House Engrossed Senate Bill

**FILED**
**JANICE K. BREWER**
**SECRETARY OF STATE**

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**CHAPTER 101**

# SENATE BILL 1125

AN ACT

AMENDING SECTIONS 11-593, 13-3821, 13-3822, 13-3905, 41-172, 41-1279.02, 41-1750 AND 41-1751, ARIZONA REVISED STATUTES; RELATING TO CRIMINAL JUSTICE INFORMATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 11-593, Arizona Revised Statutes, is amended to read:

11-593. Reporting of certain deaths; autopsies; failure to report; classification

A. Any person having knowledge of the death of a human being including a fetal death shall promptly notify the nearest peace officer of all information in the person's possession regarding the death and the circumstances surrounding it under any of the following circumstances:

1. Death when not under the current care of a physician or nurse practitioner for a potentially fatal illness or when an attending physician or nurse practitioner is unavailable to sign the death certificate.

2. Death resulting from violence.

3. Death occurring suddenly when in apparent good health.

4. Death occurring in a prison.

5. Death of a prisoner.

6. Death occurring in a suspicious, unusual or unnatural manner.

7. Death from disease or accident believed to be related to the deceased's occupation or employment.

8. Death believed to present a public health hazard.

9. Death occurring during anesthetic or surgical procedures.

B. The peace officer shall promptly notify the county medical examiner and, except in deaths occurring during surgical or anesthetic procedures from natural diseases, shall promptly make or cause to be made an investigation of the facts and circumstances surrounding the death and report the results to the medical examiner. If there is no county medical examiner appointed and serving within the county, the county sheriff shall be notified by the peace officer and the sheriff shall in turn notify and secure a licensed physician to perform the medical examination or autopsy.

C. An autopsy is not required for deaths due to natural diseases that occur during surgical or anesthetic procedures, except where the medical examiner determines an autopsy is necessary because any of the following ~~exist~~ EXISTS:

1. A public health risk.

2. Evidence of a crime.

3. Evidence of inadequate health care.

4. No clinically evident cause of death.

D. Every person who knows of the existence of a body where death occurred as specified in subsection A of this section and who knowingly fails to notify the nearest peace officer as soon as possible unless the person has good reason to believe that notice has already been given is guilty of a class 2 misdemeanor.

E. If the deceased was under treatment for accident or illness by prayer or spiritual means alone, in accordance with the tenets and practices of a well-recognized church or religious denomination, and death occurred without a physician or nurse practitioner in attendance, the person who has knowledge of the death shall report all information in ~~his~~ THE PERSON'S possession regarding the death and circumstances surrounding it directly to the county medical examiner or the person performing the duties of a county medical examiner who may waive an autopsy if ~~he~~ THE COUNTY MEDICAL EXAMINER is satisfied that the death of ~~such~~ THE person resulted from natural causes.

F. Each county shall provide to the ~~criminal identification section of the~~ department of public safety fingerprints of all deceased persons whose deaths are required to be investigated pursuant to this section. These fingerprints shall be on a form provided by the ~~criminal identification section~~ DEPARTMENT OF PUBLIC SAFETY and shall be accompanied by such other information regarding the physical description and the date and place of death as the ~~criminal identification section~~ DEPARTMENT OF PUBLIC SAFETY may require. Fingerprints taken pursuant to this section shall be used only for the purpose of purging criminal history files. All information and data in ~~the criminal identification section of~~ the department of public safety THAT ARE furnished in compliance with this section ~~is~~ ARE confidential and may be disclosed only ~~upon~~ ON written approval of the director of THE DEPARTMENT OF public safety to the juvenile court, social agencies, public health and law enforcement agencies~~,~~ licensed or regulated by this state.

Sec. 2. Section 13-3821, Arizona Revised Statutes, is amended to read:

13-3821. Persons required to register; procedure; identification card; definitions

A. A person who has been convicted of a violation or attempted violation of any of the following offenses or who has been convicted of an offense committed in another jurisdiction that if committed in this state would be a violation or attempted violation of any of the following offenses or an offense that was in effect before September 1, 1978 and that, if committed on or after September 1, 1978, has the same elements of an offense listed in this section or who is required to register by the convicting jurisdiction, within ten days after the conviction or within ten days after entering and remaining in any county of this state, shall register with the sheriff of that county:

1. Unlawful imprisonment pursuant to section 13-1303 if the victim is under eighteen years of age and the unlawful imprisonment was not committed by the child's parent.

