House Engrossed Senate Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

CHAPTER 189

SENATE BILL 1420

AN ACT

AMENDING SECTIONS 8-321 AND 8-323, ARIZONA REVISED STATUTES; AMENDING TITLE 8, CHAPTER 3, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-328; AMENDING SECTIONS 8-341, 8-343, 8-352, 8-354, 28-1461, 41-1750 AND 41-2818, ARIZONA REVISED STATUTES; RELATING TO JUVENILE OFFENDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 8-321, Arizona Revised Statutes, is amended to read:

8-321. Referrals; diversions; conditions; community based alternative programs

A. Except as provided in subsection B of this section, before a petition is filed or an admission or adjudication hearing is held, the county attorney may divert the prosecution of a juvenile who is accused of committing a delinquent act or a child who is accused of committing an incorrigible act to a community based alternative program or to a diversion program administered by the juvenile court.

B. A juvenile is not eligible for diversion if any of the following ~~apply to the juvenile~~ APPLIES:

1. THE JUVENILE committed a dangerous offense as defined in section 13-105.

2. THE JUVENILE is a chronic felony offender as defined in section 13-501.

3. THE JUVENILE committed an offense that is listed in section 13-501.

4. THE JUVENILE is alleged to have committed a violation of section 28-1381, 28-1382 or 28-1383.

5. THE JUVENILE IS ALLEGED TO HAVE COMMITTED AN OFFENSE INVOLVING THE PURCHASE, POSSESSION OR CONSUMPTION OF SPIRITUOUS LIQUOR OR A VIOLATION OF TITLE 13, CHAPTER 34 AND THE JUVENILE HAS PREVIOUSLY PARTICIPATED IN A COMMUNITY BASED ALTERNATIVE PROGRAM OR A DIVERSION PROGRAM ADMINISTERED BY THE JUVENILE COURT AT LEAST TWO TIMES WITHIN TWENTY-FOUR MONTHS BEFORE THE DATE OF THE COMMISSION OF THE ALLEGED OFFENSE.

C. Except as provided in section 8-323, the county attorney has sole discretion to decide whether to divert or defer prosecution of a juvenile offender. The county attorney may designate the offenses that shall be retained by the juvenile court for diversion or that shall be referred directly to a community based alternative program THAT IS AUTHORIZED BY THE COUNTY ATTORNEY.

D. The county attorney or the juvenile court in cooperation with the county attorney may establish community based alternative programs.

E. Except for offenses that the county attorney designates as eligible for diversion or referral to a community based alternative program, on receipt of a referral alleging the commission of an offense, the juvenile probation officer shall submit the referral to the county attorney to determine if a petition should be filed.

F. If the county attorney diverts the prosecution of a juvenile to the juvenile court, the juvenile probation officer shall conduct a personal interview with the alleged juvenile offender. At least one of the juvenile's parents or guardians shall attend the interview. The probation officer may waive the requirement for the attendance of the parent or guardian for good cause. If the juvenile acknowledges responsibility for the delinquent or

incorrigible act, the juvenile probation officer shall require that the juvenile comply with one or more of the following conditions:

1. Participation in unpaid community restitution work.

2. Participation in a counseling program that is approved by the court and that is designed to strengthen family relationships and to prevent repetitive juvenile delinquency.

3. Participation in an education program that is approved by the court and that has as its goal the prevention of further delinquent behavior.

4. Participation in an education program that is approved by the court and that is designed to deal with ancillary problems experienced by the juvenile, such as alcohol or drug abuse.

5. Participation in a nonresidential program of rehabilitation or supervision that is offered by the court or offered by a community youth serving agency and approved by the court.

6. Payment of restitution to the victim of the delinquent act.

7. Payment of a monetary assessment.

G. If the juvenile successfully complies with the conditions set forth by the probation officer, the county attorney shall not file a petition in juvenile court and the program's resolution shall not be used against the juvenile in any further proceeding and is not an adjudication of incorrigibility or delinquency. The resolution of the program is not a conviction of crime, does not impose any civil disabilities ordinarily resulting from a conviction and does not disqualify the juvenile in any civil service application or appointment.

H. In order to participate in a community based alternative program the juvenile who is referred to a program shall admit responsibility for the essential elements of the accusation and shall cooperate with the program in all of its proceedings.

I. All of the following apply to each community based alternative program that is established pursuant to this section:

1. The juvenile's participation is voluntary.

2. The victim's participation is voluntary.

3. The community based alternative program shall ensure that the victim, the juvenile's parent or guardian and any other persons who are directly affected by an offense have the right to participate.

4. The participants shall agree to the consequences imposed on the juvenile or the juvenile's parent or guardian.

5. The meetings and records shall be open to the public.

J. After holding a meeting the participants in the community based alternative program may agree on any legally reasonable consequences that the participants determine are necessary to fully and fairly resolve the matter except confinement.

