidence exists to indicate that
40 significant exposure occurred, it shall order the department of juvenile
41 corrections or the department of health services to test the child pursuant
42 to section 13-1415. Notwithstanding any law to the contrary, the department
43 of juvenile corrections and the department of health services shall release
44 the test results only to the victim, the delinquent child, the delinquent

1 child's parent or guardian and a minor victim's parent or guardian and shall
2 counsel them regarding the meaning and health implications of the results.

3 O. IF A JUVENILE HAS BEEN ADJUDICATED DELINQUENT FOR AN OFFENSE THAT
4 IF COMMITTED BY AN ADULT WOULD BE A FELONY, THE COURT SHALL PROVIDE THE
5 DEPARTMENT OF PUBLIC SAFETY ARIZONA AUTOMATED FINGERPRINT IDENTIFICATION
6 SYSTEM ESTABLISHED IN SECTION 41-2411, WITH THE JUVENILE'S FINGERPRINTS,
7 PERSONAL IDENTIFICATION DATA AND OTHER PERTINENT INFORMATION. IF A JUVENILE
8 HAS BEEN COMMITTED TO THE DEPARTMENT OF JUVENILE CORRECTIONS THE DEPARTMENT
9 SHALL PROVIDE THE FINGERPRINTS AND INFORMATION REQUIRED BY THIS SUBSECTION
10 TO THE ARIZONA AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM. IF THE
11 JUVENILE'S FINGERPRINTS AND INFORMATION HAVE BEEN PREVIOUSLY SUBMITTED TO THE
12 ARIZONA AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM THE INFORMATION IS NOT
13 REQUIRED TO BE RESUBMITTED.

14 P. ACCESS TO FINGERPRINT RECORDS SUBMITTED TO THE DEPARTMENT OF PUBLIC
15 SAFETY ARIZONA AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM PURSUANT TO
16 SUBSECTION O OF THIS SECTION SHALL BE LIMITED TO THE ADMINISTRATION OF
17 CRIMINAL JUSTICE AS DEFINED IN SECTION 41-1750. DISSEMINATION OF INFORMATION
18 FROM THE ARIZONA AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM SHALL BE LIMITED
19 TO THE NAME OF THE JUVENILE, JUVENILE CASE NUMBER, DATE OF ADJUDICATION AND
20 COURT OF ADJUDICATION.

21 ~~Q.~~ Q. For the purposes of SUBSECTION N OF this section, "sexual
22 offense" means oral sexual contact, sexual contact or sexual intercourse as
23 defined in section 13-1401.

24 Sec. 2. Section 8-247, Arizona Revised Statutes, is amended to read:
25 8-247. Destruction of records

26 A. On application of a person who has been adjudicated delinquent or
27 incorrigible or on the court's own motion, and after a hearing, the juvenile
28 court may order the destruction of the files and records, including arrest
29 records, in the proceeding, if the court finds:

- 30 1. The person has attained his eighteenth birthday.
31 2. No proceeding is pending seeking the person's conviction of a
32 crime.
33 3. The person has been rehabilitated to the satisfaction of the
34 juvenile court.
35 4. The person is not under the jurisdiction of the juvenile court, nor
36 under commitment to the department of juvenile corrections from the juvenile
37 court.

38 B. Reasonable notice of the hearing shall be given to:

- 39 1. The county attorney who may oppose the order.
40 2. The authority granting the discharge if the final discharge was
41 from an institution or from parole.

42 C. When a juvenile who has been adjudicated delinquent or incorrigible
43 has attained the juvenile's twenty-third birthday, the juvenile court may

1 order destruction of files and records, including arrest records if the court
2 finds:

- 3 1. There is no pending criminal complaint.
- 4 2. The state department of corrections has no current jurisdiction.
- 5 3. There is no adult criminal record.

6 D. THIS SECTION SHALL NOT APPLY TO FINGERPRINT RECORDS PROVIDED TO THE
7 DEPARTMENT OF PUBLIC SAFETY CENTRAL STATE REPOSITORY PURSUANT TO SECTION
8 8-241, SUBSECTION O.