2. Kidnapping pursuant to section 13-1304 if the victim is under eighteen years of age and the kidnapping was not committed by the child's parent.

3. Sexual abuse pursuant to section 13-1404 if the victim is under eighteen years of age.

4. Sexual conduct with a minor pursuant to section 13-1405.

5. Sexual assault pursuant to section 13-1406.

6. Sexual assault of a spouse if the offense was committed before ~~the effective date of this amendment to this section~~ AUGUST 12, 2005.

7. Molestation of a child pursuant to section 13-1410.

8. Continuous sexual abuse of a child pursuant to section 13-1417.

9. Taking a child for the purpose of prostitution pursuant to section 13-3206.

10. Child prostitution pursuant to section 13-3212.

11. Commercial sexual exploitation of a minor pursuant to section 13-3552.

12. Sexual exploitation of a minor pursuant to section 13-3553.

13. Luring a minor for sexual exploitation pursuant to section 13-3554.

14. Sex trafficking of a minor pursuant to section 13-1307.

15. A second or subsequent violation of indecent exposure to a person under the age of fifteen years pursuant to section 13-1402, subsection B.

16. A second or subsequent violation of public sexual indecency to a minor under the age of fifteen years pursuant to section 13-1403, subsection B.

17. A third or subsequent violation of indecent exposure pursuant to section 13-1402.

18. A third or subsequent violation of public sexual indecency pursuant to section 13-1403.

19. A violation of section 13-3822 or 13-3824.

B. Before the person is released from confinement the state department of corrections in conjunction with the department of public safety and each county sheriff shall complete the registration of any person who was convicted of a violation of any offense listed under subsection A of this section. Within three days after the person's release from confinement, the state department of corrections shall forward the registered person's records to the department of public safety and to the sheriff of the county in which the registered person intends to reside. Registration pursuant to this subsection shall be consistent with subsection E of this section.

C. Notwithstanding subsection A of this section, the judge who sentences a defendant for any violation of chapter 14 or 35.1 of this title or for an offense for which there was a finding of sexual motivation pursuant to section 13-118 may require the person who committed the offense to register pursuant to this section.

D. The court may require a person who has been adjudicated delinquent for an act that would constitute an offense specified in subsection A or C of this section to register pursuant to this section. Any duty to register under this subsection shall terminate when the person reaches twenty-five years of age.

E. A person who has been convicted of or adjudicated delinquent and who is required to register in the convicting state for an act that would constitute an offense specified in subsection A or C of this section and who is not a resident of this state shall be required to register pursuant to this section if the person is either:

1. Employed full-time or part-time in this state, with or without compensation, for more than fourteen consecutive days or for an aggregate period of more than thirty days in a calendar year.

2. Enrolled as a full-time or part-time student in any school in this state for more than fourteen consecutive days or for an aggregate period of more than thirty days in a calendar year. For the purposes of this paragraph, "school" means an educational institution of any description, public or private, wherever located in this state.

F. Any duty to register under subsection D or E of this section for a juvenile adjudication terminates when the person reaches twenty-five years of age.

G. The court may order the termination of any duty to register under this section on successful completion of probation if the person was under eighteen years of age when the offense for which the person was convicted was committed.

H. At the time of registering, the person shall sign a statement in writing giving such information as required by the director of the department of public safety, including all names by which the person is known. The sheriff shall fingerprint and photograph the person and within three days thereafter shall send copies of the statement, fingerprints and photographs to the ~~criminal identification section within the~~ department of public safety and the chief of police, if any, of the place where the person resides. The information that is required by this subsection shall include the physical location of the person's residence and the person's address. If the person has a place of residence that is different from the person's address, the person shall provide the person's address, the physical location of the person's residence and the name of the owner of the residence if the residence is privately owned and not offered for rent or lease. If the person receives mail at a post office box, the person shall provide the location and number of the post office box. If the person does not have an address or a permanent place of residence, the person shall provide a description and physical location of any temporary residence.