K. The participants shall determine consequences within thirty days after referral to the community based alternative program, and the juvenile shall complete the consequences within ninety days after the matter is

1 referred to the community based alternative program. The county attorney or
2 the juvenile probation officer may extend the time in which to complete the
3 consequences for good cause. If the community based alternative program
4 involves a school, the deadlines for determination and completion of
5 consequences shall be thirty and ninety school days, respectively.
6 L. The community based alternative program, the juvenile, the
7 juvenile's parent or guardian and the victim may sign a written contract in
8 which the parties agree to the program's resolution of the matter and in
9 which the juvenile's parent or guardian agrees to ensure that the juvenile
10 complies with the contract. The contract may provide that the parent or
11 guardian shall post a bond payable to this state to secure the performance of
12 any consequence imposed on the juvenile pursuant to subsection J of this
13 section.
14 M. If the juvenile successfully completes the consequences, the county
15 attorney shall not file a petition in juvenile court and the program's
16 resolution shall not be used against the juvenile in any further proceeding
17 and is not an adjudication of incorrigibility or delinquency. The resolution
18 of the program is not a conviction of crime, does not impose any civil
19 disabilities ordinarily resulting from a conviction and does not disqualify
20 the juvenile in any civil service application or appointment.
21 N. The county attorney or juvenile court shall assess the parent of a
22 juvenile who is diverted pursuant to subsection A of this section a fee of
23 fifty dollars unless, after determining the inability of the parent to pay
24 the fee, the county attorney or juvenile court assesses a lesser amount. All
25 monies assessed pursuant to this subsection shall be used for the
26 administration and support of community based alternative programs or
27 juvenile court diversion programs. Any amount greater than forty dollars of
28 the fee assessed pursuant to this subsection shall only be used to supplement
29 monies currently used for the salaries of juvenile probation and surveillance
30 officers and for support of programs and services of the superior court
31 juvenile probation departments. The clerk of the superior court shall pay
32 all monies collected from this assessment to the county treasurer for deposit
33 in the juvenile probation fund, to be utilized as provided in section 12-268,
34 and the county attorney shall pay all monies collected from this assessment
35 into the county attorney juvenile diversion fund established by section
36 11-537.
37 O. The supreme court shall annually establish an average cost per
38 juvenile for providing diversion services in each county, based on the monies
39 appropriated for diversion pursuant to section 8-322, excluding the cost of
40 juvenile intake services provided by the juvenile court, and the number of
41 juveniles diverted the previous year. On the county attorney's certification
42 to the supreme court of the number of juveniles diverted to a county attorney
43 community based alternative program each quarter, the annual average cost per
44 juvenile for each juvenile diverted shall be reimbursed to the county

attorney juvenile diversion fund established by section 11-537 out of monies appropriated to the supreme court for diversion programs.

P. If the juvenile does not acknowledge responsibility for the offense, or fails to comply with the consequences set by the community based alternative program, the case shall be submitted to the county attorney for review.

Q. After reviewing a referral, if the county attorney declines prosecution, the county attorney may return the case to the juvenile probation department for further action as provided in subsection F of this section.

Sec. 2. 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, WITH NOTICE TO THE PRESIDING JUDGE OF THE JUVENILE COURT, the city or town attorney or the prosecutor may establish diversion programs for offenses other than offenses involving EITHER:

1. A violation of section 28-1381, 28-1382 or 28-1383.

2. THE PURCHASE, POSSESSION OR CONSUMPTION OF SPIRITUOUS LIQUOR OR MISDEMEANOR VIOLATIONS UNDER TITLE 13, CHAPTER 34 IF THE JUVENILE HAS PREVIOUSLY PARTICIPATED IN A DIVERSION PROGRAM ESTABLISHED PURSUANT TO THIS SUBSECTION AT LEAST TWO TIMES WITHIN TWENTY-FOUR MONTHS BEFORE THE DATE OF THE COMMISSION OF THE CURRENT OFFENSE.

Sec. 3. Title 8, chapter 3, article 2, Arizona Revised Statutes, is amended by adding section 8-328, to read:

8-328. Juvenile diversion programs; reporting

A. A CITY OR TOWN ATTORNEY OR PROSECUTOR OR A LAW ENFORCEMENT AGENCY SHALL NOT ESTABLISH OR CONDUCT A DIVERSION PROGRAM OR COMMUNITY BASED ALTERNATIVE PROGRAM FOR JUVENILE OFFENDERS UNLESS THE PROGRAM IS AUTHORIZED BY THE COUNTY ATTORNEY AND NOTICE IS PROVIDED TO THE PRESIDING JUDGE OF THE JUVENILE COURT.

B. BEGINNING JANUARY 1, 2011, A CITY OR TOWN ATTORNEY OR PROSECUTOR OR A LAW ENFORCEMENT AGENCY THAT ESTABLISHES OR CONDUCTS A DIVERSION PROGRAM OR COMMUNITY BASED ALTERNATIVE PROGRAM SHALL REPORT THE CITATION NUMBER, NAME AND DATE OF BIRTH OF EACH JUVENILE WHO PARTICIPATES IN A DIVERSION PROGRAM OR COMMUNITY BASED ALTERNATIVE PROGRAM TO THE JUVENILE COURT IN A FORMAT APPROVED BY THE PRESIDING JUDGE OF THE JUVENILE COURT.

Sec. 4. 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 the 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 a dangerous offense as defined in section 13-105.

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.

7. THE JUVENILE'S PARENTS HAVE NOT REQUESTED THAT THE COURT CONTINUE THE JUVENILE'S PROBATION FOR MORE THAN ONE YEAR.

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 temporarily escort the juvenile from secure care pursuant to section 41-2804, 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

