

House Engrossed Senate Bill

FILED

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SECRETARY OF STATE**

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CHAPTER 221

SENATE BILL 1339

AN ACT

AMENDING SECTIONS 8-341, 13-904, 13-3101, 13-3111, 13-3113 AND 41-1750,
ARIZONA REVISED STATUTES; RELATING TO WEAPONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-341, Arizona Revised Statutes, is amended to
3 read:

4 8-341. Disposition and commitment; definitions

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 delinquent juvenile:

8 (a) To the care of the juvenile's parents, subject to supervision of a
9 probation department.

10 (b) To a probation department, subject to any conditions as the court
11 may impose, including a period of incarceration in a juvenile detention
12 center of not more than one year.

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

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

17 (e) To the department of juvenile corrections.

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

20 (g) To an appropriate official of a foreign country of which the
21 juvenile is a foreign national who is unaccompanied by a parent or guardian
22 in this state to remain on unsupervised probation for at least one year on
23 the condition that the juvenile cooperate with that official.

24 2. It may award an incorrigible child:

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

27 (b) To the protective supervision of a probation department, subject
28 to any conditions as the court may impose.

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

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

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

35 B. If a juvenile is placed on probation pursuant to this section, the
36 period of probation may continue until the juvenile's eighteenth birthday,
37 except that the term of probation shall not exceed one year if all of the
38 following apply:

39 1. The juvenile is not charged with a subsequent offense.

40 2. The juvenile has not been found in violation of a condition of
41 probation.

42 3. The court has not made a determination that it is in the best
43 interests of the juvenile or the public to require continued supervision.
44 The court shall state by minute entry or written order its reasons for
45 finding that continued supervision is required.

1 4. The offense for which the juvenile is placed on probation does not
2 involve the discharge, use or threatening exhibition of a deadly weapon or
3 dangerous instrument or the intentional or knowing infliction of serious
4 physical injury on another.

5 5. The offense for which the juvenile is placed on probation does not
6 involve a violation of title 13, chapter 14 or 35.1.

7 6. Restitution ordered pursuant to section 8-344 has been made.

8 C. If a juvenile is adjudicated as a first time felony juvenile
9 offender, the court shall provide the following written notice to the
10 juvenile:

11 You have been adjudicated a first time felony juvenile
12 offender. You are now on notice that if you are adjudicated of
13 another offense that would be a felony offense if committed by
14 an adult and if you commit the other offense when you are
15 fourteen years of age or older, you will be placed on juvenile
16 intensive probation, which may include home arrest and
17 electronic monitoring, or you may be placed on juvenile
18 intensive probation and may be incarcerated for a period of time
19 in a juvenile detention center, or you may be committed to the
20 department of juvenile corrections or you may be prosecuted as
21 an adult. If you are convicted as an adult of a felony offense
22 and you commit any other offense, you will be prosecuted as an
23 adult.

24 D. If a juvenile is fourteen years of age or older and is adjudicated
25 as a repeat felony juvenile offender, the juvenile court shall place the
26 juvenile on juvenile intensive probation, which may include home arrest and
27 electronic monitoring, may place the juvenile on juvenile intensive
28 probation, which may include incarceration for a period of time in a juvenile
29 detention center, or may commit the juvenile to the department of juvenile
30 corrections pursuant to subsection A, paragraph 1, subdivision (e) of this
31 section for a significant period of time.

32 E. If the juvenile is adjudicated as a repeat felony juvenile
33 offender, the court shall provide the following written notice to the
34 juvenile:

35 You have been adjudicated a repeat felony juvenile
36 offender. You are now on notice that if you are arrested for
37 another offense that would be a felony offense if committed by
38 an adult and if you commit the other offense when you are
39 fifteen years of age or older, you will be tried as an adult in
40 the criminal division of the superior court. If you commit the
41 other offense when you are fourteen years of age or older, you
42 may be tried as an adult in the criminal division of the
43 superior court. If you are convicted as an adult, you will be
44 sentenced to a term of incarceration. If you are convicted as

1 an adult of a felony offense and you commit any other offense,
2 you will be prosecuted as an adult.

