

## **CHAPTER 6**

### **PUBLIC RECORDS**

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## **CHAPTER 6**

### **PUBLIC RECORDS**

**6.1 Scope of this Chapter.** This Chapter presents guidelines for agencies to use in determining which documents may be subject to public inspection pursuant to the Arizona Public Records Law, A.R.S. §§ -39-101 to -161 and discusses the procedure for handling public records requests. It also discusses the preservation and disposition of records. Notwithstanding the guidelines examined here, counsel likely should be consulted for advice in specific circumstances.

#### **6.2 Scope of Public Records Requirements.**

**6.2.1 Arizona's Policy of Public Disclosure.** The general policy of this State with respect to public inspection of governmental records is set forth in A.R.S. § 39-121: "Public records and other matters in the custody of any officer shall be open to inspection by any person at all times during office hours." This public records statute seeks to increase public access to government information and to make government agencies accountable to the public. However, some public records are confidential and should not be disclosed to the public. See Section 6.4 *infra*.

**6.2.1.1 Defining a Public Record.** "Public Record" is not defined in statute, though A.R.S. § 39-121.01(B) requires all officers and public bodies to "maintain records, including records defined in A.R.S. § 41-151.18, that are reasonably necessary to provide an accurate accounting of their official activities and government-funded activities. "Records" are defined in A.R.S. § 41-151.18 as:

all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, including prints or copies of such items produced or reproduced on film or electronic media pursuant to § 41-151.16, made or received by any governmental agency in pursuance of law or in connection with the transaction of public business and preserved or appropriate for preservation by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of data contained in the record, and includes records that are made confidential by statute.

As a general rule, "all records required to be kept under A.R.S. § 39-121.01(B), are presumed open to the public for inspection as public records." *Carlson v. Pima Cty.*, 141 Ariz. 487, 491, 687 P.2d 1242, 1246 (1984).

In addition, A.R.S. § 39-121 provides that "other matters in the custody" of public officers are open to inspection by the public. "Other matters subject to the public's right of access include 'documents which are not required by law to be filed as public records. . .'" *Salt River Pima-Maricopa Indian Cnty. v. Rogers*, 168 Ariz. 531, 539, 815 P.2d 900, 908 (1991). "Other matters" include documents held by the public officer in his or her official capacity and in which the public's interest in disclosure outweighs the governmental interest in confidentiality. *Id.* "Because the language of A.R.S. § 39-121.01(B) is so broad, [the Arizona Supreme] Court has abandoned any 'technical distinction' between public records and other matters." *Griffis v. Pinal Cty.*, 215 Ariz. 1, 4 n.5, 156 P.3d 418, 421 n.5 (2007) (quoting *Carlson*, 141 Ariz. at 490, 687 P.2d at 1245). Although most documents in a public officer's possession are public records, documents that relate solely to personal matters and have no relation to official duties are not public records even if a public officer or agency possesses them or uses public funds to create them. See *id.* at 5, ¶ 14, 156 P.3d at 422 (recognizing that e-mails on a county-owned computer system may be purely personal and not subject to disclosure under the Public Records Law).

For examples of documents that have been found to be "public records" and "other matters," see Section 6.3 *infra*. A custodian of public records may be justified in not disclosing some public records (see Section 6.4 *infra*) but this determination does not change their character as public records.

**6.2.1.2 Persons Subject to the Public Records Law.** The Public Records Law applies to "any person elected or appointed to hold any elective or appointive office of any public body and any chief administrative officer, head, director, superintendent or chairman of any public body." A.R.S. § 39-121.01(A)(1). Public body is defined as "this state, any county, city, town, school district, political subdivision or tax-supported district in this state, any branch, department, board, bureau, commission, council or committee of the foregoing, and any public organization or agency, supported in whole or in part by monies from this state or any political subdivision of this state, or expending monies provided by this state or any political subdivision of this state." *Id.* § (A)(2). This definition differs from and is more inclusive than the term "public body" as defined in the State's Open Meeting Law. See A.R.S. § 38-431(6): see, e.g., Ariz. Att'y Gen. Op. I95-010 (both Public Records Law and Open Meeting Law apply to charter schools but a different analysis applies); Ariz. Att'y Gen. Op. I85-101 (for public records purposes, the county public defender is a public official and therefore records made or received by that office are records of the State subject to the requirements discussed in this Chapter). By definition, the employees of public officers and public bodies are also bound by the Public Records Law.