1 and a minor victim's parent or guardian and shall counsel them regarding the
2 meaning and health implications of the results.
3 P. If a juvenile has been adjudicated delinquent for an offense that
4 if committed by an adult would be a felony, the court shall provide the
5 department of public safety Arizona automated fingerprint identification
6 system established in section 41-2411 with the juvenile's fingerprints,
7 personal identification data and other pertinent information. If a juvenile
8 has been committed to the department of juvenile corrections the department
9 shall provide the fingerprints and information required by this subsection to
10 the Arizona automated fingerprint identification system. If the juvenile's
11 fingerprints and information have been previously submitted to the Arizona
12 automated fingerprint identification system the information is not required
13 to be resubmitted.
14 Q. Access to fingerprint records submitted pursuant to subsection P of
15 this section shall be limited to the administration of criminal justice as
16 defined in section 41-1750. Dissemination of fingerprint information shall
17 be limited to the name of the juvenile, juvenile case number, date of
18 adjudication and court of adjudication.
19 R. If a juvenile is adjudicated delinquent for an offense that if
20 committed by an adult would be a misdemeanor, the court may prohibit the
21 juvenile from carrying or possessing a firearm while the juvenile is under
22 the jurisdiction of the department of juvenile corrections or the juvenile
23 court.
24 S. If a juvenile is adjudicated delinquent for a violation of section
25 13-1602, subsection A, paragraph 5, the court shall order the juvenile to pay
26 a fine of at least three hundred dollars but not more than one thousand
27 dollars. Any restitution ordered shall be paid in accordance with section
28 13-809, subsection A. The court may order the juvenile to perform community
29 restitution in lieu of the payment for all or part of the fine if it is in
30 the best interests of the juvenile. The amount of community restitution
31 shall be equivalent to the amount of the fine by crediting any service
32 performed at a rate of ten dollars per hour. If the juvenile is convicted of
33 a second or subsequent violation of section 13-1602, subsection A, paragraph
34 5 and is ordered to perform community restitution, the court may order the
35 parent or guardian of the juvenile to assist the juvenile in the performance
36 of the community restitution if both of the following apply:
37 1. The parent or guardian had knowledge that the juvenile intended to
38 engage in or was engaging in the conduct that gave rise to the violation.
39 2. The parent or guardian knowingly provided the juvenile with the
40 means to engage in the conduct that gave rise to the violation.
41 T. IF A JUVENILE IS ADJUDICATED DELINQUENT FOR AN OFFENSE INVOLVING
42 THE PURCHASE, POSSESSION OR CONSUMPTION OF SPIRITUOUS LIQUOR OR A VIOLATION
43 OF TITLE 13, CHAPTER 34 AND IS PLACED ON JUVENILE PROBATION, THE COURT MAY
44 ORDER THE JUVENILE TO SUBMIT TO RANDOM DRUG AND ALCOHOL TESTING AT LEAST TWO
45 TIMES PER WEEK AS A CONDITION OF PROBATION.

U. A JUVENILE WHO IS ADJUDICATED DELINQUENT FOR AN OFFENSE INVOLVING THE PURCHASE, POSSESSION OR CONSUMPTION OF SPIRITUOUS LIQUOR OR A VIOLATION OF TITLE 13, CHAPTER 34, WHO IS PLACED ON JUVENILE PROBATION AND WHO IS FOUND TO HAVE CONSUMED ANY SPIRITUOUS LIQUOR OR TO HAVE USED ANY DRUG LISTED IN SECTION 13-3401 WHILE ON PROBATION IS IN VIOLATION OF THE JUVENILE'S PROBATION. A JUVENILE WHO COMMITS A THIRD OR SUBSEQUENT VIOLATION OF A CONDITION OF PROBATION AS PRESCRIBED BY THIS SUBSECTION SHALL BE BROUGHT BEFORE THE JUVENILE COURT AND, IF THE ALLEGATIONS ARE PROVEN, THE COURT SHALL EITHER REVOKE PROBATION AND HOLD A DISPOSITION HEARING PURSUANT TO THIS SECTION OR SELECT ADDITIONAL CONDITIONS OF PROBATION AS IT DEEMS NECESSARY, INCLUDING DETENTION, GLOBAL POSITION SYSTEM MONITORING, ADDITIONAL ALCOHOL OR DRUG TREATMENT, COMMUNITY RESTITUTION, ADDITIONAL DRUG OR ALCOHOL TESTING OR A MONETARY ASSESSMENT.

~~T.~~ V. 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. 5. Section 8-343, Arizona Revised Statutes, is amended to read:

8-343. Disposition of offenses involving driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor or drugs

A. A juvenile who is adjudicated delinquent for a violation of section 28-1381 ~~or 28-1382~~ shall be ~~incarcerated~~ DETAINED for a period of ~~twenty-four~~ NOT LESS THAN TEN consecutive ~~hours~~ DAYS IN A JUVENILE DETENTION CENTER AS A CONDITION OF PROBATION, EXCEPT THAT THE JUDGE MAY SUSPEND ALL TEN DAYS OF THE SENTENCE IF THE JUVENILE COMPLETES ALCOHOL OR OTHER DRUG SCREENING PURSUANT TO SUBSECTION L OF THIS SECTION.

B. A juvenile who within a period of eighty-four months is adjudicated delinquent for a violation of section 28-1381 ~~or 28-1382~~ and who has previously been adjudicated for a violation of section 28-1381, 28-1382 or 28-1383 or an act in another state, a court of the United States or a tribal court that if committed in this state would be a violation of section 28-1381, 28-1382 or 28-1383 shall be ~~incarcerated~~ DETAINED for a period of ~~thirty consecutive~~ NOT LESS THAN NINETY days ~~that shall be served~~ in a juvenile detention center ~~or in the department of juvenile corrections~~ AS A CONDITION OF PROBATION, EXCEPT THAT THE JUDGE MAY SUSPEND ALL BUT THIRTY

CONSECUTIVE DAYS OF THE SENTENCE IF THE JUVENILE COMPLETES ALCOHOL OR OTHER DRUG SCREENING PURSUANT TO SUBSECTION L OF THIS SECTION.