3 F. The failure or inability of the court to provide the notices
4 required under subsections C and E of this section does not preclude the use
5 of the prior adjudications for any purpose otherwise permitted.

6 G. After considering the nature of the offense and the age, physical
7 and mental condition and earning capacity of the juvenile, the court shall
8 order the juvenile to pay a reasonable monetary assessment if the court
9 determines that an assessment is in aid of rehabilitation. If the director
10 of the department of juvenile corrections determines that enforcement of an
11 order for monetary assessment as a term and condition of conditional liberty
12 is not cost-effective, the director may require the youth to perform an
13 equivalent amount of community restitution in lieu of the payment ordered as
14 a condition of conditional liberty.

15 H. If a child is adjudicated incorrigible, the court may impose a
16 monetary assessment on the child of not more than one hundred fifty dollars.

17 I. A juvenile who is charged with unlawful purchase, possession or
18 consumption of spirituous liquor is subject to section 8-323. The monetary
19 assessment for a conviction of unlawful purchase, possession or consumption
20 of spirituous liquor by a juvenile shall not exceed five hundred dollars.
21 The court of competent jurisdiction may order a monetary assessment or
22 equivalent community restitution.

23 J. The court shall require the monetary assessment imposed under
24 subsection G or H of this section on a juvenile who is not committed to the
25 department of juvenile corrections to be satisfied in one or both of the
26 following forms:

27 1. Monetary reimbursement by the juvenile in a lump sum or installment
28 payments through the clerk of the superior court for appropriate
29 distribution.

30 2. A program of work, not in conflict with regular schooling, to
31 repair damage to the victim's property, to provide community restitution or
32 to provide the juvenile with a job for wages. The court order for
33 restitution or monetary assessment shall specify, according to the
34 dispositional program, the amount of reimbursement and the portion of wages
35 of either existing or provided work that is to be credited toward
36 satisfaction of the restitution or assessment, or the nature of the work to
37 be performed and the number of hours to be spent working. The number of
38 hours to be spent working shall be set by the court based on the severity of
39 the offense but shall not be less than sixteen hours.

40 K. If a juvenile is committed to the department of juvenile
41 corrections the court shall specify the amount of the assessment imposed
42 pursuant to subsection G or H of this section.

43 L. After considering the length of stay guidelines developed pursuant
44 to section 41-2816, subsection C, the court may set forth in the order of
45 commitment the minimum period during which the juvenile shall remain in

1 secure care while in the custody of the department of juvenile corrections.
2 When the court awards a juvenile to the department of juvenile corrections or
3 an institution or agency, it shall transmit with the order of commitment
4 copies of a diagnostic psychological evaluation and educational assessment if
5 one has been administered, copies of the case report, all other psychological
6 and medical reports, restitution orders, any request for postadjudication
7 notice that has been submitted by a victim and any other documents or records
8 pertaining to the case requested by the department of juvenile corrections or
9 an institution or agency. The department shall not release a juvenile from
10 secure care before the juvenile completes the length of stay determined by
11 the court in the commitment order unless the county attorney in the county
12 from which the juvenile was committed requests the committing court to reduce
13 the length of stay. The department may release the juvenile from secure care
14 without a further court order after the juvenile completes the length of stay
15 determined by the court or may retain the juvenile in secure care for any
16 period subsequent to the completion of the length of stay in accordance with
17 the law.

18 M. Written notice of the release of any juvenile pursuant to
19 subsection L of this section shall be made to any victim requesting notice,
20 the juvenile court that committed the juvenile and the county attorney of the
21 county from which the juvenile was committed.