Arizona courts are not subject to Arizona's public records laws. Arizona Supreme Court Rule 123 governs the maintenance and disclosure of judicial records.

**6.2.1.3 Public Records and the federal Freedom of Information Act (FOIA).** Arizona's Public Records Law is wholly separate from the federal law regarding

disclosure of public information by the federal government as required under the Freedom of Information Act ("FOIA"). See 5 U.S.C. § 552. Although Arizona courts will look to federal case law concerning FOIA to assist them in resolving questions under the Arizona Public Records Law, see *Salt River Pima-Maricopa Indian Cnty. v. Rogers*, 168 Ariz. 531, 540-41, 815 P.2d 900, 909-10 (1991), FOIA does not apply to officers and public bodies as defined by Arizona's Public Records Law. However, public records custodians that receive a record request citing FOIA should, to the extent applicable, disclose information as required.

**6.3 Types of Public Records.** The following are examples of records considered to be "public records and other matters" and therefore available for inspection upon request to the public unless otherwise protected from disclosure (discussed in Section 6.5.3 *infra*):

1. Permits and application forms for permits, Ariz. Att'y Gen. Op. I80-097;
2. Documents indicating the number of applicants for personnel positions by race and national origin, where no personal identification of the applicant is sought, Ariz. Att'y Gen. Op. I80-044;
3. Official records of proceedings of state boards and commissions, such as the Arizona Board of Tax Appeals, Ariz. Att'y Gen. Op. I79-316, and the Industrial Commission, *Indus. Comm'n v. Holohan*, 97 Ariz. 122, 126, 397 P.2d 624, 627 (1964);
4. Taxpayers' property tax valuations and the Board of Tax Appeals' records on appeals of property tax valuations, Ariz. Att'y Gen. Op. I78-234;
5. Probate files, *Henderson v. Las Cruces Prod. Credit Ass'n*, 6 Ariz. App. 549, 554, 435 P.2d 56, 61 (1967);
6. Budgets of both houses of the Legislature, Ariz. Att'y Gen. Op. 78-76;
7. Records of expenditures of public monies, Ariz. Att'y Gen. Op. 70-1;
8. Annual reports filed by corporations with the Arizona Corporation Commission, *State v. Betts*, 71 Ariz. 362, 366-67, 227 P.2d 749, 752 (1951); Ariz. Att'y Gen. Op. 61-114-L;
9. Books of accounts of municipalities, Ariz. Att'y Gen. Op. 56-8;
10. A county sheriff's "offense report" of an assault by a prisoner in the county jail, *Carlson v. Pima Cty.*, 141 Ariz. 487, 491, 687 P.2d 1242, 1246 (1984);
11. A draft or unfinished police report, *Lake v. City of Phoenix*, 220 Ariz. 472, 483, ¶ 36, 207 P.3d 725, 736 (2009), vacated in part on other grounds, 222 Ariz. 547, 218 P.3d 1004 (2009);
12. Petitions for land annexation by cities, *Moorehead v. Arnold*, 130 Ariz. 503, 505, 637 P.2d 305, 307 (App. 1981);

13. Autopsy reports prepared by county medical examiners, *Schoeneweis v. Hamner*, 223 Ariz. 169, 173, ¶¶ 10-11, 221 P.3d 48, 52 (App. 2009); *Star Publ'g Co. v. Parks*, 178 Ariz. 604, 605, 875 P.2d 837, 838 (App. 1993); Ariz. Att'y Gen. Op. I88-130;
14. Reports of industrial injuries, Ariz. Att'y Gen. Op. I86-090;
15. Notice of claim that high school student's attorney filed with the school district, where student's identity and medical history could be redacted. *Phoenix Newspapers, Inc. v. Ellis*, 215 Ariz. 268, 272, ¶ 17, 159 P.3d 578, 582 (App. 2007);
16. Disciplinary records of public employees, including the employee responses to disciplinary actions, A.R.S. § 39-128(A);
17. E-mail communications and computer backup tapes containing all documents for a county attorney's office may be public records, see *Star Publ'g Co. v. Pima Cty. Attorney's Office*, 181 Ariz. 432, 434, 891 P.2d 899, 901 (App. 1994) (County failed to provide specific factual basis to support argument that records were protected from disclosure);
18. Metadata embedded within electronically-maintained records. *Lake v. City of Phoenix*, 222 Ariz. 547, 551, ¶ 12, 218 P.3d 1004, 1008 (2009);
19. Crime scene videotapes. *KPNX-TV v. Superior Court*, 183 Ariz. 589, 592-93, 905 P.2d 598, 601-02 (App. 1995).