C. A JUVENILE WHO IS ADJUDICATED DELINQUENT FOR A VIOLATION OF SECTION 28-1382, SUBSECTION A, PARAGRAPH 1 SHALL BE DETAINED FOR A PERIOD OF NOT LESS THAN THIRTY CONSECUTIVE DAYS IN A JUVENILE DETENTION CENTER AS A CONDITION OF PROBATION, EXCEPT THAT THE JUDGE MAY SUSPEND ALL BUT TEN CONSECUTIVE DAYS OF THE SENTENCE IF THE JUVENILE COMPLETES ALCOHOL OR OTHER DRUG SCREENING PURSUANT TO SUBSECTION L OF THIS SECTION. A JUVENILE WHO IS ADJUDICATED DELINQUENT FOR A VIOLATION OF SECTION 28-1382, SUBSECTION A, PARAGRAPH 2 SHALL BE DETAINED FOR A PERIOD OF NOT LESS THAN FORTY-FIVE CONSECUTIVE DAYS IN A JUVENILE DETENTION CENTER AS A CONDITION OF PROBATION, EXCEPT THAT THE JUDGE MAY SUSPEND ALL BUT FIFTEEN CONSECUTIVE DAYS OF THE SENTENCE IF THE JUVENILE COMPLETES ALCOHOL OR OTHER DRUG SCREENING PURSUANT TO SUBSECTION L OF THIS SECTION.

D. IF WITHIN A PERIOD OF EIGHTY-FOUR MONTHS A JUVENILE IS ADJUDICATED DELINQUENT FOR A VIOLATION OF SECTION 28-1382 AND HAS PREVIOUSLY BEEN ADJUDICATED FOR A VIOLATION OF SECTION 28-1381, 28-1382 OR 28-1383 OR AN ACT IN ANOTHER STATE, A COURT OF THE UNITED STATES OR A TRIBAL COURT THAT IF COMMITTED IN THIS STATE WOULD BE A VIOLATION OF SECTION 28-1381, 28-1382 OR 28-1383, THE JUVENILE:

1. SHALL BE DETAINED FOR A PERIOD OF NOT LESS THAN ONE HUNDRED TWENTY DAYS IN A JUVENILE DETENTION CENTER AS A CONDITION OF PROBATION IF THE JUVENILE IS ADJUDICATED DELINQUENT FOR A VIOLATION OF SECTION 28-1382, SUBSECTION A, PARAGRAPH 1, EXCEPT THAT THE JUDGE MAY SUSPEND ALL BUT SIXTY CONSECUTIVE DAYS OF THE SENTENCE IF THE JUVENILE COMPLETES ALCOHOL OR OTHER DRUG SCREENING PURSUANT TO SUBSECTION L OF THIS SECTION.

2. SHALL BE DETAINED FOR A PERIOD OF NOT LESS THAN ONE HUNDRED EIGHTY DAYS IN A JUVENILE DETENTION CENTER AS A CONDITION OF PROBATION IF THE JUVENILE IS ADJUDICATED DELINQUENT FOR A VIOLATION OF SECTION 28-1382, SUBSECTION A, PARAGRAPH 2, EXCEPT THAT THE JUDGE MAY SUSPEND ALL BUT NINETY CONSECUTIVE DAYS OF THE SENTENCE IF THE JUVENILE COMPLETES ALCOHOL OR OTHER DRUG SCREENING PURSUANT TO SUBSECTION L OF THIS SECTION.

~~C.~~ E. A juvenile who is adjudicated delinquent for a violation of section 28-1383 shall be ~~sentenced as provided in section 28-1383, except that section 13-801 does not apply and any incarceration shall be served in a juvenile detention center or~~ DETAINED FOR A PERIOD OF NOT LESS THAN FOUR MONTHS in A JUVENILE DETENTION CENTER OR the department of juvenile corrections AS A CONDITION OF PROBATION IF THE JUVENILE IS ADJUDICATED DELINQUENT UNDER EITHER OF THE FOLLOWING:

1. SECTION 28-1383, SUBSECTION A, PARAGRAPH 1.

2. SECTION 28-1383, SUBSECTION A, PARAGRAPH 2 AND WITHIN AN EIGHTY-FOUR MONTH PERIOD HAS BEEN ADJUDICATED DELINQUENT FOR TWO PRIOR VIOLATIONS OF SECTION 28-1381, 28-1382 OR 28-1383, OR ANY COMBINATION OF THOSE SECTIONS, OR ACTS IN ANOTHER JURISDICTION THAT IF COMMITTED IN THIS STATE WOULD BE A VIOLATION OF SECTION 28-1381, 28-1382 OR 28-1383.

F. A JUVENILE WHO IS ADJUDICATED DELINQUENT UNDER SECTION 28-1383, SUBSECTION A, PARAGRAPH 2 AND WHO WITHIN AN EIGHTY-FOUR MONTH PERIOD HAS BEEN ADJUDICATED DELINQUENT FOR THREE OR MORE PRIOR VIOLATIONS OF SECTION 28-1381, 28-1382 OR 28-1383, OR ANY COMBINATION OF THOSE SECTIONS, OR ACTS IN ANOTHER JURISDICTION THAT IF COMMITTED IN THIS STATE WOULD BE A VIOLATION OF SECTION 28-1381, 28-1382 OR 28-1383 SHALL BE DETAINED FOR A PERIOD OF NOT LESS THAN EIGHT MONTHS IN A JUVENILE DETENTION CENTER OR THE DEPARTMENT OF JUVENILE CORRECTIONS AS A CONDITION OF PROBATION.

G. A JUVENILE WHO IS ADJUDICATED DELINQUENT UNDER SECTION 28-1383, SUBSECTION A, PARAGRAPH 3, SUBDIVISION (a) SHALL SERVE AT LEAST THE MINIMUM TERM OF DETENTION REQUIRED PURSUANT TO SUBSECTION A OR B OF THIS SECTION.

