

House Engrossed  
**FILED**  
**KEN BENNETT**  
**SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
First Regular Session  
2009

CHAPTER 120

## **HOUSE BILL 2449**

AN ACT

AMENDING SECTIONS 13-607, 13-3903 AND 41-1750, ARIZONA REVISED STATUTES;  
RELATING TO FINGERPRINTING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 13-607, Arizona Revised Statutes, is amended to  
3 read:

4 13-607. Judgment of guilt and sentence document; fingerprint;  
5 contents of document; recitations

6 A. At the time of sentencing a person convicted of a felony offense or  
7 a violation of section 13-1802, 13-1805, 28-1381 or 28-1382, the court shall  
8 execute a judgment of guilt and sentence document or minute order as  
9 prescribed by this section.

10 B. The court or a person appointed by the court shall at the time of  
11 sentencing and in open court permanently affix the defendant's RIGHT INDEX  
12 fingerprint to the document or order.

13 C. The document or order shall recite all of the following in addition  
14 to any information deemed appropriate by the court:

15 1. The defendant's full name and date of birth.

16 2. The name of the counsel for the defendant or, if counsel was  
17 waived, the fact that the defendant knowingly, voluntarily and intelligently  
18 waived the defendant's right to counsel after having been fully apprised of  
19 the defendant's right to counsel.

20 3. The name, statutory citation and classification of the offense.

21 4. Whether there was a finding by the trier of fact that the offense  
22 was of a dangerous or repetitive nature pursuant to section 13-703, 13-704 or  
23 13-708.

24 5. Whether the basis of the finding of guilt was by trial to a jury or  
25 to the court, or by plea of guilty or no contest.

26 6. That there was a knowing, voluntary and intelligent waiver of the  
27 right to a jury trial if the finding of guilt was based on a trial to the  
28 court.

29 7. That there was a knowing, voluntary and intelligent waiver of all  
30 pertinent rights if the finding of guilt was based on a plea of guilty or no  
31 contest.

32 8. A certification by the court or the clerk of the court that at the  
33 time of sentencing and in open court the defendant's RIGHT INDEX fingerprint  
34 was permanently affixed to the document or order.

35 D. The document or order shall be made a permanent part of the public  
36 records of the court, and the recitations contained in the document or order  
37 are prima facie evidence of the facts stated in the recitations.

38 E. IF THE SUPREME COURT HAS AUTHORIZED THE CLERK OF THE COURT TO  
39 MAINTAIN AN ELECTRONIC COURT RECORD, THE CLERK MAY MAINTAIN ONLY AN  
40 ELECTRONIC REPRODUCTION OR IMAGE OF THE ORIGINAL DOCUMENT OR ORDER.

41 Sec. 2. Section 13-3903, Arizona Revised Statutes, is amended to read:  
42 13-3903. Notice to appear and complaint

43 A. In any case in which a person is arrested for ~~an offense that is a~~  
44 misdemeanor OFFENSE or a petty offense, the arresting officer may release the  
45 arrested person from custody in lieu of taking ~~such~~ THE person to the ~~police~~

1 station A LAW ENFORCEMENT FACILITY by use of the procedure prescribed in this  
2 section.

3 B. At any time after taking a person arrested for ~~an offense that is a~~  
4 misdemeanor OFFENSE or a petty offense to ~~the police station A LAW~~  
5 ENFORCEMENT FACILITY, the arresting officer ~~may~~, instead of taking ~~such~~ THE  
6 person to a magistrate, MAY release ~~such~~ THE person from further custody by  
7 use of the procedure prescribed in this section.

8 C. IF A PERSON IS ARRESTED FOR A MISDEMEANOR OFFENSE OR A PETTY  
9 OFFENSE AND THE OFFENSE IS LISTED IN SECTION 41-1750, SUBSECTION C, THE  
10 PERSON SHALL NOT BE RELEASED PURSUANT TO THIS SECTION UNTIL THE PERSON  
11 PROVIDES A RIGHT INDEX FINGERPRINT TO THE ARRESTING AGENCY. THE ARRESTING  
12 AGENCY SHALL PROVIDE TO THE ARRESTED PERSON A MANDATORY FINGERPRINT  
13 COMPLIANCE FORM THAT INCLUDES INSTRUCTIONS ON REPORTING FOR TEN-PRINT  
14 FINGERPRINTING, INCLUDING AVAILABLE TIMES AND LOCATIONS FOR REPORTING FOR  
15 TEN-PRINT FINGERPRINTING.