22 N. Notwithstanding any law to the contrary, if a person is under the
23 supervision of the court as an adjudicated delinquent juvenile at the time
24 the person reaches eighteen years of age, treatment services may be provided
25 until the person reaches twenty-one years of age if the court, the person and
26 the state agree to the provision of the treatment and a motion to transfer
27 the person pursuant to section 8-327 has not been filed or has been
28 withdrawn. The court may terminate the provision of treatment services after
29 the person reaches eighteen years of age if the court determines that any of
30 the following applies:

- 31 1. The person is not progressing toward treatment goals.
- 32 2. The person terminates treatment.
- 33 3. The person commits a new offense after reaching eighteen years of
34 age.
- 35 4. Continued treatment is not required or is not in the best interests
36 of the state or the person.

37 O. On the request of a victim of an act that may have involved
38 significant exposure as defined in section 13-1415 or that if committed by an
39 adult would be a sexual offense, the prosecuting attorney shall petition the
40 adjudicating court to require that the juvenile be tested for the presence of
41 the human immunodeficiency virus. If the victim is a minor the prosecuting
42 attorney shall file this petition at the request of the victim's parent or
43 guardian. If the act committed against a victim is an act that if committed
44 by an adult would be a sexual offense or the court determines that sufficient
45 evidence exists to indicate that significant exposure occurred, it shall

1 order the department of juvenile corrections or the department of health
2 services to test the juvenile pursuant to section 13-1415. Notwithstanding
3 any law to the contrary, the department of juvenile corrections and the
4 department of health services shall release the test results only to the
5 victim, the delinquent juvenile, the delinquent juvenile's parent or guardian
6 and a minor victim's parent or guardian and shall counsel them regarding the
7 meaning and health implications of the results.

8 P. If a juvenile has been adjudicated delinquent for an offense that
9 if committed by an adult would be a felony, the court shall provide the
10 department of public safety Arizona automated fingerprint identification
11 system established in section 41-2411 with the juvenile's fingerprints,
12 personal identification data and other pertinent information. If a juvenile
13 has been committed to the department of juvenile corrections the department
14 shall provide the fingerprints and information required by this subsection to
15 the Arizona automated fingerprint identification system. If the juvenile's
16 fingerprints and information have been previously submitted to the Arizona
17 automated fingerprint identification system the information is not required
18 to be resubmitted.

19 Q. Access to fingerprint records submitted pursuant to subsection P of
20 this section shall be limited to the administration of criminal justice as
21 defined in section 41-1750. Dissemination of fingerprint information shall
22 be limited to the name of the juvenile, juvenile case number, date of
23 adjudication and court of adjudication.

24 R. IF A JUVENILE IS ADJUDICATED DELINQUENT FOR AN OFFENSE THAT IF
25 COMMITTED BY AN ADULT WOULD BE A MISDEMEANOR, THE COURT MAY PROHIBIT THE
26 JUVENILE FROM CARRYING OR POSSESSING A FIREARM WHILE THE JUVENILE IS UNDER
27 THE JURISDICTION OF THE DEPARTMENT OF JUVENILE CORRECTIONS OR THE JUVENILE
28 COURT.

29 ~~R.~~ S. For the purposes of this section:

30 1. "First time felony juvenile offender" means a juvenile who is
31 adjudicated delinquent for an offense that would be a felony offense if
32 committed by an adult.

33 2. "Repeat felony juvenile offender" means a juvenile to whom both of
34 the following apply:

35 (a) Is adjudicated delinquent for an offense that would be a felony
36 offense if committed by an adult.

37 (b) Previously has been adjudicated a first time felony juvenile
38 offender.

39 3. "Sexual offense" means oral sexual contact, sexual contact or
40 sexual intercourse as defined in section 13-1401.