H. A JUVENILE WHO IS ADJUDICATED DELINQUENT UNDER SECTION 28-1383, SUBSECTION A, PARAGRAPH 3, SUBDIVISION (b) SHALL SERVE AT LEAST THE MINIMUM TERM OF DETENTION REQUIRED PURSUANT TO SUBSECTION C OR D OF THIS SECTION.

I. NOTWITHSTANDING SUBSECTION E OR F OF THIS SECTION, AT THE TIME OF SENTENCING, THE JUDGE MAY SUSPEND ALL BUT TWO MONTHS OF THE SENTENCE IF THE JUVENILE COMPLETES ALCOHOL OR OTHER DRUG SCREENING PURSUANT TO SUBSECTION L OF THIS SECTION.

~~D.~~ J. If a juvenile is adjudicated delinquent for a violation of section 28-1381, 28-1382 or 28-1383, the court shall order the juvenile to pay at least ~~one~~ TWO hundred FIFTY dollars but not more than five hundred dollars plus any applicable surcharges and assessments to the public agency processing the violation or the court may order the juvenile to perform at least eighty hours of community restitution under the supervision of the court.

~~E.~~ K. The dates of the commission of the offense shall be the determining factor in applying the eighty-four month provision of subsection B, D, E OR F of this section, irrespective of the sequence in which the offenses were committed. A second violation for which a conviction occurs as provided in this section shall not include a conviction for an offense arising out of the same series of acts.

~~F.~~ L. In addition to any other penalties prescribed by law, if a juvenile is adjudicated delinquent for a violation of section 28-1381, 28-1382 or 28-1383, the court shall order the juvenile to complete alcohol or other drug screening that is provided by a facility approved by the department of health services or a probation department. If the court determines that the juvenile requires further alcohol or other drug education or treatment, the juvenile may be required pursuant to court order to obtain education or treatment under the court's supervision from an approved facility. The court may review an education or treatment determination at the request of the state or the defendant or on the court's initiative. The juvenile shall pay the costs of the screening, education or treatment unless the court waives part or all of the costs. The court may order the parent or guardian of the juvenile to pay part or all of the costs of the screening, education or treatment.

M. THE COURT SHALL ORDER A JUVENILE OR THE PARENTS OF A JUVENILE WHO IS SENTENCED TO A TERM OF DETENTION TO REIMBURSE THE COUNTY THAT IS RESPONSIBLE FOR THE COSTS OF THE JUVENILE'S DETENTION FOR THOSE DETENTION COSTS. THE COURT MAY DETERMINE THE AMOUNT OF DETENTION COSTS TO BE PAID BASED ON THE FOLLOWING FACTORS:

1. THE PER DIEM PER JUVENILE COST OF DETENTION INCURRED BY THE COUNTY THAT DETAINS THE JUVENILE.

2. THE ABILITY OF THE JUVENILE OR THE PARENTS OF THE JUVENILE TO PAY PART OR ALL OF THE DETENTION COSTS.

Sec. 6. Section 8-352, Arizona Revised Statutes, is amended to read:

8-352. Intensive probation; evaluation; criteria; limit; conditions

A. A juvenile probation officer shall prepare a disposition summary report for every juvenile who has been adjudicated of a delinquent act or of a technical violation of probation.

B. The juvenile probation officer shall evaluate the needs of the juvenile and the juvenile's risk to the community, including the nature of the offense, the delinquent history of the juvenile, ~~and~~ the juvenile's history of referrals and adjustments AND THE RECOMMENDATION OF THE JUVENILE'S PARENTS. THE JUVENILE PROBATION OFFICER SHALL INCLUDE THE RECOMMENDATION OF THE JUVENILE'S PARENTS IN THE DISPOSITION SUMMARY REPORT. If the nature of the offense and the prior delinquent history of the juvenile indicate that the juvenile should be included in an intensive probation program pursuant to supreme court guidelines for juvenile intensive probation, the juvenile probation officer may recommend to the court that the juvenile be granted intensive probation.

C. After reviewing the juvenile's prior record, the facts and circumstances of the current delinquent act or technical violation of probation and the disposition summary report, the court may grant the juvenile a period of intensive probation.

D. When granting intensive probation the court shall set forth on the record the factual reasons for using the disposition.

E. Intensive probation shall be conditioned on the juvenile:

1. Participating in one or more of the following throughout the term of intensive probation for not less than thirty-two hours each week:

(a) School.

(b) A court ordered treatment program.

(c) Employment.

(d) Supervised community restitution work.

2. Paying restitution and probation fees except that the inability to pay probation fees or restitution does not prohibit participation in the intensive probation program.

3. Remaining at a place of residence at all times except to attend school, work or treatment, to perform community restitution or to participate in some activity, as specifically allowed in each instance by the supervising

juvenile probation officer, or if in the direct company of a parent, guardian or custodian, as approved by the juvenile probation officer.

4. Allowing administration of drug and alcohol tests as directed by a juvenile probation officer.

5. Meeting any other conditions imposed by the court, including electronic monitoring, to meet the needs of the juvenile or to limit the risks to the community.

F. Probation fees shall be deposited in the juvenile probation fund established pursuant to section 12-268.

Sec. 7. Section 8-354, Arizona Revised Statutes, is amended to read:

8-354. Modification of supervision

A. The juvenile probation officer shall periodically examine the needs of each juvenile who is granted intensive probation and the risks of modifying the level of supervision of the juvenile. The court may at any time modify the placement or the level of supervision of a juvenile who is granted intensive probation.