16 ~~C.~~ D. In any case in which a person is arrested for ~~an offense that~~  
17 ~~is~~ a misdemeanor OFFENSE or a petty offense, the arresting officer may  
18 prepare in quadruplicate a written notice to appear and complaint, containing  
19 the name and address of ~~such~~ THE person, the offense charged, and the time  
20 and place where and when ~~such~~ THE person shall appear in court, provided:

21 1. The time specified in the notice to appear is at least five days  
22 after arrest.

23 2. The place specified in the notice shall be the court specified in  
24 section 13-3898.

25 3. The arrested person, in order to secure release as provided in this  
26 section, shall give his written promise so to appear in court by signing at  
27 least one copy of the written notice and complaint prepared by the arresting  
28 officer. The officer shall deliver a copy of the notice and complaint to the  
29 person promising to appear. Thereupon, the officer shall forthwith release  
30 the person arrested from custody.

31 4. The officer ~~shall~~, as soon as practical, SHALL deliver the original  
32 notice and complaint to the magistrate specified therein. Thereupon, the  
33 magistrate shall promptly file the notice and complaint and enter it into the  
34 docket of the court.

35 ~~D.~~ E. The Arizona traffic ticket and complaint may be utilized not  
36 only for the purposes provided ~~in the~~ BY Arizona supreme court rule, but to  
37 satisfy the requirements of this section.

38 E. F. When a person has given his written promise to appear in court  
39 upon a designated date pursuant to this section, and thereafter fails to  
40 appear, personally or by counsel, on or before that date, the ~~magistrate~~  
41 COURT CLERK OR OTHER COURT STAFF shall file a complaint, in writing, under  
42 oath, setting forth the offense of ~~wilfully~~ KNOWINGLY violating a written  
43 promise to appear in court in accordance with section 13-3904, and THE  
44 MAGISTRATE shall issue a warrant of arrest thereon. Upon such person's  
45 appearance in court for arraignment on the charge of violating section

1 13-3904, ~~such magistrate~~ THE COURT shall also arraign ~~such~~ THE person on the  
2 charge stated in the notice to appear and complaint for which ~~such~~ THE person  
3 had previously promised to appear.

4 F. G. ~~Nothing in~~ This section ~~shall be construed to~~ DOES NOT affect a  
5 peace officer's authority to conduct an otherwise lawful search incident to  
6 his arrest even though ~~such~~ THE arrested person is released before being  
7 taken to the police station or before a magistrate pursuant to this section.

8 Sec. 3. Section 41-1750, Arizona Revised Statutes, is amended to read:  
9 41-1750. Central state repository; department of public safety;

10 duties; funds; accounts; definitions

11 A. The department is responsible for the effective operation of the  
12 central state repository in order to collect, store and disseminate complete  
13 and accurate Arizona criminal history records and related criminal justice  
14 information. The department shall:

15 1. Procure from all criminal justice agencies in this state accurate  
16 and complete personal identification data, fingerprints, charges, process  
17 control numbers and dispositions and such other information as may be  
18 pertinent to all persons who have been charged with, arrested for, convicted  
19 of or summoned to court as a criminal defendant for a felony offense or an  
20 offense involving domestic violence as defined in section 13-3601 or a  
21 violation of title 13, chapter 14 or title 28, chapter 4.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13           10. With the auditor general for audit purposes.

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

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

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

32           (a) The fingerprint card.

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

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

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

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

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

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

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

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

17 (a) The fingerprint card.

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

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

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

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

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

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

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

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

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

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

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

34 N. A records processing fund is established for the purpose of  
35 separately accounting for the collection and payment of fees for department  
36 reports and photographs of traffic accident scenes processed by the  
37 department. Monies collected for this purpose shall be credited to the fund  
38 and shall be used by the department in support of functions related to  
39 providing copies of department reports and photographs. At the end of each  
40 fiscal year, any balance in the fund not required for support of the  
41 functions related to providing copies of department reports and photographs  
42 reverts to the state general fund.