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

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

13 A. Notwithstanding section 41-2205, the department is responsible for
14 the effective operation of the central state repository in order to collect,
15 store and disseminate complete and accurate Arizona criminal history records
16 and related criminal justice information. The department shall:

17 1. Procure from all criminal justice agencies in this state accurate
18 and complete personal identification data, fingerprints, charges and
19 dispositions and such other information as may be pertinent to all persons
20 who have been arrested for or convicted of a felony or misdemeanor offense,
21 except offenses for which incarceration or fingerprinting of the person did
22 not occur.

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

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

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

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

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

42 7. Conduct periodic operational audits of the central state repository
43 and of a representative sample of other agencies that contribute records to

1 or receive criminal justice information from the central state repository or
2 through the Arizona criminal justice information system.

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

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

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

14 11. Operate and maintain the Arizona automated fingerprint
15 identification system established pursuant to section 41-2411.

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

19 C. The chief officers of criminal justice agencies of this state or
20 its political subdivisions shall provide to the central state repository
21 fingerprints and information concerning personal identification data,
22 descriptions, crimes for which persons are arrested and dispositions and such
23 other information as may be pertinent to all persons who have been arrested
24 for or convicted of felony or misdemeanor offenses that have occurred in this
25 state, except if the arrestee was not incarcerated or fingerprinted as a
26 result of the charge.

27 D. The chief officers of law enforcement agencies of this state or its
28 political subdivisions shall provide to the central state repository such
29 information as necessary to operate the statewide uniform crime reporting
30 program and to cooperate with the federal government uniform crime reporting
31 program.

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

36 F. The chief officers of criminal justice agencies of this state or
37 its political subdivisions also shall provide to the criminal identification
38 section information concerning crimes that manifest evidence of prejudice
39 based on race, color, religion, national origin, sexual orientation, gender
40 or disability.

41 G. The director shall authorize the exchange of criminal justice
42 information between the central state repository, or through the Arizona
43 criminal justice information system, whether directly or through any
44 intermediary, only as follows:

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

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

18 3. With any individual for any lawful purpose on submission of the
19 subject of record's fingerprints and the prescribed fee.

20 4. With the governor, if the governor elects to become actively
21 involved in the investigation of criminal activity or the administration of
22 criminal justice in accordance with the governor's constitutional duty to
23 ensure that the laws are faithfully executed or as needed to carry out the
24 other responsibilities of the governor's office.

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

34 6. With an individual who asserts that he has reason to believe that
35 criminal history record information relating to him is maintained by an
36 agency or in an information system in this state that is subject to the
37 provisions of this section. On submission of fingerprints, the individual
38 may review this information for the purpose of determining its accuracy and
39 completeness by making application to the agency operating the system. Rules
40 adopted under this section shall include provisions for administrative review
41 and necessary correction of any inaccurate or incomplete information. The
42 review and challenge process authorized by this paragraph is limited to
43 criminal history record information.

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

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

13 9. With the auditor general for audit purposes.

14 10. With central state repositories of other states for noncriminal
15 justice purposes for dissemination in accordance with the laws of those
16 states.

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

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

32 (a) The fingerprint card.

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

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

38 14. With the supreme court to provide criminal history record
39 information on prospective private fiduciaries pursuant to section 14-5651.

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

1 H. The director shall adopt rules necessary to execute the provisions
2 of this section.

3 I. The director, in the manner prescribed by law, shall remove and
4 destroy records that he determines are no longer of value in the detection
5 or prevention of crime.

6 J. The director shall establish a fee in an amount necessary to cover
7 the cost of federal noncriminal justice fingerprint processing for criminal
8 history record information checks that are authorized by law for noncriminal
9 justice employment, licensing or other lawful purposes. An additional fee
10 may be charged by the department for state noncriminal justice fingerprint
11 processing. Fingerprint cards submitted by local, state and federal
12 noncriminal justice agencies are exempt from this additional fee provision.