B. The court may issue a warrant for the arrest of a juvenile who is granted intensive probation. If the juvenile commits an additional offense or violates a condition, the court may revoke intensive probation at any time before the expiration or termination of the period of intensive probation and hold disposition of the juvenile in accordance with section 8-341. IF THE COURT FINDS THAT A JUVENILE HAS COMMITTED AN ADDITIONAL OFFENSE THAT IS A FELONY OR HAS VIOLATED A CONDITION OF INTENSIVE PROBATION THAT POSES A SERIOUS THREAT TO OR DANGER TO THE COMMUNITY, THE COURT SHALL REVOKE INTENSIVE PROBATION AND HOLD DISPOSITION OF THE JUVENILE PURSUANT TO SECTION 8-341.

Sec. 8. Section 28-1461, Arizona Revised Statutes, is amended to read:

28-1461. Use of certified ignition interlock devices; reporting

A. If a person's driving privilege is limited pursuant to section 28-1381, 28-1382, 28-1383 or 28-3319 or restricted pursuant to section 28-1402:

1. The person shall:

(a) Pay the costs for installation and maintenance of the certified ignition interlock device.

(b) Provide proof to the department of installation of a functioning certified ignition interlock device in each motor vehicle operated by the person.

(c) Provide proof of compliance to the department at least once every ninety days during the period the person is ordered to use an ignition interlock device.

(d) Provide proof of inspection of the certified ignition interlock device for accurate operation and the results of the inspection to the department at least once every ninety days during the period the person is ordered to use an ignition interlock device.

2. The department shall not reinstate the person's driving privilege or issue a special ignition interlock restricted driver license until the person has installed a functioning certified ignition interlock device in each motor vehicle operated by the person and has provided proof of installation to the department.

B. While a person maintains a functioning certified ignition interlock device in a vehicle pursuant to this chapter, each time an installer obtains information recorded by a certified ignition interlock device the installer shall electronically provide to the department in a form prescribed by the department the following information:

1. Any tampering or circumvention.

2. Any failure to provide proof of compliance or inspection of the certified ignition interlock device as prescribed in this section.

3. Any attempt to operate the vehicle with an alcohol concentration exceeding the presumptive limit as prescribed in section 28-1381, subsection G, paragraph 3 or, if the person is under twenty-one years of age, any attempt to operate the vehicle with any spirituous liquor in the person's body.

C. IF THE PERSON IS UNDER EIGHTEEN YEARS OF AGE, THE INSTALLER SHALL ALSO PROVIDE TO THE PERSON'S PARENT OR LEGAL GUARDIAN THE INFORMATION PRESCRIBED IN SUBSECTION B OF THIS SECTION.

~~C.~~ D. On request, the installer shall provide the information prescribed in subsection B of this section to:

1. The department of health services authorized provider.

2. The probation department that is providing alcohol or other drug screening, education or treatment to the person.

3. The physician, psychologist or ~~certified~~ substance abuse counselor who is evaluating the person's ability to safely operate a motor vehicle following a revocation of the person's driving privilege as prescribed in section 28-3315, subsection D.

4. The court.

~~D.~~ E. The department shall extend an ignition interlock restricted or limited driver license and the certified ignition interlock device period if the department has reasonable grounds to believe that any of the following applies:

1. The person tampered with or circumvented the certified ignition interlock device.

2. The person attempted to operate the vehicle with an alcohol concentration exceeding the presumptive limit as prescribed in section 28-1381, subsection G, paragraph 3 three or more times during the period of license restriction or limitation.

3. If the person is under twenty-one years of age, the person attempted to operate the vehicle with any spirituous liquor in the person's body during the period of license restriction or limitation.

4. The person failed to provide proof of compliance or inspection as prescribed in this section.

~~E.~~ F. If the special ignition interlock restricted license is extended pursuant to subsection ~~D~~ E of this section, the limitations prescribed in sections 28-1381, 28-1382, 28-1383 and 28-3319 do not begin until the restrictive period of the license ends.

~~F.~~ G. The department shall make a notation on the driving record of a person whose driving privilege is limited pursuant to section 28-1381, 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to section 28-1402 that states that the person shall not operate a motor vehicle unless it is equipped with a certified ignition interlock device.

~~G.~~ H. Proof of compliance does not include a skipped or missed random sample if the motor vehicle's ignition is off at the time of the skipped or missed sample.

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

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

A. 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

1 the purpose of determining its accuracy and completeness by making
2 application to the agency operating the system. Rules adopted under this
3 section shall include provisions for administrative review and necessary
4 correction of any inaccurate or incomplete information. The review and
5 challenge process authorized by this paragraph is limited to criminal history
6 record information.
7 8. With individuals and agencies pursuant to a specific agreement with
8 a criminal justice agency to provide services required for the administration
9 of criminal justice pursuant to that agreement if the agreement specifically
10 authorizes access to data, limits the use of data to purposes for which given
11 and ensures the security and confidentiality of the data consistent with this
12 section.
13 9. With individuals and agencies for the express purpose of research,
14 evaluative or statistical activities pursuant to an agreement with a criminal
15 justice agency if the agreement specifically authorizes access to data,
16 limits the use of data to research, evaluative or statistical purposes and
17 ensures the confidentiality and security of the data consistent with this
18 section.
19 10. With the auditor general for audit purposes.
20 11. With central state repositories of other states for noncriminal
21 justice purposes for dissemination in accordance with the laws of those
22 states.
23 12. On submission of the fingerprint card, with the department of
24 economic security to provide criminal history record information on
25 prospective adoptive parents for the purpose of conducting the preadoption
26 certification investigation under title 8, chapter 1, article 1 if the
27 department of economic security is conducting the investigation, or with an
28 agency or a person appointed by the court, if the agency or person is
29 conducting the investigation. Information received under this paragraph
30 shall only be used for the purposes of the preadoption certification
31 investigation.
32 13. With the department of economic security and the superior court for
33 the purpose of evaluating the fitness of custodians or prospective custodians
34 of juveniles, including parents, relatives and prospective guardians.
35 Information received under this paragraph shall only be used for the purposes
36 of that evaluation. The information shall be provided on submission of
37 either:
38 (a) The fingerprint card.
39 (b) The name, date of birth and social security number of the person.
40 14. On submission of a fingerprint card, provide criminal history
41 record information to the superior court for the purpose of evaluating the
42 fitness of investigators appointed under section 14-5303 or 14-5407, or
43 guardians appointed under section 14-5206.
44 15. With the supreme court to provide criminal history record
45 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.