41 Sec. 2. Section 13-904, Arizona Revised Statutes, is amended to read:

42 13-904. Suspension of civil rights and occupational
43 disabilities

44 A. A conviction for a felony suspends the following civil rights of
45 the person sentenced:

1 1. The right to vote.
2 2. The right to hold public office of trust or profit.
3 3. The right to serve as a juror.
4 4. During any period of imprisonment any other civil rights the
5 suspension of which is reasonably necessary for the security of the
6 institution in which the person sentenced is confined or for the reasonable
7 protection of the public.
8 5. The right to possess a gun or firearm.
9 B. Persons sentenced to imprisonment shall not thereby be rendered
10 incompetent as witnesses upon the trial of a criminal action or proceeding,
11 or incapable of making and acknowledging a sale or conveyance of property.
12 C. A person sentenced to imprisonment is under the protection of the
13 law, and any injury to his person, not authorized by law, is punishable in
14 the same manner as if such person was not convicted and sentenced.
15 D. The conviction of a person for any offense shall not work
16 forfeiture of any property, except if a forfeiture is expressly imposed by
17 law. All forfeitures to the state, unless expressly imposed by law, are
18 abolished.
19 E. A person shall not be disqualified from employment by this state or
20 any of its agencies or political subdivisions, nor shall a person whose civil
21 rights have been restored be disqualified to engage in any occupation for
22 which a license, permit or certificate is required to be issued by this state
23 solely because of a prior conviction for a felony or misdemeanor within or
24 without this state. A person may be denied employment by this state or any
25 of its agencies or political subdivisions or a person who has had his civil
26 rights restored may be denied a license, permit or certificate to engage in
27 an occupation by reason of the prior conviction of a felony or misdemeanor if
28 the offense has a reasonable relationship to the functions of the employment
29 or occupation for which the license, permit or certificate is sought.
30 F. Subsection E of this section is not applicable to any law
31 enforcement agency.
32 G. Any complaints concerning a violation of subsection E of this
33 section shall be adjudicated in accordance with the procedures set forth in
34 title 41, chapter 6 and title 12, chapter 7, article 6.
35 H. A person who is adjudicated delinquent under section 8-341 FOR A
36 FELONY does not have the right to carry or possess a gun or firearm.
37 Sec. 3. Section 13-3101, Arizona Revised Statutes, is amended to read:
38 13-3101. Definitions
39 A. In this chapter, unless the context otherwise requires:
40 1. "Deadly weapon" means anything that is designed for lethal
41 use. The term includes a firearm.
42 2. "Deface" means to remove, alter or destroy the manufacturer's
43 serial number.
44 3. "Explosive" means any dynamite, nitroglycerine, black powder or
45 other similar explosive material, including plastic explosives. Explosive

1 does not include ammunition or ammunition components such as primers,
2 percussion caps, smokeless powder, black powder and black powder substitutes
3 used for hand loading purposes.

4 4. "Firearm" means any loaded or unloaded handgun, pistol, revolver,
5 rifle, shotgun or other weapon that will expel, is designed to expel or may
6 readily be converted to expel a projectile by the action of an explosive.
7 Firearm does not include a firearm in permanently inoperable condition.

8 5. "Occupied structure" means any building, object, vehicle,
9 watercraft, aircraft or place with sides and a floor that is separately
10 securable from any other structure attached to it, that is used for lodging,
11 business, transportation, recreation or storage and in which one or more
12 human beings either ~~is~~ ARE or ~~is~~ ARE likely to be present or so near as to be
13 in equivalent danger at the time the discharge of a firearm occurs. Occupied
14 structure includes any dwelling house, whether occupied, unoccupied or
15 vacant.

16 6. "Prohibited possessor" means any person:

17 (a) Who has been found to constitute a danger to himself or to others
18 pursuant to court order under section 36-540, and whose court ordered
19 treatment has not been terminated by court order.

20 (b) Who has been convicted within or without this state of a felony or
21 who has been adjudicated delinquent FOR A FELONY and whose civil right to
22 possess or carry a gun or firearm has not been restored.

23 (c) Who is at the time of possession serving a term of imprisonment in
24 any correctional or detention facility.

25 (d) Who is at the time of possession serving a term of probation
26 pursuant to a conviction for a domestic violence offense as defined in
27 section 13-3601 or a felony offense, parole, community supervision, work
28 furlough, home arrest or release on any other basis or who is serving a term
29 of probation or parole pursuant to the interstate compact under title 31,
30 chapter 3, article 4.