**6.4 Denying Public Inspection.** Although there is a presumption in favor of access to public records, this presumption may be outweighed by legitimate government considerations of privacy and the best interests of the State. See *Scottsdale Unified Sch. Dist. No. 48 v. KPNX Broad. Co.*, 191 Ariz. 297, 300, ¶ 9, 955 P.2d 534, 537 (1998) (confidentiality, privacy, or other "best interests of the state" can outweigh the public's right of inspection under the Public Records Law, but the State has the burden of overcoming the legal presumption favoring disclosure); *United States v. Loughner*, 807 F.Supp.2d 828, 835 (D. Ariz. 2011) (criminal defendant's Sixth Amendment right to fair trial may overcome duty to disclose otherwise public documents under Arizona public records law). A public body or public officer may seek a declaratory judgment in cases in which it is unclear whether or not disclosure is appropriate. See *Arpaio v. Citizens Publ'g Co.*, 221 Ariz. 130, 211 P.3d 8 (App. 2008). Below are the three exemptions that may shield certain public records from disclosure.

**6.4.1 Records Confidential by Statute.** Over 300 Arizona statutes address the confidentiality of records. Appendix 6.1 provides a list of Arizona statutes that may require that all or a portion of governmental records be withheld from public disclosure. Please note that there may be changes to relevant statutes after the date this chapter was last updated, so agencies are advised to consult with their counsel. Rules or regulations also may limit disclosure of certain information. See, e.g., A.A.C. R2-5A-105 (limiting public access to information in personnel files to the following: name of employee; date of employment; current and previous class title and dates of

employment to class; current and previous agencies to which the employee has been assigned; current and previous salaries and dates of each change; name of employee's current or last known supervisor; certain records related to the employee's disciplinary action). In addition, federal law may require confidential treatment of certain information. See, e.g., 42 U.S.C. § 405(c)(2)(C)((viii)(I) (prohibiting disclosure of social security numbers to unauthorized persons); *Loughner*, 807 F. Supp. 2d at 835-36 (finding authorization for prohibiting the release of the sheriff's investigative file under Local Crim. R. of Practice for the Dist. of Ariz. 57.2(f) because release would pose a substantial threat to the defendant's Sixth Amendment right to a fair trial). Public officials and employees should review the confidentiality provisions that affect their areas of responsibility to avoid disclosure of confidential information.

**6.4.2 Records Involving Privacy Interests.** The Arizona courts have long recognized that protecting personal privacy may justify an exception to the general presumption of access to public records. See *Scottsdale Unified Sch. Dist.*, 191 Ariz. at 300, ¶ 9, 955 P.2d at 537; *Carlson v. Pima Cty.*, 141 Ariz. 487, 490-91, 687 P.2d 1242, 1245-46 (1984). An exception is warranted when the disclosure would invade privacy and that invasion outweighs the public's right to inspection. See *id.* A custodian evaluating whether this exception is warranted also should consider "whether the information in question is available through alternative means." *A.H. Belo Corp v. Mesa Police Dep't*, 202 Ariz. 184, 186, ¶ 6, 42 P.3d 615, 617 (App. 2002) (holding that the city appropriately refused to disclose the audiotape of a 911 call in light of the family's privacy interests because the city disclosed the transcript, which was all that was necessary to inform the citizens about the government's actions).

"Privacy" is not defined under the Public Records Law. The Arizona Supreme Court relied on the United States Supreme Court's definition of privacy under the federal Freedom of Information Act in finding that "information is 'private if it is intended for or restricted to the use of a particular person or group or class of persons: not freely available to the public'" and "the privacy interest encompasses 'the individual's control of information concerning his or her person.'" *Scottsdale Unified Sch. Dist.*, 191 Ariz. at 301, ¶ 14, 955 P.2d at 538 (quoting *U.S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 763 (1989)).