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

22. With the child protective services division of the department of economic security as provided by law, which currently is the Adam Walsh child protection and safety act of 2006~~,~~ (42 United States Code section 16961), for the purposes of investigating or responding to reports of child abuse, neglect or exploitation. Information received pursuant to this paragraph from the national crime information center, the interstate identification index and the Arizona criminal justice information system network shall only

be used for the purposes of investigating or responding as prescribed in this paragraph. The information shall be provided on submission to the department of public safety of either:

(a) The fingerprints of the person being investigated.

(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

1 functions related to providing copies of department reports and photographs
2 reverts to the state general fund.
3 O. The department of economic security may pay from appropriated
4 monies the cost of federal fingerprint processing or federal criminal history
5 record information checks that are authorized by law for employees and
6 volunteers of the department, guardians pursuant to section 46-134,
7 subsection A, paragraph 15, the licensing of foster parents or the
8 certification of adoptive parents.
9 P. The director shall adopt rules that provide for:
10 1. The collection and disposition of fees pursuant to this section.
11 2. The refusal of service to those agencies that are delinquent in
12 paying these fees.
13 Q. The director shall ensure that the following limitations are
14 observed regarding dissemination of criminal justice information obtained
15 from the central state repository or through the Arizona criminal justice
16 information system:
17 1. Any criminal justice agency that obtains criminal justice
18 information from the central state repository or through the Arizona criminal
19 justice information system assumes responsibility for the security of the
20 information and shall not secondarily disseminate this information to any
21 individual or agency not authorized to receive this information directly from
22 the central state repository or originating agency.
23 2. Dissemination to an authorized agency or individual may be
24 accomplished by a criminal justice agency only if the dissemination is for
25 criminal justice purposes in connection with the prescribed duties of the
26 agency and not in violation of this section.
27 3. Criminal history record information disseminated to noncriminal
28 justice agencies or to individuals shall be used only for the purposes for
29 which it was given. Secondary dissemination is prohibited unless otherwise
30 authorized by law.
31 4. The existence or nonexistence of criminal history record
32 information shall not be confirmed to any individual or agency not authorized
33 to receive the information itself.
34 5. Criminal history record information to be released for noncriminal
35 justice purposes to agencies of other states shall only be released to the
36 central state repositories of those states for dissemination in accordance
37 with the laws of those states.
38 6. Criminal history record information shall be released to
39 noncriminal justice agencies of the federal government pursuant to the terms
40 of the federal security clearance information act (P.L. 99-169).
41 R. This section and the rules adopted under this section apply to all
42 agencies and individuals collecting, storing or disseminating criminal
43 justice information processed by manual or automated operations if the
44 collection, storage or dissemination is funded in whole or in part with
45 monies made available by the law enforcement assistance administration after

1 July 1, 1973, pursuant to title I of the crime control act of 1973, and to
2 all agencies that interact with or receive criminal justice information from
3 or through the central state repository and through the Arizona criminal
4 justice information system.
5 S. This section does not apply to criminal history record information
6 contained in:
7 1. Posters, arrest warrants, announcements or lists for identifying or
8 apprehending fugitives or wanted persons.
9 2. Original records of entry such as police blotters maintained by
10 criminal justice agencies, compiled chronologically and required by law or
11 long-standing custom to be made public if these records are organized on a
12 chronological basis.
13 3. Transcripts or records of judicial proceedings if released by a
14 court or legislative or administrative proceedings.
15 4. Announcements of executive clemency or pardon.
16 5. Computer databases, other than the Arizona criminal justice
17 information system, that are specifically designed for community notification
18 of an offender's presence in the community pursuant to section 13-3825 or for
19 public informational purposes authorized by section 13-3827.
20 T. Nothing in this section prevents a criminal justice agency from
21 disclosing to the public criminal history record information that is
22 reasonably contemporaneous to the event for which an individual is currently
23 within the criminal justice system, including information noted on traffic
24 accident reports concerning citations, blood alcohol tests, intoxilyzer tests
25 or arrests made in connection with the traffic accident being investigated.
26 U. In order to ensure that complete and accurate criminal history
27 record information is maintained and disseminated by the central state
28 repository:
29 1. The arresting authority shall take legible fingerprints of all
30 persons arrested for offenses specified in subsection C of this section and,
31 within ten days of the arrest, the arresting authority shall forward the
32 fingerprints to the department in the manner or form required by the
33 department. On the issuance and service of a summons for a defendant who is
34 charged with a felony offense, a violation of title 13, chapter 14 or title
35 28, chapter 4 or a domestic violence offense as defined in section 13-3601,
36 the court shall order that the defendant be fingerprinted by the appropriate
37 law enforcement agency and that the defendant appear at a designated time and
38 place for fingerprinting. At the initial appearance or on the arraignment of
39 a summoned defendant who is charged with a felony offense, a violation of
40 title 13, chapter 14 or title 28, chapter 4 or a domestic violence offense as
41 defined in section 13-3601, the court shall order that the defendant be
42 fingerprinted at a designated time and place by the appropriate law
43 enforcement agency if the court has reasonable cause to believe that the
44 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 ~~T~~ V 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 ~~T~~ V. 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.

