

Mandatory Fingerprint Compliance Statute Enacted

Any person arrested for a DUI, domestic violence, or sexual assault or per A.R.S. § 41-1750 must provide the arresting agency with a single fingerprint to be eligible to be cited and released. The mandatory compliance fingerprint form provided by law enforcement informs the defendant he/she must provide law enforcement with a full set of ten-print fingerprints prior to appearing in court. The law enforcement agency that takes the prints must provide the defendant with proof of ten-print fingerprinting to provide to the court at his/her next appearance. If the defendant does not provide proof of fingerprinting to the court, the court is required to order the defendant to appear for ten-print fingerprinting within twenty days. If the defendant does not comply with the order, the court may remand the defendant into custody until fingerprinting is completed.

BACKGROUND

A.R.S. § 41-1750 (C) currently requires that a fingerprint based record of an arrest be taken for all felony, domestic violence, sexual, and DUI offenses either at the time of the arrest or by court order. Every law enforcement agency is required to submit these fingerprint-based records to the central repository, the Arizona Computerized Criminal History (ACCH) database, maintained by the Department of Public Safety (DPS).

In cases where the offender is not booked at the time of arrest, but is cited and released or summoned, a substantial number of defendants may evade submitting fingerprints. The result is the defendant has no criminal history record. Research carried out by the Arizona Criminal Justice Commission's Statistical Analysis Center indicates that of those agencies sampled; only 68 percent of offenders could be matched to a criminal history record in the ACCH database. In analyzing cite-and-release offenses and long-form complaints, only 40 percent of sexual offenders, domestic violence offenders and DUI offenders could be matched by their fingerprints to a criminal history. This gap in fingerprint collection prevents the state from properly alleging prior offenses when defendants have multiple citations in various jurisdictions but have no criminal history. Proving a prior offense triggers the imposition of more severe penalties. This is especially true for DUI offenses and misdemeanor domestic violence cases where a third offense triggers a felony charge.

This bill does not include any new offenses for fingerprinting; it simply seeks to close an existing gap.

A statewide workgroup consisting of members from all areas of criminal justice (law enforcement, prosecutors, courts, probation and corrections) meet regularly to discuss, review and make recommendations for standardized best practices surrounding the

processing of criminal history records. The workgroup developed a best practice sample "Mandatory Fingerprint Compliance Form" template and business procedures that agencies may adopt for implementation of the single print requirement. It is understood that agencies may need to customize the template or procedure documents to meet the needs of their local jurisdictions. The template documents are being offered to assist agencies to meet the January 1, 2010 implementation date.

Successful implementation can only be achieved by establishing and coordinating the procedures between law enforcement, fingerprint/booking facilities and courts within each jurisdiction. The attached documents are provided to assist agencies in beginning their discussions to meet the implementation of these legislative requirements for mandatory ten-print fingerprints.

Judges and Court staff should review the amendments to the Rules of Criminal Procedure recently approved by the Arizona Supreme Court as a result of rule petition R-09-0029. The rules amended by the Court include Rules 3.2, 4.2, 7.5, 14.3, 26.10 and the Arizona Traffic Ticket Complaint Form. The rule amendments are found at:

<http://www.supreme.state.az.us/rules/Rule%20August%2031.htm>

For additional assistance contact:

Law Enforcement Agencies – Rene Wilson (DPS), 602-223-2261
rswilson@azdps.gov

Law Enforcement Fingerprint/Booking Agencies – Tina Lawson (CCSO), 928-226-5312
tllawson@coconino.az.gov

Courts – Patrick Scott (AOC), 602-452-3255
pscott@courts.az.gov

Criminal Justice Agencies – Pat Nelson (ACJC), 602-364-1152
pnelson@azcjc.gov