For example, a person has a privacy interest in his or her birth date. *Id.* at 301-02, 955 P.2d at 538-39. State employees have a privacy interest in their home addresses and phone numbers. Ariz. Att'y Gen. Op. I91-004. Although autopsy reports are subject to the Public Records Law, the privacy interests of survivors "must be weighed against the need for public awareness of the government's performance of its law enforcement functions" to determine if some of the records are not appropriately subject to public inspection. *Schoeneweis v. Hammer*, 223 Ariz. 169, 175-76 ¶ 23, 221 P.3d 48, 54-55 (App. 2009). The "records of the Industrial Commission's proceedings, orders and awards" are public but "information which is not collected to serve as a memorial of an official transaction or for the dissemination of information is private[.]" *Indus. Comm'n v. Holohan*, 97 Ariz. 122, 126, 397 P.2d 624, 627 (1964). The public's right to information about the disposition of offenders generally outweighs

the convicted offender's privacy interests. *Mitchell v. Superior Court*, 142 Ariz. 332, 335, 690 P.2d 51, 54 (1984) (affirming disclosure of a presentence report).

When a government entity withholds documents generated or maintained on a government-owned computer system on the grounds that the documents are personal records and not public records, the requesting party may ask the trial court to perform an in camera inspection to determine whether the documents are public records. *Griffis v. Pinal Cty.*, 215 Ariz. 1, 5, ¶ 16, 156 P.3d 418, 422 (2007).

**6.4.3 Restricting Access to Records Based Upon the Best Interests of the State.** An officer or custodian of public records may refuse inspection of public records to protect the best interests of the State where "inspection might lead to substantial and irreparable private or public harm." *Carlson*, 141 Ariz. at 491, 687 P.2d at 1246.

As early as 1952, the Arizona Supreme Court recognized an exception to public disclosure for records the disclosure of which would be "detrimental to the best interests of the [S]tate." *Mathews v. Pyle*, 75 Ariz. 76, 81, 251 P.2d 893, 897 (1952). The standard "detrimental to the best interests of the state" permits a public body to designate a record as confidential only when the "release of information would have an important and harmful effect on the duties of the officials or agency in question." *Ariz. Bd. of Regents v. Phoenix Newspapers Inc.*, 167 Ariz. 254, 257-58, 806 P.2d 348, 351-52 (1991). Public officers must balance the possible adverse impact on the operation of the public body if the information in question is disclosed against the public's right to be informed about the operations of its government. *Id.* A public officer who determines that the harm to the State outweighs the public right to disclosure of a document has the burden of specifically demonstrating the harm if the decision is challenged in superior court. *Cox Ariz. Publ'n, Inc. v. Collins*, 175 Ariz. 11, 14, 852 P.2d 1194, 1198 (1993).

In Arizona *Board of Regents v. Phoenix Newspapers Inc.*, the Arizona Supreme Court applied a balancing test and held that the public's interest in ensuring the State's ability to secure the most qualified candidate for university president is more compelling than its interest in knowing the names of all of the "prospects" for the position. 167 Ariz. at 258, 806 P.2d at 352. When a "prospect" is seriously considered and interviewed, the "prospect" becomes a candidate. The court held that the public's interest in knowing which *candidates* are being considered for the job outweighs "countervailing interests of confidentiality, privacy and the best interest of the state." *Id.* (quoting *Carlson*, 141 Ariz. at 491, 687 P.2d at 1246); see also *Phoenix Newspapers, Inc. v. Keegan*, 201 Ariz. 344, 351, ¶ 33, 35 P.3d 105, 112 (App. 2001) (superior court did not abuse its discretion in ordering the State to disclose most of the test questions in a statewide academic test that students must pass to graduate from high school because the public interest in disclosure outweighed "the State's cost and inconvenience in remedying that disclosure"); *KPNX-TV v. Superior Court*, 183 Ariz. 589, 593, 905 P.2d 598, 602 (App. 1995) (State was justified in withholding surveillance camera videotape due to its "security concerns about public disclosure of a videotape showing undercover officers, the evidence locker, and the location of the surveillance camera").

A public officer or public body may refuse to disclose documents that contain information protected by a common law privilege where release of the documents would be harmful to the best interests of the State. See, e.g., the informant's privilege, *Grimm v. Ariz. Bd. of Pardons & Paroles*, 115 Ariz. 260, 268-69, 564 P.2d 1227, 1235-36 (1977) (recognizing the "informant's privilege which, with certain exceptions, protects the identity of the informant but not generally the contents of the communication"); *State v. Celaya*, 27 Ariz. App. 564, 567, 556 P.2d 1167, 1170 (1976) ("The state may withhold from disclosure the identity of persons who furnish information of violations of law to law enforcement officers in furtherance of the public interest in effective law enforcement.")