31 (e) Who is a prohibited possessor under 18 United States Code SECTION
32 922(g)(5), except as provided by 18 United States Code SECTION 922(y).

33 7. "Prohibited weapon" means, but does not include fireworks imported,
34 distributed or used in compliance with state laws or local ordinances, any
35 propellant, propellant actuated devices or propellant actuated industrial
36 tools that are manufactured, imported or distributed for their intended
37 purposes or a device that is commercially manufactured primarily for the
38 purpose of illumination, including any of the following:

39 (a) Explosive, incendiary or poison gas:

40 (i) Bomb.

41 (ii) Grenade.

42 (iii) Rocket having a propellant charge of more than four ounces.

43 (iv) Mine.

44 (b) Device that is designed, made or adapted to muffle the report of a
45 firearm.

1 (c) Firearm that is capable of shooting more than one shot
2 automatically, without manual reloading, by a single function of the trigger.

3 (d) Rifle with a barrel length of less than sixteen inches, or shotgun
4 with a barrel length of less than eighteen inches, or any firearm that is
5 made from a rifle or shotgun and that, as modified, has an overall length of
6 less than twenty-six inches.

7 (e) Instrument, including a nunchaku, that consists of two or more
8 sticks, clubs, bars or rods to be used as handles, connected by a rope, cord,
9 wire or chain, in the design of a weapon used in connection with the practice
10 of a system of self-defense.

11 (f) Breakable container that contains a flammable liquid with a flash
12 point of one hundred fifty degrees Fahrenheit or less and that has a wick or
13 similar device capable of being ignited.

14 (g) Chemical or combination of chemicals, compounds or materials,
15 including dry ice, that are placed in a sealed or unsealed container for
16 the purpose of generating a gas to cause a mechanical failure, rupture or
17 bursting of the container.

18 (h) Combination of parts or materials that is designed and intended
19 for use in making or converting a device into an item set forth in
20 subdivision (a) or (f) of this paragraph.

21 B. The items set forth in subsection A, paragraph 7, subdivisions (a),
22 (b), (c) and (d) of this section do not include any firearms or devices that
23 are registered in the national firearms registry and transfer records of the
24 United States treasury department or any firearm that has been classified as
25 a curio or relic by the United States treasury department.

26 Sec. 4. Section 13-3111, Arizona Revised Statutes, is amended to read:

27 13-3111. Minors prohibited from carrying or possessing
28 firearms; exceptions; seizure and forfeiture;
29 penalties; classification

30 A. Except as provided in subsection B, an unemancipated person who is
31 under eighteen years of age and who is unaccompanied by a parent, grandparent
32 or guardian, or a certified hunter safety instructor or certified firearms
33 safety instructor acting with the consent of the unemancipated person's
34 parent or guardian, shall not knowingly carry or possess on his person,
35 within his immediate control, or in or on a means of transportation a firearm
36 in any place that is open to the public or on any street or highway or on any
37 private property except private property owned or leased by the minor or the
38 minor's parent, grandparent or guardian.

39 B. This section does not apply to a person who is fourteen, fifteen,
40 sixteen or seventeen years of age and who is any of the following:

41 1. Engaged in lawful hunting or shooting events or marksmanship
42 practice at established ranges or other areas where the discharge of a
43 firearm is not prohibited.

44 2. Engaged in lawful transportation of an unloaded firearm for the
45 purpose of lawful hunting.

1 3. Engaged in lawful transportation of an unloaded firearm between the
2 hours of 5:00 a.m. and 10:00 p.m. for the purpose of shooting events or
3 marksmanship practice at established ranges or other areas where the
4 discharge of a firearm is not prohibited.

5 4. Engaged in activities requiring the use of a firearm that are
6 related to the production of crops, livestock, poultry, livestock products,
7 poultry products, or ratites or in the production or storage of agricultural
8 commodities.

9 C. If the minor is not exempt under subsection B and is in possession
10 of a firearm, a peace officer shall seize the firearm at the time the
11 violation occurs.