43 O. The department of economic security may pay from appropriated  
44 monies the cost of federal fingerprint processing or federal criminal history  
45 record information checks that are authorized by law for employees and

1 volunteers of the department, guardians pursuant to section 46-134,  
2 subsection A, paragraph 15, the licensing of foster parents or the  
3 certification of adoptive parents.

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

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

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

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

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

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

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

26 4. The existence or nonexistence of criminal history record  
27 information shall not be confirmed to any individual or agency not authorized  
28 to receive the information itself.

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

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

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

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

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

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

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

11 4. Announcements of executive clemency or pardon.

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

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

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

25 1. The arresting authority shall take legible TEN-PRINT fingerprints  
26 of all persons WHO ARE arrested for offenses ~~specified~~ LISTED in subsection C  
27 of this section ~~and~~, INCLUDING PERSONS WHO ARE ARRESTED AND RELEASED PURSUANT  
28 TO SECTION 13-3903, SUBSECTION C. THE ARRESTING AUTHORITY MAY TRANSFER AN  
29 ARRESTEE TO A BOOKING AGENCY FOR TEN-PRINT FINGERPRINTING. THE ARRESTING  
30 AUTHORITY OR BOOKING AGENCY SHALL OBTAIN A PROCESS CONTROL NUMBER AND PROVIDE  
31 TO THE PERSON FINGERPRINTED A DOCUMENT THAT INDICATES PROOF OF THE  
32 FINGERPRINTING AND THAT INFORMS THE PERSON THAT THE DOCUMENT MUST BE  
33 PRESENTED TO THE COURT.

34 2. THE MANDATORY FINGERPRINT COMPLIANCE FORM SHALL CONTAIN THE  
35 FOLLOWING INFORMATION:

36 (a) WHETHER TEN-PRINT FINGERPRINTS HAVE BEEN OBTAINED FROM THE PERSON.

37 (b) WHETHER A PROCESS CONTROL NUMBER WAS OBTAINED.

38 (c) THE OFFENSE OR OFFENSES FOR WHICH THE PROCESS CONTROL NUMBER WAS  
39 OBTAINED.

40 (d) ANY REPORT NUMBER OF THE ARRESTING AUTHORITY.

41 (e) INSTRUCTIONS ON REPORTING FOR TEN-PRINT FINGERPRINTING, INCLUDING  
42 AVAILABLE TIMES AND LOCATIONS FOR REPORTING FOR TEN-PRINT FINGERPRINTING.

43 (f) INSTRUCTIONS THAT DIRECT THE PERSON TO PROVIDE THE FORM TO THE  
44 COURT AT THE PERSON'S NEXT COURT APPEARANCE.

1           3. Within ten days ~~of the arrest~~ AFTER A PERSON IS FINGERPRINTED, the  
2 arresting authority OR AGENCY THAT TOOK THE FINGERPRINTS shall forward the  
3 fingerprints to the department in the manner or form required by the  
4 department.

5           4. On the issuance and ~~service~~ of a summons for a defendant who is  
6 charged with a ~~felony offense, a violation of title 13, chapter 14 or title~~  
7 ~~28, chapter 4 or a domestic violence offense as defined in section 13-3601,~~  
8 ~~the court shall order that~~ AN OFFENSE LISTED IN SUBSECTION C OF THIS SECTION,  
9 THE SUMMONS SHALL DIRECT the defendant ~~be fingerprinted by~~ TO PROVIDE  
10 TEN-PRINT FINGERPRINTS TO the appropriate law enforcement agency ~~and that the~~  
11 ~~defendant appear at a designated time and place for fingerprinting.~~