This exception may not be used, however, to save an officer or public body from inconvenience or embarrassment. *Dunwell v. Univ. of Ariz.*, 134 Ariz. 504, 508, 657 P.2d 917, 921 (App. 1982); Ariz. Att'y Gen. Op. 76-43. Nor may officials deny access simply because the records might be used to establish tort liability on the part of the State. Ariz. Att'y Gen. Op. I89-022. And "[t]he promise of confidentiality standing alone is not sufficient to preclude disclosure." *Moorehead v. Arnold*, 130 Ariz. 503, 505, 637 P.2d 305, 307.

**6.4.4 Requests by Litigants.** The foregoing guidelines on refusing public inspection may not apply when the person requesting access to the records is a party to litigation with the State. In those cases, the party may have a greater right to access than the public generally. See *Grimm*, 115 Ariz. at 269, 564 P.2d at 1235. If a party to litigation against the State requests records under the Public Records Law, the party need not demonstrate that the "documents are relevant to anything" and therefore may obtain records that would not be discoverable in litigation. *Bolm v. Custodian of Records of Tucson Police Dep't*, 193 Ariz. 35, 39, ¶ 10, 969 P.2d 200, 204 (App. 1998). However, if the State or other public entity refuses to disclose a document to a litigant who requests it under the public records law, the court balances the government's interest in nondisclosure with the *public's*, not the litigant's, interest in disclosure. Cf. *London v. Broderick*, 206 Ariz. 490, 495, ¶ 17, 80 P.3d 769, 774 (2003) (holding that the government employer's interest in not disclosing its investigatory file before a pre-disciplinary interview outweighed the public's interest in "disclosure of the preliminary investigation of a low-level probation department employee at the initial stage of the investigation").

## **6.5 Procedure for Handling Requests for Access to Public Records or Other Matters.**

**6.5.1 Inspection and Copying of Public Records.** The right to inspect documents is not unqualified. See A.R.S. § 39-121.01(D)(1) ("Any person may request to examine or be furnished copies, printouts or photographs of any public record during regular office hours[.]") Records may not be inspected at times, or in ways, that disrupt public business. See Ariz. Att'y Gen. Ops. I80-097, 78-234, 70-1. Records must be provided if they are in the custody of the public officer or public body, even if they are

also available elsewhere. *Phoenix New Times, L.L.C. v. Arpaio*, 217 Ariz. 533, 540, ¶ 22, 177 P.3d 275, 282 (App. 2008).

If the custodian of public records does not promptly respond to record requests and promptly furnish records that are subject to disclosure, access will be deemed denied. A.R.S. § 39-121.01(E). “Prompt,’ . . . mean[s] ‘quick to act or to do what is required,’ or ‘done, spoken, etc. at once or without delay.’” *W. Valley View, Inc. v. Maricopa County Sheriff’s Office*, 216 Ariz. 225, 230, ¶ 21, 165 P.3d 203, 208 (App. 2007) (quoting Webster’s *New World Dictionary* 1137 (2d ed. 1980)). In *Phoenix New Times*, the Arizona Court of Appeals found that the Maricopa County Sheriff’s Office had wrongfully denied records requests because it had delayed in providing the requested documents and failed to offer a legally sufficient reason for the delay. *Phoenix New Times*, 217 Ariz. at 547, ¶ 49, 177 P.3d at 289.

The governmental entity has the burden in proving that its response to records request was prompt in light of the circumstances surrounding each request. *Id.* at 538-39, ¶ 15, 177 P.3d at 280-81. Promptness must in all cases be a factual determination, depending upon the accessibility and volume of the material. If the information requested is on microfilm and thus requires use of a reader/printer to view it, the time for inspection would depend upon the availability of the necessary equipment. If the requested material has been stored off the premises of the agency, additional time might be necessary to retrieve the document requested. Should this occur, the requesting party should be advised, in writing, of the delay and the reason for it. Similarly, if the requested material contains confidential information that must be redacted, the custodian should inform the requesting party that the response will be delayed and the reason for the delay. See *Judicial Watch, Inc. v. City of Phoenix*, 228 Ariz. 393, 398, 267 P.3d 1185, 1190 (App. 2011) (noting that because “[t]he promptness of a production of public records for inspection varies with the circumstances,” the government “can expend time reasonably necessary to make redactions”).