I. On the person's initial registration and every year after the person's initial registration, the person shall obtain a new nonoperating identification license or a driver license from the motor vehicle division in the department of transportation and shall carry a valid nonoperating identification license or a driver license. Notwithstanding sections 28-3165 and 28-3171, the license ~~shall be~~ IS valid for one year from the date of issuance, and the person shall submit to the department of transportation proof of the person's address and place of residence. The motor vehicle

division shall annually update the person's photograph and shall make a copy of the photograph available to the ~~criminal identification section of the~~ department of public safety or to any law enforcement agency.

J. Except as provided in subsection E or K of this section, the clerk of the superior court in the county in which a person has been convicted of a violation of any offense listed under subsection A of this section or has been ordered to register pursuant to subsection C or D of this section shall notify the sheriff in that county of the conviction within ten days after entry of the judgment.

K. Within ten days after entry of judgment, a court not of record shall notify the arresting law enforcement agency of an offender's conviction of a violation of section 13-1402. Within ten days after receiving this information, the law enforcement agency shall determine if the offender is required to register pursuant to this section. If the law enforcement agency determines that the offender is required to register, the law enforcement agency shall provide the information required by section 13-3825 to the department of public safety and shall make community notification as required by law.

L. A person who is required to register pursuant to this section because of a conviction for the unlawful imprisonment of a minor or the kidnapping of a minor is required to register, absent additional or subsequent convictions, for a period of ten years from the date that the person is released from prison, jail, probation, community supervision or parole and the person has fulfilled all restitution obligations. Notwithstanding this subsection, a person who has a prior conviction for an offense for which registration is required pursuant to this section is required to register for life.

M. A person who is required to register pursuant to this section and who is a student at a public or private institution of postsecondary education or who is employed, with or without compensation, at a public or private institution of postsecondary education or who carries on a vocation at a public or private institution of postsecondary education shall notify the county sheriff having jurisdiction of the institution of postsecondary education. The person required to register pursuant to this section shall also notify the sheriff of each change in enrollment or employment status at the institution.

N. For the purposes of this section:

1. "Address" means the location at which the person receives mail.

2. "Residence" means the person's dwelling place, whether permanent or temporary.

Sec. 3. Section 13-3822, Arizona Revised Statutes, is amended to read:

13-3822. Notice of moving from place of residence where living or change of name; forwarding of information; definitions

A. Within seventy-two hours, excluding weekends and legal holidays, after moving from the person's residence within a county or after changing the person's name, a person who is required to register under this article shall inform the sheriff in person and in writing of the person's new residence, address or new name. If the person moves to a location that is not a residence and the person receives mail anywhere, including a post office box, the person shall notify the sheriff of the person's address. Within three days after receipt of such information, the sheriff shall forward it to the ~~criminal identification section within the~~ department of public safety and the chief of police, if any, of the place from which the person moves, and shall forward a copy of the statement, fingerprints and photograph of the person to the chief of police, if any, of the place to which the person has moved.

B. Within seventy-two hours after a person moves from a county in which the person is registered, the person shall notify in writing the sheriff of the county from which the person moves. If the person is subject to community notification requirements, the sheriff of the county from which the person moves shall advise the local law enforcement agency of the county to which the person moves of the move. If the person moves out of this state, the sheriff of the county from which the person moves shall advise the local law enforcement agency in the jurisdiction to which the person moves. The local law enforcement agency shall contact the department of public safety following ten days after being notified to determine if the person has reregistered. If the person has not reregistered, the local law enforcement agency shall notify the local law enforcement agency in the county in which the person last resided. The local law enforcement agency in the county in which the person last resided shall conduct an investigation and shall submit a report to the appropriate county attorney.

C. For the purposes of this section:

1. "Address" means the location at which the person receives mail.

2. "Residence" means the person's dwelling place, whether permanent or temporary.

