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JANICE K. BREWER
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CHAPTER 124

HOUSE BILL 2344

AN ACT

AMENDING SECTIONS 8-323, 8-341 AND 41-1750, ARIZONA REVISED STATUTES; RELATING TO JUVENILES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 8-323, Arizona Revised Statutes, is amended to read:

8-323. Juvenile hearing officer; appointment; term; compensation; hearings; required attendance; contempt

A. The judge of the juvenile court, or in counties having more than one judge of the juvenile court, the presiding judge of the juvenile court, may appoint one or more persons of suitable experience who may be magistrates or justices of the peace to serve as juvenile hearing officers on a full-time or part-time basis. The county board of supervisors shall approve the appointment of justices of the peace as juvenile hearing officers. The local governing body shall approve the appointment of municipal judges as juvenile hearing officers. The juvenile hearing officer serves at the pleasure of the appointing judge. The appointing judge, with the approval of the board of supervisors, shall determine whether any compensation shall be paid to a juvenile hearing officer who is not otherwise employed by a public agency or holding another public office and shall establish the amounts and rates of the compensation.

B. Subject to the orders of the juvenile court a juvenile hearing officer may hear and determine juvenile pretrial detention hearings and may process, adjudicate and dispose of all cases that are not classified as felonies and in which a juvenile who is under eighteen years of age on the date of the alleged offense is charged with violating any law relating to the following:

1. Any provision of title 28 not declared to be a felony.

2. The purchase, possession or consumption of spirituous liquor by a juvenile.

3. Boating or game and fish.

4. Curfew.

5. Truancy.

6. The damage or disfigurement of property by graffiti or the purchase or possession of materials with the intent to use the materials for graffiti.

7. The purchase or possession of tobacco.

8. Any city, town or political subdivision ordinance.

9. Interference with judicial proceedings involving disobeying or resisting the lawful order, process or other mandate of a juvenile hearing officer or failure to appear related to any offense in this section.

C. A hearing before the juvenile hearing officer or a hearing before a commissioner or a judge of the juvenile court in which the juvenile is charged with any offense set forth in this section may be conducted on an exact legible copy of a written notice to appear, including a uniform Arizona traffic ticket and complaint form, that states, at a minimum, the name and address of the juvenile, the offense charged and the time and place the juvenile shall appear in court.

D. The juvenile hearing officer, commissioner or judge of the superior court shall not dispose of a petition or citation for any offense under this section unless the parent, guardian or custodian of the juvenile appears in court with the juvenile at the time of disposition of the charge. On a showing of good cause that the parent, guardian or custodian cannot appear on the date and time set by the court, the court may waive the requirement that the parent, guardian or custodian appear. The court shall state on the record the reasons for waiving the requirement that the parent, guardian or custodian appear. At the time the court issues an order to appear or other order pursuant to this section, the court shall inform the juvenile that failure to appear or failure to comply with an order will result in suspension of the juvenile's driver license or privilege to drive. If the juvenile fails to appear pursuant to a citation or an order to appear properly issued under this section or if on disposition fails to comply with any court order, the juvenile hearing officer shall order the department of transportation to suspend the juvenile's driver license or privilege to drive or shall direct the department of transportation to refuse to issue, renew or restore the juvenile's driver license or privilege to drive until the juvenile reaches eighteen years of age or appears in court as directed or complies with the court's order.

E. If a parent, guardian or custodian fails to appear with the juvenile, and good cause for the failure to appear is not found as provided in subsection D of this section, the court shall issue an order to show cause to the parent, guardian or custodian as to why that person shall not be held in contempt.

F. Except as otherwise provided by law, on an admission by the juvenile of a violation charged pursuant to this section, or after a hearing, on the finding that the juvenile committed the violation, the juvenile hearing officer, commissioner or judge of the superior court may do one or more of the following:

1. Place the juvenile on probation, except that a city magistrate or justice of the peace may only place the juvenile on unsupervised probation.

2. Transfer the citation to the juvenile court for all further proceedings.

3. Suspend the driving privileges of the juvenile, or restrict the juvenile's driving privileges for a period of not to exceed one hundred eighty days.

4. Order the juvenile to attend a traffic school or a counseling or education program approved by the presiding judge of the juvenile court or the supreme court.