If the custodian of the record does not have the facilities for making copies, the person requesting the record must be granted access to it for the purpose of making copies. See A.R.S. § 39-121.01(D)(3). However, the copies must be made while the document remains in the possession, custody, and control of the custodian. *Id.*

**6.5.2 Ongoing Requests.** In *W. Valley View Inc.*, 216 Ariz. at 228, ¶ 14, 165 P.3d at 206, the Arizona Court of Appeals held that the sheriff’s office must comply with a newspaper’s ongoing public records request for copies of its press releases. The court found the request justified because the request only sought copies of “a single easily defined and identifiable category of documents that the public agency admittedly regularly generates”; the newspaper needed to receive timely press releases to meet its deadlines; and the sheriff’s office provided timely press releases to many other media outlets. *Id.* at 229, ¶ 14, 230, ¶ 19.

**6.5.3 Duty to Redact.** When confidential and public information are commingled in a single document, a copy of the document may be made available for public inspection with the confidential material excised. *Carlson v. Pima Cty.*, 141 Ariz. 487, 491, 687 P.2d 1242, 1246 (1984); see also *KPNX-TV v. Superior Court*, 183 Ariz. 589, 594, 905 P.2d 598, 603 (App. 1995) (custodian must demonstrate specific reasons and a good faith basis for denying access to entire record rather than redacting confidential portions). If confidential material has been attached to an otherwise disclosable document, the material so attached may simply be removed. See *id.*; Ariz. Att'y Gen. Ops. I86-090, I85-097. The public body should note in its records precisely which material has been excised and which has been released.

If requested, the custodian of the records of an agency (as prescribed under A.R.S. § 41-1001) shall also furnish an index of records or categories of records that have been withheld and state the reasons that each record or category has been withheld. A.R.S. § 39-121.01(D)(2). “The custodian shall not include in the index information that is expressly made privileged or confidential in statute or a court order.” *Id.* Records may be grouped by categories for the purposes of this index. *Id.* The Department of Public Safety, the Motor Vehicle Division of the Department of Transportation, the Department of Juvenile Corrections, and the State Department of Corrections are specifically exempt from this indexing requirement. *Id.*

**6.5.4 Charges for Copies.** The Legislature has distinguished between the fees an agency may impose for commercial and non-commercial requests for copies of public records. A.R.S. §§ 39-121.01(D)(1), -121.03(A); see also Section 6.5.5 and 6.5.6. The custodian may require the person requesting the public record to pay in advance for any copying and postage charges. A.R.S. § 39-121.01(D)(1). If records are available on the web site, the public body or public officer may direct the requestor to obtain copies there. See A.R.S. § 39-121.01(D)(1).

**6.5.5 Non-Commercial Use.** A person requesting copies, printouts, digital copies, or photographs of public records for a non-commercial purpose may be charged a fee for the records. A.R.S. § 39-121.01. *But see Section 6.5.7 infra.* An agency may charge a fee it deems appropriate for copying records, including a reasonable amount for the cost of time, equipment, and personnel used in producing copies of records, but not for costs of searching for the records. A.R.S. § 39-121.01(D)(1); *Hanania v. City of Tucson*, 128 Ariz. 135, 136, 624 P.2d 332, 333 (App. 1980); Ariz. Att'y Gen. Op. I86-090. When the requester only wants to inspect the record, the agency may not charge a copying fee incurred, for example, to make redactions before public inspection. Ariz. Att'y Gen. Op. I13-012. Further, if the requester makes copies of public records using his or her own personal device, the agency may not charge a copying fee. *Id.* If an agency is producing documents pursuant to a subpoena in a civil action to which the agency is not a party, the fee is prescribed by A.R.S. § 12-351.

**6.5.6 Commercial Use.** Persons requesting reproductions of public records for a commercial purpose must provide a statement setting forth the commercial purpose for which the records will be used. A.R.S. § 39-121.03(A).

Commercial purpose is defined as:

[T]he use of a public record for the purpose of sale or resale or for the purpose of producing a document containing all or part of the copy, printout or photograph for sale or the obtaining of names and addresses from public records for the purpose of solicitation or the sale of names and addresses to another for the purpose of solicitation or for any purpose in which the purchaser can reasonably anticipate the receipt of monetary gain from the direct or indirect use of the public record. Commercial purpose does not mean the use of a public record as evidence or as research for evidence in an action in any judicial or quasi-judicial body.

A.R.S. § 39-121.03(D).