12 D. In addition to any other penalty provided by law, a person who
13 violates subsection A shall be subject to the following penalties:

14 1. If adjudicated a delinquent juvenile for an offense involving an
15 unloaded firearm, a fine of not more than two hundred fifty dollars, and the
16 court may order the suspension or revocation of the person's driver license
17 until the person reaches eighteen years of age. If the person does not have
18 a driver license at the time of the adjudication, the court may direct that
19 the department of transportation not issue a driver license to the person
20 until the person reaches eighteen years of age.

21 2. If adjudicated a delinquent juvenile for an offense involving a
22 loaded firearm, a fine of not more than five hundred dollars, and the court
23 may order the suspension or revocation of the person's driver license until
24 the person reaches eighteen years of age. If the person does not have a
25 driver license at the time of the adjudication, the court may direct that the
26 department of transportation not issue a driver license to the person until
27 the person reaches eighteen years of age.

28 3. If adjudicated a delinquent juvenile for an offense involving a
29 loaded or unloaded firearm, if the person possessed the firearm while the
30 person was the driver or an occupant of a motor vehicle, a fine of not more
31 than five hundred dollars and the court shall order the suspension or
32 revocation of the person's driver license until the person reaches eighteen
33 years of age. If the person does not have a driver license at the time of
34 adjudication, the court shall direct that the department of transportation
35 not issue a driver license to the person until the person reaches eighteen
36 years of age. If the court finds that no other means of transportation is
37 available, the driving privileges of the child may be restricted to travel
38 between the child's home, school and place of employment during specified
39 periods of time according to the child's school and employment schedule.

40 E. Firearms seized pursuant to subsection C shall be held by the law
41 enforcement agency responsible for the seizure until the charges have been
42 adjudicated or disposed of otherwise or the person is convicted. Upon
43 adjudication or conviction of a person for a violation of this section, the
44 court shall order the firearm forfeited. However, the law enforcement agency

1 shall return the firearm to the lawful owner if the identity of that person
2 is known.

3 F. If the court finds that the parent or guardian of a minor found
4 responsible for violating this section knew or reasonably should have known
5 of the minor's unlawful conduct and made no effort to prohibit it, the parent
6 or guardian is jointly and severally responsible for any fine imposed
7 pursuant to this section or for any civil actual damages resulting from the
8 unlawful use of the firearm by the minor.

9 G. This section is supplemental to any other law imposing a criminal
10 penalty for the use or exhibition of a deadly weapon. A minor who violates
11 this section may be prosecuted and ~~convicted~~ ADJUDICATED DELINQUENT for any
12 other criminal conduct involving the use or exhibition of the deadly weapon.

13 ~~H. This section applies only in counties with populations of more than
14 five hundred thousand persons according to the most recent decennial census.
15 Counties with populations of five hundred thousand persons or less according
16 to the most recent decennial census, or cities or towns within those
17 counties, may adopt an ordinance identical to this section.~~

18 ~~H.~~ H. A person who violates subsection A is guilty of a class 6
19 felony.

20 Sec. 5. Section 13-3113, Arizona Revised Statutes, is amended to read:

21 13-3113. Adjudicated delinquents; firearm possession;
22 violation; classification

23 A person who was previously adjudicated delinquent FOR AN OFFENSE THAT
24 WOULD BE A FELONY IF COMMITTED BY AN ADULT and who possesses, uses or carries
25 a firearm within ten years from the date of his adjudication or his release
26 or escape from custody is guilty of a class 5 felony for a first offense and
27 a class 4 felony for a second or subsequent offense if the person was
28 previously adjudicated for an offense that if committed as an adult would
29 constitute:

- 30 1. Burglary in the first degree.
- 31 2. Burglary in the second degree.
- 32 3. Arson.
- 33 4. Any felony offense involving the use or threatening exhibition of a
34 deadly weapon or dangerous instrument.
- 35 5. A serious offense as defined in section 13-604.