5. Order the juvenile to pay the monetary assessment or penalty that is applicable to the offense. EXCEPT AS PROVIDED IN SECTION 8-341, SUBSECTION S, the monetary assessment or penalty shall not exceed five hundred dollars plus lawful surcharges and assessments payable to the public agency processing the violation. If no monetary assessment or penalty is

specified for the offense, the juvenile hearing officer, commissioner or judge of the superior court may order the juvenile to pay not more than one hundred fifty dollars plus lawful surcharges and assessments payable to the public agency processing the violation.

6. In lieu of or in addition to a monetary assessment or penalty, order the juvenile to perform a program of work that does not conflict with the juvenile's regular schooling and employment, to repair the victim's property or to provide community restitution.

7. If the juvenile hearing officer, commissioner or judge of the superior court determines that the person charged is eighteen or more years of age, transfer the matter to the appropriate criminal court having jurisdiction.

8. If the juvenile violated any truancy laws, require the juvenile and the juvenile's parents or guardians to participate in a specialized program consisting of counseling, supervision and education under the terms and conditions the juvenile hearing officer, commissioner or judge of the superior court orders.

9. Order the juvenile and one or both of the juvenile's custodial parents to pay restitution to any person who suffered an economic loss as the result of the juvenile's conduct. The juvenile hearing officer, commissioner or judge of the superior court shall not consider the ability of the juvenile's parents to pay restitution before making a restitution order. If the juvenile hearing officer, commissioner or judge of the superior court orders one or both of the juvenile's custodial parents to pay restitution, the amount of the order shall not exceed the liability limit established pursuant to section 12-661.

10. Impose sanctions authorized by section 8-343.

11. Reprimand the juvenile and take no further action.

G. A record of the proceedings before a juvenile hearing officer may be made by a court reporter, videotape or audiotape or any other method approved by the supreme court that accurately reproduces what occurred at the proceeding.

H. Within five days after receiving the citation, the juvenile hearing officer shall notify the juvenile court that the juvenile has been charged with an offense by citation and shall indicate the listed charges. The juvenile hearing officer shall retain jurisdiction of the case until all orders made under this section have been fully complied with. Within five days after disposition, the juvenile hearing officer shall transmit a copy of the citation with the findings and disposition of the court noted on the copy to the juvenile court for record keeping purposes. If appropriate, the juvenile hearing officer shall transmit a copy of the citation to the department of transportation. If on disposition the juvenile fails to comply with any court order, the juvenile hearing officer, in the manner provided by subsection D of this section, may impose any of the sanctions prescribed in subsection F of this section.

I. Subject to an appeal pursuant to section 8-325 all orders of the juvenile hearing officer shall be effective immediately.

J. A city or town attorney or prosecutor shall act on behalf of the state in matters that are heard in a municipal court by a juvenile hearing officer pursuant to this section. In these matters and on approval of the presiding judge of the juvenile court and the county attorney, the city or town attorney or the prosecutor may establish diversion programs for offenses other than offenses involving a violation of section 28-1381, 28-1382 or 28-1383.

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

8-341. Disposition and commitment; definitions

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

1. It may award a delinquent juvenile:

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

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

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

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

(e) To the department of juvenile corrections.

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

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

2. It may award an incorrigible child:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

> You have been adjudicated a repeat felony juvenile offender. You are now on notice that if you are arrested for another offense that would be a felony offense if committed by an adult and if you commit the other offense when you are

fifteen years of age or older, you will be tried as an adult in the criminal division of the superior court. If you commit the other offense when you are fourteen years of age or older, you may be tried as an adult in the criminal division of the superior court. If you are convicted as an adult, you will be sentenced to a term of incarceration. If you are convicted as an adult of a felony offense and you commit any other offense, you will be prosecuted as an adult.

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

G. EXCEPT AS PROVIDED IN SUBSECTION S OF THIS SECTION, after considering the nature of the offense and the age, physical and mental condition and earning capacity of the juvenile, the court shall order the juvenile to pay a reasonable monetary assessment if the court determines that an assessment is in aid of rehabilitation. If the director of the department of juvenile corrections determines that enforcement of an order for monetary assessment as a term and condition of conditional liberty is not cost-effective, the director may require the youth to perform an equivalent amount of community restitution in lieu of the payment ordered as a condition of conditional liberty.