Commercial uses include: 1) use of the public records for sale or resale; 2) obtaining names and addresses from public records for the purposes of solicitation; and 3) the sale of names and addresses to another for any purpose in which the purchaser can reasonably anticipate the receipt of monetary gain from the direct or indirect use of the public record. *Primary Consultants, LLC v. Maricopa County Recorder*, 210 Ariz. 393, 400, 111 P.3d 435, 442 (App. 2005). The use of public records for one's trade or business is not a commercial purpose. *Id.* at 400, ¶ 28, 111 P.3d at 442. Gathering newsworthy facts from public records to include in a newspaper or other publication is not a commercial purpose. *Star Publ'g Co. v. Parks*, 178 Ariz. 604, 605, 875 P.2d 837, 838 (App. 1993).

If the records are to be used as evidence or as research for evidence in an action in any judicial or quasi-judicial body, they are not for a commercial purpose and there is no requirement that the action is pending at the time of the request, or that the records must be admissible. *LaWall v. R.R. Robertson, L.L.C.*, 237 Ariz. 495, 501 (App. 2015).

Upon being furnished a statement of the commercial purpose, the custodian may assess a charge that includes the following:

1. A portion of the cost to the public body for obtaining the original or copies of the documents, printouts or photographs.
2. A reasonable fee for the cost of time, materials, equipment and personnel [used] in producing such reproduction.

3. The value of the reproduction on the commercial market as best determined by the public body.

A.R.S. § 39-121.03(A).

As with non-commercial requests, the determination of the fee to be charged is made in the first instance by the public body. Among the factors to be considered in making this determination are 1) the time expended in retrieving the records; 2) transportation costs, if any; and 3) the actual cost to the public body in terms of special equipment or processing required in preparing the record for release.

In addition to the reasons for withholding records discussed in Section 6.4, public bodies may withhold records sought through a commercial request as follows:

If the custodian of a public record determines that the [requester's] commercial purpose . . . is a misuse of public records or is an abuse of the right to receive public records, the custodian may apply to the [G]overnor requesting that the [G]overnor by executive order prohibit the furnishing of copies, printouts or photographs for such commercial purpose.

A.R.S. § 39-121.03(B).

The public body may pursue damages in the following circumstances:

- A person obtained a public record for a commercial purpose without indicating the commercial purpose.
- A person obtained a public record for a noncommercial purpose and uses or knowingly allows the use of such public record for a commercial purpose.
- A person obtained a public record for a commercial purpose and uses or knowingly allows the use of such public record for a different commercial purpose.
- A person obtained a public record from anyone other than the custodian of such records and uses it for a commercial purpose.

*Id.* § (C).

Requests that are for a non-commercial purpose do not require an explanation for the use of the records, or even a statement that the request is for a non-commercial purpose. *LaWall v. R.R. Robertson, L.L.C.*, 237 Ariz. 495 (App. 2015).

**6.5.7 Free Copies.** Certain public records must be provided without charge, namely certified copies of those "to be used in connection with a claim for a pension, allotment, allowance, compensation, insurance or other benefits which [are] to be presented to the United States or a bureau or department thereof." A.R.S. § 39-122(A). Victims of certain crimes also have rights to obtain copies of some records at no cost. A.R.S. § 39-127.

## **6.6 Consequences of Wrongful Refusal to Disclose.**

**6.6.1 Attorney's Fees.** In lawsuits alleging the denial of requested public records, a court may award attorneys' fees and other legal costs to requesters who substantially prevail. A.R.S. § 39-121.02(B). This does not limit the rights of any party to recover attorney's fees, expenses, and double damages that are authorized by other statutes. *Id.*

**6.6.2 Damages.** A public officer or agency may also be liable for damages that result from wrongfully denying a person access to public records. A.R.S. § 39-121.02(C).

## **6.7 Preservation, Maintenance, Reproduction, and Disposition of Public Records.**

**6.7.1 Preservation and Maintenance Generally.** "All records made or received by public officials or employees of this state or the counties and incorporated cities and towns of this state in the course of their public duties are the property of the state." A.R.S. § 41-151.15(A). Each public body and officer is responsible for preserving, maintaining, and caring for the public records within their offices. A.R.S. § 39-121.01(C). Each officer and public body is required by statute to carefully secure, protect, and preserve public records from deterioration, mutilation, loss, or destruction, unless the records are disposed of pursuant to A.R.S. §§ 41-151.15 and 41.151.19. See A.R.S. § 39-121.01(C); see also Section 6.7.5 *infra*.

The head of each state agency must perform the following duties:

1. Establish and maintain an active, continuing program for the economical and efficient management of the public records of the agency.
2. Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the rights of this state and of persons directly affected by the agency's activities.