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

37 41-1750. Central state repository; department of public safety;
38 duties; funds; accounts; definitions

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

- 43 1. Procure from all criminal justice agencies in this state accurate
44 and complete personal identification data, fingerprints, charges, process
45 control numbers and dispositions and such other information as may be

- 1 pertinent to all persons who have been charged with, arrested for, convicted
2 of or summoned to court as a criminal defendant for a felony offense or an
3 offense involving domestic violence as defined in section 13-3601 or a
4 violation of title 13, chapter 14 or title 28, chapter 4.
- 5 2. Collect information concerning the number and nature of offenses
6 known to have been committed in this state and of the legal steps taken in
7 connection with these offenses, such other information that is useful in the
8 study of crime and in the administration of criminal justice and all other
9 information deemed necessary to operate the statewide uniform crime reporting
10 program and to cooperate with the federal government uniform crime reporting
11 program.
- 12 3. Collect information concerning criminal offenses that manifest
13 evidence of prejudice based on race, color, religion, national origin, sexual
14 orientation, gender or disability.
- 15 4. Cooperate with the central state repositories in other states and
16 with the appropriate agency of the federal government in the exchange of
17 information pertinent to violators of the law.
- 18 5. Ensure the rapid exchange of information concerning the commission
19 of crime and the detection of violators of the law among the criminal justice
20 agencies of other states and of the federal government.
- 21 6. Furnish assistance to peace officers throughout this state in crime
22 scene investigation for the detection of latent fingerprints and in the
23 comparison of latent fingerprints.
- 24 7. Conduct periodic operational audits of the central state repository
25 and of a representative sample of other agencies that contribute records to
26 or receive criminal justice information from the central state repository or
27 through the Arizona criminal justice information system.
- 28 8. Establish and enforce the necessary physical and system safeguards
29 to ensure that the criminal justice information maintained and disseminated
30 by the central state repository or through the Arizona criminal justice
31 information system is appropriately protected from unauthorized inquiry,
32 modification, destruction or dissemination as required by this section.
- 33 9. Aid and encourage coordination and cooperation among criminal
34 justice agencies through the statewide and interstate exchange of criminal
35 justice information.
- 36 10. Provide training and proficiency testing on the use of criminal
37 justice information to agencies receiving information from the central state
38 repository or through the Arizona criminal justice information system.
- 39 11. Operate and maintain the Arizona automated fingerprint
40 identification system established pursuant to section 41-2411.
- 41 12. Provide criminal history record information to the fingerprinting
42 division for the purpose of screening applicants for fingerprint clearance
43 cards.

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

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

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

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

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

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

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

37 2. With any noncriminal justice agency pursuant to a statute,
38 ordinance or executive order that specifically authorizes the noncriminal
39 justice agency to receive criminal history record information for the purpose
40 of evaluating the fitness of current or prospective licensees, employees,
41 contract employees or volunteers, on submission of the subject's fingerprints
42 and the prescribed fee. Each statute, ordinance, or executive order that
43 authorizes noncriminal justice agencies to receive criminal history record
44 information for these purposes shall identify the specific categories of
45 licensees, employees, contract employees or volunteers, and shall require

1 that fingerprints of the specified individuals be submitted in conjunction
2 with such requests for criminal history record information.

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

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

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

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

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

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

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

43 10. With the auditor general for audit purposes.

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

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

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

19 (a) The fingerprint card.

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

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

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

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

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

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

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

40 20. With the state board of education for the purpose of evaluating the
41 fitness of a certificated teacher or administrator or an applicant for a
42 teaching or an administrative certificate provided that the state board of
43 education or its employees or agents have reasonable suspicion that the
44 certificated person engaged in conduct that would be a criminal violation of
45 the laws of this state or was involved in immoral or unprofessional conduct

1 or that the applicant engaged in conduct that would warrant disciplinary
2 action if the applicant were certificated at the time of the alleged conduct.
3 The information shall be provided on the submission of either:

4 (a) The fingerprint card.