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

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

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

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

2. A program of work, not in conflict with regular schooling, to repair damage to the victim's property, to provide community restitution or to provide the juvenile with a job for wages. The court order for restitution or monetary assessment shall specify, according to the dispositional program, the amount of reimbursement and the portion of wages of either existing or provided work that is to be credited toward satisfaction of the restitution or assessment, or the nature of the work to be performed and the number of hours to be spent working. The number of

hours to be spent working shall be set by the court based on the severity of the offense but shall not be less than sixteen hours.

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

L. After considering the length of stay guidelines developed pursuant to section 41-2816, subsection C, the court may set forth in the order of commitment the minimum period during which the juvenile shall remain in secure care while in the custody of the department of juvenile corrections. When the court awards a juvenile to the department of juvenile corrections or an institution or agency, it shall transmit with the order of commitment copies of a diagnostic psychological evaluation and educational assessment if one has been administered, copies of the case report, all other psychological and medical reports, restitution orders, any request for postadjudication notice that has been submitted by a victim and any other documents or records pertaining to the case requested by the department of juvenile corrections or an institution or agency. The department shall not release a juvenile from secure care before the juvenile completes the length of stay determined by the court in the commitment order unless the county attorney in the county from which the juvenile was committed requests the committing court to reduce the length of stay. The department may release the juvenile from secure care without a further court order after the juvenile completes the length of stay determined by the court or may retain the juvenile in secure care for any period subsequent to the completion of the length of stay in accordance with the law.

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

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

1. The person is not progressing toward treatment goals.

2. The person terminates treatment.

3. The person commits a new offense after reaching eighteen years of age.

4. Continued treatment is not required or is not in the best interests of the state or the person.

O. On the request of a victim of an act that may have involved significant exposure as defined in section 13-1415 or that if committed by an adult would be a sexual offense, the prosecuting attorney shall petition the adjudicating court to require that the juvenile be tested for the presence of the human immunodeficiency virus. If the victim is a minor the prosecuting attorney shall file this petition at the request of the victim's parent or guardian. If the act committed against a victim is an act that if committed by an adult would be a sexual offense or the court determines that sufficient evidence exists to indicate that significant exposure occurred, it shall order the department of juvenile corrections or the department of health services to test the juvenile pursuant to section 13-1415. Notwithstanding any law to the contrary, the department of juvenile corrections and the department of health services shall release the test results only to the victim, the delinquent juvenile, the delinquent juvenile's parent or guardian and a minor victim's parent or guardian and shall counsel them regarding the meaning and health implications of the results.

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

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

R. If a juvenile is adjudicated delinquent for an offense that if committed by an adult would be a misdemeanor, the court may prohibit the juvenile from carrying or possessing a firearm while the juvenile is under the jurisdiction of the department of juvenile corrections or the juvenile court.

S. THE COURT SHALL ORDER A JUVENILE WHO IS ADJUDICATED DELINQUENT FOR A VIOLATION OF SECTION 13-1602, SUBSECTION A, PARAGRAPH 5 TO PAY A FINE OF AT LEAST THREE HUNDRED DOLLARS BUT NOT MORE THAN ONE THOUSAND DOLLARS. ANY RESTITUTION ORDERED SHALL BE PAID IN ACCORDANCE WITH SECTION 13-809, SUBSECTION A. THE COURT MAY ORDER THE JUVENILE TO PERFORM COMMUNITY RESTITUTION IN LIEU OF THE PAYMENT FOR ALL OR PART OF THE FINE IF IT IS IN THE BEST INTERESTS OF THE JUVENILE. THE AMOUNT OF COMMUNITY RESTITUTION

SHALL BE EQUIVALENT TO THE AMOUNT OF THE FINE BY CREDITING ANY SERVICE PERFORMED AT A RATE OF TEN DOLLARS PER HOUR.

~~S.~~ T. For the purposes of this section:

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

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

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

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

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

Sec. 3. 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 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 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 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 the laws of this state or was involved in immoral or unprofessional conduct or that the applicant engaged in conduct that would warrant disciplinary action if the applicant were certificated at the time of the alleged conduct. The information shall be provided on the submission of either:

(a) The fingerprint card.

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

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

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

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

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

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

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

N. A records processing fund is established for the purpose of separately accounting for the collection and payment of fees for department reports and photographs of traffic accident scenes processed by the department. Monies collected for this purpose shall be credited to the fund 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.