12           5. At the initial appearance or on the arraignment of a summoned  
13 defendant who is charged with a ~~felony offense, a violation of title 13,~~  
14 ~~chapter 14 or title 28, chapter 4 or a domestic violence offense as defined~~  
15 ~~in section 13-3601~~ AN OFFENSE LISTED IN SUBSECTION C OF THIS SECTION, IF THE  
16 PERSON DOES NOT PRESENT A COMPLETED MANDATORY FINGERPRINT COMPLIANCE FORM TO  
17 THE COURT OR IF THE COURT HAS NOT RECEIVED THE PROCESS CONTROL NUMBER, the  
18 court shall order that WITHIN TWENTY CALENDAR DAYS the defendant be TEN-PRINT  
19 fingerprinted at a designated time and place by the appropriate law  
20 enforcement agency ~~if the court has reasonable cause to believe that the~~  
21 ~~defendant was not previously fingerprinted.~~

22           6. IF THE DEFENDANT FAILS TO PRESENT A COMPLETED MANDATORY FINGERPRINT  
23 COMPLIANCE FORM OR IF THE COURT HAS NOT RECEIVED THE PROCESS CONTROL NUMBER,  
24 THE COURT, ON ITS OWN MOTION, MAY REMAND THE DEFENDANT INTO CUSTODY FOR  
25 TEN-PRINT FINGERPRINTING. IF OTHERWISE ELIGIBLE FOR RELEASE, THE DEFENDANT  
26 SHALL BE RELEASED FROM CUSTODY AFTER BEING TEN-PRINT FINGERPRINTED.

27           ~~2.~~ 7. In every criminal case in which the defendant is incarcerated  
28 or fingerprinted as a result of the charge, an originating law enforcement  
29 agency or prosecutor, within forty days of the disposition, shall advise the  
30 central state repository of all dispositions concerning the termination of  
31 criminal proceedings against an individual arrested for an offense specified  
32 in subsection C of this section. This information shall be submitted on a  
33 form or in a manner required by the department.

34           ~~3.~~ 8. Dispositions resulting from formal proceedings in a court  
35 having jurisdiction in a criminal action against an individual who is  
36 arrested for an offense specified in subsection C of this section or section  
37 8-341, subsection T shall be reported to the central state repository within  
38 forty days of the date of the disposition. This information shall be  
39 submitted on a form or in a manner specified by rules approved by the supreme  
40 court.

41           ~~4.~~ 9. The state department of corrections or the department of  
42 juvenile corrections, within forty days, shall advise the central state  
43 repository that it has assumed supervision of a person convicted of an  
44 offense specified in subsection C of this section or section 8-341,  
45 subsection T. The state department of corrections or the department of

1 juvenile corrections shall also report dispositions that occur thereafter to  
2 the central state repository within forty days of the date of the  
3 dispositions. This information shall be submitted on a form or in a manner  
4 required by the department of public safety.

5 ~~5-~~ 10. Each criminal justice agency shall query the central state  
6 repository before dissemination of any criminal history record information to  
7 ensure the completeness of the information. Inquiries shall be made before  
8 any dissemination except in those cases in which time is of the essence and  
9 the repository is technically incapable of responding within the necessary  
10 time period. If time is of the essence, the inquiry shall still be made and  
11 the response shall be provided as soon as possible.

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

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

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

27 Y. For the purposes of this section:

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

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

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

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

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

14           6. "Criminal justice agency" means either:

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

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

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

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

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

42           10. "Management control":

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

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

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

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

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

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

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

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

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

24 Sec. 4. Effective date

25 This act is effective from and after December 31, 2009.

APPROVED BY THE GOVERNOR JULY 13, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 13, 2009.

Passed the House June 17, 2009

Passed the Senate June 24, 2009

by the following vote: 51 Ayes,

by the following vote: 24 Ayes,

2 Nays, 7 Not Voting

0 Nays, 4 Not Voting

[Signature]  
Speaker of the House

[Signature]  
President of the Senate

[Signature]  
Chief Clerk of the House

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

1<sup>st</sup> day of July, 2009

at 8:25 o'clock A. M.

[Signature]  
Secretary to the Governor

Approved this 13<sup>th</sup> day of

July 2009

at 8:41 o'clock A. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 13 day of July, 2009

H.B. 2449

at 11:14 o'clock A. M.

[Signature]  
Secretary of State