Sec. 4. Section 13-3905, Arizona Revised Statutes, is amended to read:

13-3905. Detention for obtaining evidence of identifying physical characteristics; definition

A. A peace officer who is engaged, within the scope of the officer's authority, in the investigation of a felony may make written application upon oath or affirmation to a magistrate for an order authorizing the temporary detention, for the purpose of obtaining evidence of identifying physical characteristics, of an identified or particularly described individual residing in or found in the jurisdiction over which the magistrate presides.

The order shall require the presence of the identified or particularly described individual at such time and place as the court shall direct for obtaining the identifying physical characteristic evidence. The magistrate may issue the order on a showing of all of the following:

1. Reasonable cause for belief that a felony has been committed.

2. Procurement of evidence of identifying physical characteristics from an identified or particularly described individual may contribute to the identification of the individual who committed such offense.

3. The evidence cannot otherwise be obtained by the investigating officer from either the law enforcement agency employing the affiant or the ~~criminal identification division of the~~ department of public safety.

B. Any order issued pursuant to this section shall specify the following:

1. The alleged criminal offense ~~which~~ THAT is the subject of the application.

2. The specific type of identifying physical characteristic evidence ~~which~~ THAT is sought.

3. The relevance of the evidence to the particular investigation.

4. The identity or description of the individual who is to be detained for obtaining the evidence.

5. The name and official status of the investigative officer authorized to detain the individual and obtain the evidence.

6. The place at which the evidence will be obtained.

7. The time that the evidence shall be taken, except that no person may be detained for a period of more than three hours for the purpose of taking evidence.

8. The period of time, not exceeding fifteen days, during which the order shall continue in force and effect. If the order is not executed within fifteen days and is not extended by the magistrate, a new order may be issued pursuant to this section. The magistrate may extend the time for execution of the order for no longer than fifteen days.

C. The order issued pursuant to this section shall be returned to the court not later than thirty days after its date of issuance and shall be accompanied by a sworn statement indicating the type of evidence taken. The court shall give to the person from whom the evidence was taken a copy of the order and a copy of the sworn statement indicating what type of evidence was taken, if any.

D. In lieu of, or in addition to, a written application as provided in subsection A, the magistrate may take an oral statement under oath which shall be recorded on tape~~,~~ OR wire or BY other comparable method. This statement may be given in person to a magistrate or by telephone, radio or other means of electronic communication. This statement is deemed an application for the purpose of issuance of an order authorizing the temporary detention for the purpose of obtaining evidence of identifying physical characteristics. If a recording of the sworn statement is made, the

statement shall be transcribed at the request of the court or either party, ~~and~~ certified by the magistrate and filed with the court.

E. The magistrate may orally authorize a peace officer to sign the magistrate's name on an application if the peace officer applying for the application is not in the presence of the magistrate. The application shall be called a duplicate original application and shall be deemed an application for the purpose of this section. In such cases the magistrate shall cause to be made an original application and shall enter the exact time of the issuance of the duplicate application on the face of the original application. On the return of the duplicate original application, the magistrate shall file the original application and the duplicate original application as provided for in this section.

F. A magistrate may affix the magistrate's signature on a ~~telefacsimile~~ FAX of an original application. The ~~telefacsimile~~ FAX of the original application is deemed to be an application for the purposes of this section. On return of the ~~telefacsimile~~ FAX of the original application, the magistrate shall file the original application and the ~~telefacsimile~~ FAX of the original application as provided in this section.

G. For the purposes of this section, "identifying physical characteristics" includes, but is not limited to, the fingerprints, palm prints, footprints, measurements, handwriting, handprinting, sound of voice, blood samples, urine samples, saliva samples, hair samples, comparative personal appearance or photographs of an individual.

Sec. 5. Section 41-172, Arizona Revised Statutes, is amended to read:

41-172. Duties; administering oaths; appointment of deputy state treasurer

A. The state treasurer shall:

1. Authenticate writings and documents certified by him with the seal of his office.

2. Receive and keep ~~securely~~ in ~~his~~ SECURE custody all monies that belong to the state and that are not required to be received and kept by some other person.