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

17 L. Except as provided in subsection O of this section, each agency
18 authorized by this section may charge a fee, in addition to any other fees
19 prescribed by law, in an amount necessary to cover the cost of state and
20 federal noncriminal justice fingerprint processing for criminal history
21 record information checks that are authorized by law for noncriminal justice
22 employment, licensing or other lawful purposes. If a person must be
23 fingerprinted by two or more state agencies or departments pursuant to
24 section 8-105, 8-230.02, 36-425.03, 36-594, 36-883.02, 36-897.03, 41-1964,
25 41-2814, 46-141 or 46-321, one set of fingerprints may be submitted to the
26 department of public safety. The fees prescribed by this section for
27 submission with one set of fingerprints shall be submitted to the department
28 of public safety with the fingerprint card. The fingerprint card shall list
29 each state agency or department requiring fingerprinting and shall cite the
30 statute authorizing the fingerprinting for each agency or department. The
31 department of public safety shall provide the criminal history record
32 information to each agency or department listed on the card.

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

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

10 O. The department of economic security may pay from appropriated
11 monies the cost of federal fingerprint processing or federal criminal history
12 record information checks that are authorized by law for employees and
13 volunteers of the department, guardians pursuant to section 46-134,
14 subsection A, paragraph 15, the licensing of foster parents or the
15 certification of adoptive parents.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 4. Announcements of executive clemency or pardon.

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

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

33 1. The arresting authority shall take legible fingerprints of all
34 persons arrested for offenses specified in subsection C of this section and,
35 within ten days of the arrest, the arresting authority shall forward the
36 fingerprints to the department in the manner or form required by the
37 department.

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

1 3. Dispositions resulting from formal proceedings in a court having
2 jurisdiction in a criminal action against an individual who is arrested for
3 an offense specified in subsection C of this section OR SECTION 8-241,
4 SUBSECTION 0 shall be reported to the central state repository within forty
5 days of the date of the disposition. This information shall be submitted on
6 a form or in a manner specified by rules approved by the supreme court.

7 4. The state department of corrections OR THE DEPARTMENT OF JUVENILE
8 CORRECTIONS, within forty days, shall advise the central state repository
9 that it has assumed supervision of a person convicted of an offense specified
10 in subsection C of this section OR SECTION 8-241, SUBSECTION 0. The state
11 department of corrections OR THE DEPARTMENT OF JUVENILE CORRECTIONS shall
12 also report dispositions that occur thereafter to the central state
13 repository within forty days of the date of the dispositions. This
14 information shall be submitted on a form or in a manner required by the
15 department of public safety.

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

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

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

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

38 Y. A person who knowingly or recklessly permits unauthorized access
39 or releases or procures the release of criminal history record information,
40 other than as provided in this section, or who uses such information for a
41 purpose other than as provided by this section is guilty of a class 6 felony.

42 Z. For purposes of this section:

43 1. "Administration of criminal justice" means performance of the
44 detection, apprehension, detention, pretrial release, post-trial release,

1 prosecution, adjudication, correctional supervision or rehabilitation of
2 criminal offenders. Administration of criminal justice includes enforcement
3 of criminal traffic offenses and civil traffic violations, including parking
4 violations, when performed by a criminal justice agency. Administration of
5 criminal justice also includes criminal identification activities and the
6 collection, storage and dissemination of criminal history record information.

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

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

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

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

30 6. "Criminal justice agency" means either:

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

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

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

1 accident reports and wanted persons information. Criminal justice
2 information does not include the administrative records of a criminal justice
3 agency.

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

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

14 10. "Management control":

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

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

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

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

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

29 11. "Secondary dissemination" means the dissemination of criminal
30 justice information from an individual or agency that originally obtained the
31 information from the central state repository or through the Arizona criminal
32 justice information system to another individual or agency.

33 12. "Sexual orientation" means consensual homosexuality or
34 heterosexuality.

35 13. "Subject of record" means the person who is the primary subject of
36 a criminal justice record.

37 Sec. 4. Delayed effective date

38 This act is effective from and after December 31, 1996.

APPROVED BY THE GOVERNOR APRIL 20 , 1996.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 22, 1996.