1 3. Criminal history record information disseminated to noncriminal
2 justice agencies or to individuals shall be used only for the purposes for
3 which it was given. Secondary dissemination is prohibited unless otherwise
4 authorized by law.
5 4. The existence or nonexistence of criminal history record
6 information shall not be confirmed to any individual or agency not authorized
7 to receive the information itself.
8 5. Criminal history record information to be released for noncriminal
9 justice purposes to agencies of other states shall only be released to the
10 central state repositories of those states for dissemination in accordance
11 with the laws of those states.
12 6. Criminal history record information shall be released to
13 noncriminal justice agencies of the federal government pursuant to the terms
14 of the federal security clearance information act (P.L. 99-169).
15 R. This section and the rules adopted under this section apply to all
16 agencies and individuals collecting, storing or disseminating criminal
17 justice information processed by manual or automated operations if the
18 collection, storage or dissemination is funded in whole or in part with
19 monies made available by the law enforcement assistance administration after
20 July 1, 1973, pursuant to title I of the crime control act of 1973, and to
21 all agencies that interact with or receive criminal justice information from
22 or through the central state repository and through the Arizona criminal
23 justice information system.
24 S. This section does not apply to criminal history record information
25 contained in:
26 1. Posters, arrest warrants, announcements or lists for identifying or
27 apprehending fugitives or wanted persons.
28 2. Original records of entry such as police blotters maintained by
29 criminal justice agencies, compiled chronologically and required by law or
30 long-standing custom to be made public if these records are organized on a
31 chronological basis.
32 3. Transcripts or records of judicial proceedings if released by a
33 court or legislative or administrative proceedings.
34 4. Announcements of executive clemency or pardon.
35 5. Computer databases, other than the Arizona criminal justice
36 information system, that are specifically designed for community notification
37 of an offender's presence in the community pursuant to section 13-3825 or for
38 public informational purposes authorized by section 13-3827.
39 T. Nothing in this section prevents a criminal justice agency from
40 disclosing to the public criminal history record information that is
41 reasonably contemporaneous to the event for which an individual is currently
42 within the criminal justice system, including information noted on traffic
43 accident reports concerning citations, blood alcohol tests, intoxilyzer tests
44 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 defined in section 13-3601, the court shall order that the defendant be fingerprinted at a designated time and place by the appropriate law enforcement agency if the court has reasonable cause to believe that the defendant was not previously fingerprinted.

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

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

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

5. Each criminal justice agency shall query the central state repository before dissemination of any criminal history record information to ensure the completeness of the information. Inquiries shall be made before

any dissemination except in those cases in which time is of the essence and the repository is technically incapable of responding within the necessary time period. If time is of the essence, the inquiry shall still be made and the response shall be provided as soon as possible.

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

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

X. 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, 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, 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

1 the extent that the equipment is used to process, store or transmit criminal
2 justice information.
3 (b) Includes the supervision of equipment, systems design, programming
4 and operating procedures necessary for the development and implementation of
5 automated criminal justice information systems.
6 11. "Process control number" means the Arizona automated fingerprint
7 identification system number that attaches to each arrest event at the time
8 of fingerprinting and that is assigned to the arrest fingerprint card,
9 disposition form and other pertinent documents.
10 12. "Secondary dissemination" means the dissemination of criminal
11 justice information from an individual or agency that originally obtained the
12 information from the central state repository or through the Arizona criminal
13 justice information system to another individual or agency.
14 13. "Sexual orientation" means consensual homosexuality or
15 heterosexuality.
16 14. "Subject of record" means the person who is the primary subject of
17 a criminal justice record.

APPROVED BY THE GOVERNOR APRIL 24, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 24, 2007.

Passed the House February 28, 20 07

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate April 10, 20 07

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

Secretary to the Governor

Approved this _____day of

at _____o'clock _____M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

Secretary of State

H.B. 2344

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 18, 2007,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Speaker of the House

Norman L. Moore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

18th day of April, 2007

at 12:01 o'clock p. M.

Jennifer Ybarra
Secretary to the Governor

Approved this 24 day of

April, 2007,

at 9:45 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 24 day of April, 2007,

at 11:30 o'clock A. M.

Janice K. Brewer
Secretary of State

H.B. 2344