3. File and keep the documentation delivered to the treasurer when monies are deposited into the treasury.

4. Deliver to each person depositing money into the treasury a receipt showing the amount, the source from which the money accrued~~,~~ and the funds into which it is deposited, and shall number ~~such~~ THE receipts in order, beginning with number one at the ~~commencement~~ BEGINNING of each fiscal year, and deliver a duplicate ~~thereof~~ RECEIPT to the department of administration.

5. Pay warrants drawn by the department of administration in the order in which they are presented, and take ~~upon~~ ON the back ~~thereof~~ OF THE WARRANT the receipt of the person to whom it is paid.

6. Keep an account of all monies received and disbursed, and keep separate accounts of the different funds and appropriations of money.

7. Give information in writing as to the condition of the state treasury, or ~~upon~~ ON any subject relating to the duties of the treasurer, at the request of a member of the legislature.

8. Deliver to the governor and the department of administration, monthly, an accurate statement of receipts and expenditures of public monies for the preceding month, containing a complete exhibit of all the public monies received and paid from the state treasury, showing, under separate heads, on what accounts and from what sources received, and for what particular object or service the monies have been paid. The treasurer shall deliver to the governor a similar statement on or before November 1 each year for the preceding fiscal year. The statements are public records available for inspection at the office of the state treasurer.

9. Exercise those specific powers of the surveyor-general as a member of the selection board established under section 37-202.

B. The state treasurer may administer all oaths prescribed by law in matters touching the duties of the office of the state treasurer, may appoint a deputy state treasurer, may qualify and select investment managers or advisors pursuant to section 35-318 and shall perform other duties required by other laws of the state.

C. The state treasurer may obtain criminal history record information pursuant to section 41-1750, subsection G from the department of public safety ~~criminal identification section~~ for the purpose of employment of personnel.

Sec. 6. Section 41-1279.02, Arizona Revised Statutes, is amended to read:

41-1279.02. Personnel; criminal history records

A. The auditor general may, with the approval of the committee, appoint and prescribe the duties of such additional professional, technical, clerical and other employees, or contract for such services, necessary to administer the duties of ~~his~~ THE AUDITOR GENERAL'S office. The employees shall receive compensation as determined pursuant to section 38-611 and serve at the pleasure of the auditor general.

B. The auditor general may obtain criminal history record information pursuant to section 41-1750, subsection G from the department of public safety ~~criminal identification section~~ for the purpose of employment of personnel by the auditor general.

C. Information obtained pursuant to subsection B of this section shall not be disclosed by the auditor general except to members of ~~his~~ THE AUDITOR GENERAL'S staff solely for the purpose of employment of personnel by the auditor general.

Sec. 7. Section 41-1750, Arizona Revised Statutes, is amended to read:

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

A. Notwithstanding section 41-2205, 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 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, convicted of or summoned to court as a criminal defendant for a felony offense or an offense involving domestic violence as defined in section 13-3601 or a violation of title 13, chapter 14 or title 28, chapter 4.

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

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

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

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

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

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

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

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

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

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

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

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

C. The chief officers of criminal justice agencies of this state or its political subdivisions shall provide to the central state repository fingerprints and information concerning personal identification data, descriptions, crimes for which persons are arrested, process control numbers and dispositions and such other information as may be pertinent to all persons who have been charged with, arrested for, convicted of or summoned to court as criminal defendants for felony offenses or offenses involving domestic violence as defined in section 13-3601 or violations of title 13, chapter 14 or title 28, chapter 4 that have occurred in this state.

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

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

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

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

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

2. With any noncriminal justice agency pursuant to a statute, ordinance or executive order that specifically authorizes the noncriminal justice agency to receive criminal history record information for the purpose of evaluating the fitness of current or prospective licensees, employees, contract employees or volunteers, on submission of the subject's fingerprints and the prescribed fee. Each statute, ordinance, or executive order that

authorizes noncriminal justice agencies to receive criminal history record information for these purposes shall identify the specific categories of licensees, employees, contract employees or volunteers, and shall require that fingerprints of the specified individuals be submitted in conjunction with such requests for criminal history record information.