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

6 H. The director shall adopt rules necessary to execute ~~the provisions~~
7 of this section.

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

11 J. The director shall establish a fee in an amount necessary to cover
12 the cost of federal noncriminal justice fingerprint processing for criminal
13 history record information checks that are authorized by law for noncriminal
14 justice employment, licensing or other lawful purposes. An additional fee
15 may be charged by the department for state noncriminal justice fingerprint
16 processing. Fees submitted to the department for state noncriminal justice
17 fingerprint processing are not refundable.

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

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

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

40 N. A records processing fund is established for the purpose of
41 separately accounting for the collection and payment of fees for department
42 reports and photographs of traffic accident scenes processed by the
43 department. Monies collected for this purpose shall be credited to the fund
44 and shall be used by the department in support of functions related to
45 providing copies of department reports and photographs. At the end of each

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

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

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

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

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

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

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

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

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

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

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

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

42 R. This section and the rules adopted under this section apply to all
43 agencies and individuals collecting, storing or disseminating criminal
44 justice information processed by manual or automated operations if the
45 collection, storage or dissemination is funded in whole or in part with

1 monies made available by the law enforcement assistance administration after
2 July 1, 1973, pursuant to title I of the crime control act of 1973, and to
3 all agencies that interact with or receive criminal justice information from
4 or through the central state repository and through the Arizona criminal
5 justice information system.

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

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

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

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

16 4. Announcements of executive clemency or pardon.

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

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

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

30 1. The arresting authority shall take legible fingerprints of all
31 persons arrested for offenses specified in subsection C of this section and,
32 within ten days of the arrest, the arresting authority shall forward the
33 fingerprints to the department in the manner or form required by the
34 department. On the issuance and service of a summons for a defendant who is
35 charged with a felony offense, a violation of title 13, chapter 14 or title
36 28, chapter 4 or a domestic violence offense as defined in section 13-3601,
37 the court shall order that the defendant be fingerprinted by the appropriate
38 law enforcement agency and that the defendant appear at a designated time and
39 place for fingerprinting. At the initial appearance or on the arraignment of
40 a summoned defendant who is charged with a felony offense, a violation of
41 title 13, chapter 14 or title 28, chapter 4 or a domestic violence offense as
42 defined in section 13-3601, the court shall order that the defendant be
43 fingerprinted at a designated time and place by the appropriate law
44 enforcement agency if the court has reasonable cause to believe that the
45 defendant was not previously fingerprinted.

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

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

15 4. The state department of corrections or the department of juvenile
16 corrections, within forty days, shall advise the central state repository
17 that it has assumed supervision of a person convicted of an offense specified
18 in subsection C of this section or section 8-341, subsection R- S. The state
19 department of corrections or the department of juvenile corrections shall
20 also report dispositions that occur thereafter to the central state
21 repository within forty days of the date of the dispositions. This
22 information shall be submitted on a form or in a manner required by the
23 department of public safety.

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

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

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

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

1 Y. For THE purposes of this section:

2 1. "Administration of criminal justice" means performance of the
3 detection, apprehension, detention, pretrial release, ~~post-trial~~ POSTTRIAL
4 release, prosecution, adjudication, correctional supervision or
5 rehabilitation of criminal offenders. Administration of criminal justice
6 includes enforcement of criminal traffic offenses and civil traffic
7 violations, including parking violations, when performed by a criminal
8 justice agency. Administration of criminal justice also includes criminal
9 identification activities and the collection, storage and dissemination of
10 criminal history record information.

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

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

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

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

34 6. "Criminal justice agency" means either:

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

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

1 7. "Criminal justice information" means information that is collected
2 by criminal justice agencies and that is needed for the performance of their
3 legally authorized and required functions, such as criminal history record
4 information, citation information, stolen property information, traffic
5 accident reports and wanted persons information. Criminal justice
6 information does not include the administrative records of a criminal justice
7 agency.

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

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

18 10. "Management control":

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

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

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

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

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

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

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

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

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