1 Y. For the purposes of this section:
2 1. "Administration of criminal justice" means performance of the
3 detection, apprehension, detention, pretrial release, posttrial release,
4 prosecution, adjudication, correctional supervision or rehabilitation of
5 criminal offenders. Administration of criminal justice includes enforcement
6 of criminal traffic offenses and civil traffic violations, including parking
7 violations, when performed by a criminal justice agency. Administration of
8 criminal justice also includes criminal identification activities and the
9 collection, storage and dissemination of criminal history record information.
10 2. "Administrative records" means records that contain adequate and
11 proper documentation of the organization, functions, policies, decisions,
12 procedures and essential transactions of the agency and that are designed to
13 furnish information to protect the rights of this state and of persons
14 directly affected by the agency's activities.
15 3. "Arizona criminal justice information system" or "system" means the
16 statewide information system managed by the director for the collection,
17 processing, preservation, dissemination and exchange of criminal justice
18 information and includes the electronic equipment, facilities, procedures and
19 agreements necessary to exchange this information.
20 4. "Central state repository" means the central location within the
21 department for the collection, storage and dissemination of Arizona criminal
22 history records and related criminal justice information.
23 5. "Criminal history record information" and "criminal history record"
24 means information that is collected by criminal justice agencies on
25 individuals and that consists of identifiable descriptions and notations of
26 arrests, detentions, indictments and other formal criminal charges, and any
27 disposition arising from those actions, sentencing, formal correctional
28 supervisory action and release. Criminal history record information and
29 criminal history record do not include identification information to the
30 extent that the information does not indicate involvement of the individual
31 in the criminal justice system or information relating to juveniles unless
32 they have been adjudicated as adults.
33 6. "Criminal justice agency" means either:
34 (a) A court at any governmental level with criminal or equivalent
35 jurisdiction, including courts of any foreign sovereignty duly recognized by
36 the federal government.
37 (b) A government agency or subunit of a government agency that is
38 specifically authorized to perform as its principal function the
39 administration of criminal justice pursuant to a statute, ordinance or
40 executive order and that allocates more than fifty per cent of its annual
41 budget to the administration of criminal justice. This subdivision includes
42 agencies of any foreign sovereignty duly recognized by the federal
43 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 the extent that the equipment is used to process, store or transmit criminal justice information.

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

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

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

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

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

Sec. 10. Section 41-2818, Arizona Revised Statutes, is amended to read:

41-2818. Conditional liberty; notification

A. After a determination by the department that a youth is not likely to be a threat to the public safety if released and that the youth's continued treatment, rehabilitation and education in a less restrictive setting are consistent with the public's safety and interest, the youth may be granted conditional liberty and placed under the care of the youth's parent or legal guardian or a resident of this state of good moral character or placed in a community based treatment center.

B. Each youth who is placed on conditional liberty is subject to the conditions imposed by the department. When conditional liberty is granted, the youth shall receive and sign a copy of the terms of conditional liberty.

C. The department shall notify the committing court and the county attorney in the county in which the youth was committed twenty days before granting conditional liberty. The department shall consider the recommendation of the court, the county attorney and the victim, if any, before granting conditional liberty.

D. If the department grants conditional liberty, the department shall provide the court and county attorney with a copy of the youth's terms of conditional liberty. IF THE YOUTH WAS ADJUDICATED FOR AN OFFENSE INVOLVING THE PURCHASE, POSSESSION OR CONSUMPTION OF SPIRITUOUS LIQUOR OR A VIOLATION OF TITLE 13, CHAPTER 34, THE DEPARTMENT MAY REQUIRE THE JUVENILE TO:

1. COMPLETE ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT THAT IS LICENSED THROUGH THE DEPARTMENT OF HEALTH SERVICES.

2. SUBMIT TO RANDOM DRUG AND ALCOHOL TESTING AT LEAST TWO TIMES PER WEEK AS A CONDITION OF THE YOUTH'S CONDITIONAL LIBERTY.

APPROVED BY THE GOVERNOR JULY 13, 2009.

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

FAILED
~~Passed~~ the House June 26, 20 09,

by the following vote: 22 Ayes,

29 Nays, 9 Not Voting

Speaker of the House

Pro Tempore

Norman L. Moore

Chief Clerk of the House

Passed the Senate June 15, 20 09,

by the following vote: 23 Ayes,

5 Nays, 2 Not Voting

Robert L. Burns

President of the Senate

Charmin Bellington

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1420

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate July 1, 20 09

by the following vote: 17 Ayes,

10 Nays, 3 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_____

S.B. 1420

at _____ o'clock _____M.

_____
Secretary of State

Passed the House June 29, 20 09

by the following vote: 31 Ayes,

22 Nays, 7 Not Voting

Speaker of the House

Norman L. Moore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

1st day of July, 20 09

at 10:15 o'clock A. M.

Susan K Myers
Secretary to the Governor

Approved this 13th day of

July 2009

at 5:50 o'clock P M.

Janice K. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 13th day of July, 20 09

at 7:35 o'clock P M.

Ken Bennett
Secretary of State

ON RECONSIDERATION
S.B. 1420