3. With the board of fingerprinting for the purpose of conducting good cause exceptions pursuant to section 41-619.55.

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

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

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

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

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

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

10. With the auditor general for audit purposes.

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

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

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

(a) The fingerprint card.

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

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

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

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

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

18. With the internet sex offender web site database established pursuant to section 13-3827.

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

20. With the state board of education for the purpose of evaluating the fitness of a certificated teacher or administrator or an applicant for a teaching or an administrative certificate provided that the state board of education or its employees or agents have reasonable suspicion that the certificated person engaged in conduct that would be a criminal violation of

1 the laws of this state or was involved in immoral or unprofessional conduct
2 or that the applicant engaged in conduct that would warrant disciplinary
3 action if the applicant were certificated at the time of the alleged conduct.
4 The information shall be provided on the submission of either:
5 (a) The fingerprint card.
6 (b) The name, date of birth and social security number of the person.
7 H. The director shall adopt rules necessary to execute the provisions
8 of this section.
9 I. The director, in the manner prescribed by law, shall remove and
10 destroy records that the director determines are no longer of value in the
11 detection or prevention of crime.
12 J. The director shall establish a fee in an amount necessary to cover
13 the cost of federal noncriminal justice fingerprint processing for criminal
14 history record information checks that are authorized by law for noncriminal
15 justice employment, licensing or other lawful purposes. An additional fee
16 may be charged by the department for state noncriminal justice fingerprint
17 processing. Fees submitted to the department for state noncriminal justice
18 fingerprint processing are not refundable.
19 K. The director shall establish a fee in an amount necessary to cover
20 the cost of processing copies of department reports, eight by ten inch black
21 and white photographs or eight by ten inch color photographs of traffic
22 accident scenes.
23 L. Except as provided in subsection O of this section, each agency
24 authorized by this section may charge a fee, in addition to any other fees
25 prescribed by law, in an amount necessary to cover the cost of state and
26 federal noncriminal justice fingerprint processing for criminal history
27 record information checks that are authorized by law for noncriminal justice
28 employment, licensing or other lawful purposes.
29 M. A fingerprint account within the records processing fund is
30 established for the purpose of separately accounting for the collection and
31 payment of fees for noncriminal justice fingerprint processing by the
32 department. Monies collected for this purpose shall be credited to the
33 account, and payments by the department to the United States for federal
34 noncriminal justice fingerprint processing shall be charged against the
35 account. Monies in the account not required for payment to the United States
36 shall be used by the department in support of the department's noncriminal
37 justice fingerprint processing duties. At the end of each fiscal year, any
38 balance in the account not required for payment to the United States or to
39 support the department's noncriminal justice fingerprint processing duties
40 reverts to the state general fund.
41 N. A records processing fund is established for the purpose of
42 separately accounting for the collection and payment of fees for department
43 reports and photographs of traffic accident scenes processed by the
44 department. Monies collected for this purpose shall be credited to the fund
45 and shall be used by the department in support of functions related to

providing copies of department reports and photographs. At the end of each fiscal year, any balance in the fund not required for support of the functions related to providing copies of department reports and photographs reverts to the state general fund.

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

P. The director shall adopt rules that provide for:

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

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

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

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

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

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

4. The existence or nonexistence of criminal history record information shall not be confirmed to any individual or agency not 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. Nothing in this section prevents 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, intoxilyzer 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 arresting authority shall take legible fingerprints of all persons arrested for offenses specified in subsection C of this section and, within ten days of the arrest, the arresting authority shall forward the fingerprints to the department in the manner or form required by the department. On the issuance and service of a summons for a defendant who is charged with a felony offense, a violation of title 13, chapter 14 or title 28, chapter 4 or a domestic violence offense as defined in section 13-3601, the court shall order that the defendant be fingerprinted by the appropriate law enforcement agency and that the defendant appear at a designated time and place for fingerprinting. At the initial appearance or on the arraignment of a summoned defendant who is charged with a felony offense, a violation of title 13, chapter 14 or title 28, chapter 4 or a domestic violence offense as

1 defined in section 13-3601, the court shall order that the defendant be
2 fingerprinted at a designated time and place by the appropriate law
3 enforcement agency if the court has reasonable cause to believe that the
4 defendant was not previously fingerprinted.
5 2. In every criminal case in which the defendant is incarcerated or
6 fingerprinted as a result of the charge, an originating law enforcement
7 agency or prosecutor, within forty days of the disposition, shall advise the
8 central state repository of all dispositions concerning the termination of
9 criminal proceedings against an individual arrested for an offense specified
10 in subsection C of this section. This information shall be submitted on a
11 form or in a manner required by the department.
12 3. Dispositions resulting from formal proceedings in a court having
13 jurisdiction in a criminal action against an individual who is arrested for
14 an offense specified in subsection C of this section or section 8-341,
15 subsection R shall be reported to the central state repository within forty
16 days of the date of the disposition. This information shall be submitted on
17 a form or in a manner specified by rules approved by the supreme court.
18 4. The state department of corrections or the department of juvenile
19 corrections, within forty days, shall advise the central state repository
20 that it has assumed supervision of a person convicted of an offense specified
21 in subsection C of this section or section 8-341, subsection R. The state
22 department of corrections or the department of juvenile corrections shall
23 also report dispositions that occur thereafter to the central state
24 repository within forty days of the date of the dispositions. This
25 information shall be submitted on a form or in a manner required by the
26 department of public safety.
27 5. Each criminal justice agency shall query the central state
28 repository before dissemination of any criminal history record information to
29 ensure the completeness of the information. Inquiries shall be made before
30 any dissemination except in those cases in which time is of the essence and
31 the repository is technically incapable of responding within the necessary
32 time period. If time is of the essence, the inquiry shall still be made and
33 the response shall be provided as soon as possible.
34 V. The director shall adopt rules specifying that any agency that
35 collects, stores or disseminates criminal justice information that is subject
36 to this section shall establish effective security measures to protect the
37 information from unauthorized access, disclosure, modification or
38 dissemination. The rules shall include reasonable safeguards to protect the
39 affected information systems from fire, flood, wind, theft, sabotage or other
40 natural or man-made hazards or disasters.
41 W. The department shall make available to agencies that contribute to,
42 or receive criminal justice information from, the central state repository or
43 through the Arizona criminal justice information system a continuing training
44 program in the proper methods for collecting, storing and disseminating
45 information in compliance with this section.

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

Y. For THE purposes of this section:

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

4. "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.

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

6. "Criminal justice agency" means either:

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

(b) A government agency or subunit of a government agency that is specifically authorized to perform as its principal function the administration of criminal justice pursuant to a statute, ordinance or executive order and that allocates more than fifty per cent of its annual budget to the administration of criminal justice. This subdivision includes

agencies of any foreign sovereignty duly recognized by the federal government.

7. "Criminal justice information" means information that is collected by criminal justice agencies and that is needed for the performance of their legally authorized and required functions, such as criminal history record information, citation information, stolen property information, traffic accident reports, ~~and~~ wanted persons information AND SYSTEM NETWORK LOG SEARCHES. Criminal justice information does not include the administrative records of a criminal justice agency.

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

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

10. "Management control":

(a) Means the authority to set and enforce:

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

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

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

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

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

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

13. "Sexual orientation" means consensual homosexuality or heterosexuality.

14. "Subject of record" means the person who is the primary subject of a criminal justice record.

Sec. 8. Section 41-1751, Arizona Revised Statutes, is amended to read:

41-1751. Reporting court dispositions to department of public safety

Every magistrate, or judge of a court, or clerk of a court of record who is responsible for court records in this state shall furnish to the ~~criminal identification section of the~~ department ~~of public safety~~ information pertaining to all court dispositions of felonies and misdemeanors, except traffic arrests, where incarceration or fingerprinting of the person occurred, including guilty pleas, convictions, acquittals, probations granted and pleas of guilty to reduced charges within forty days of the final disposition. Such information shall be submitted on a form and in accordance with rules approved by the supreme court of ~~the~~ THIS state.

**APPROVED BY THE GOVERNOR APRIL 11, 2006.**

**FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2006.**