3. Submit to the director [of the Arizona State Library, Archives and Public Records], in accordance with established standards, schedules proposing the length of time each record series warrants retention for administrative, legal or fiscal purposes after it has been received by the agency.
4. Once every five years submit to the director lists of all essential public records in the custody of the agency.
5. Cooperate with the director in the conduct of surveys.
6. Designate an individual within the agency to manage the records management program of the agency. The agency shall reconfirm the identity of this individual to the state library every other year. The designated individual:
  - (a) Must be at a level of management sufficient to direct the records management program in an efficient and effective manner.
  - (b) Shall act as coordinator and liaison for the agency with the state library.
7. Comply with rules, standards and procedures adopted by the director.

A.R.S. § 41-151.14(A).

Governing bodies of counties, cities, towns, and other political subdivisions are also required, as far as practicable, to follow the program established for the management of state records. A.R.S. § 41-151.14(B). A state or local agency head who fails to comply with these requirements is guilty of a class 2 misdemeanor. A.R.S. § 41-151.14(C).

The Director of the State Library, Archives and Public Records is responsible for (a) establishing "standards, procedures, and techniques for effective management of public records," A.R.S. § 41-151.12(A)(1), and (b) establishing standards and procedures for preparing schedules for retaining records of continuing value and promptly and efficiently disposing of records "no longer possessing sufficient administrative, legal, fiscal, research or historical value" to warrant their retention, *id.* § (A)(3). The Director of the State Library, Archives and Public Records is also responsible for the preservation and management of records and for authorizing the destruction or disposal of records. A.R.S. §§ 41-151.12(A), -151.15, and -151.19. Additional information regarding the standards and procedures currently established by the Director of the State Library, Archives and Public Records is available on that entity's website.

**6.7.2 Quality and Storage Requirements.** All permanent public records must be "transcribed or kept on paper or other material which is of durable or permanent quality and which conforms to standards established by the director of the Arizona state

library, archives and public records." A.R.S. § 39-101(A). These public records must also be stored and maintained according to the Director's standards. *Id.* § (B). A public officer who fails to keep permanent public records in accordance with the Director's standards is guilty of a class 2 misdemeanor. *Id.* § (C).

**6.7.3 Size Requirements.** All public records must conform to the standard letter size of eight and one-half inches by eleven inches, within standard paper manufacturing tolerances, unless they are "engineering drawings, architectural drawings, maps, computer generated printout, output from test measurement and diagnostic equipment, machine generated paper tapes," or public records required by law to be a different size or otherwise exempt by law from the standard size requirement. A.R.S. § 39-103(B). In addition, the Director of the Arizona State Library, Archives and Public Records may exempt documents from the standard size "requirement" if "the director finds that the cost of producing a particular type of public record [in the standard size] is so great as to not be in the best interests of this state." *Id.*

**6.7.4 Reproduction of Public Records.** Each state agency may implement a program for the reproduction by photography or other method of reproduction on film, microfiche, digital imaging, or other electronic media of records in its custody. A.R.S. § 41-151.16(A). However, prior to instituting the program, the agency must obtain approval from the Director of the Arizona State Library, Archives and Public Records. *Id.*

**6.7.5 Disposition of Public Records.** The disposition of public records by the State or any of its political subdivisions is governed by A.R.S. §§ 41-151.15, -151.17, -151.19, 44-7601. A state agency may destroy records when the State Library concludes "that the record has no further administrative, legal, fiscal, research or historical value." A.R.S. § 41-151.15(B). The agency may obtain approval to destroy records from the Records Management Division of the State Library on a continuing basis pursuant to a records retention and disposition schedule or, for records not on a retention schedule, pursuant to single request form. A report of records destruction that includes a list of all records disposed of shall be filed at least annually with the State Library on a form prescribed by the State Library. A.R.S. § 41-151.19. The forms are available on the State Library website.

A public officer or other person having custody or possession of any record for any purpose, "who steals, or knowingly and without lawful authority destroys, mutilates, defaces, alters, falsifies, removes or secretes" all or part of a public record, or who permits any other person to do so, is guilty of a class 4 felony. A.R.S. § 38-421; see also A.R.S. § 13-2407 (making it a class 6 felony to tamper with a public record). See Section 2.15(3), (19), (22).

## Appendix 6.1

### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

#### **Agriculture**

State Agricultural Laboratory test results	§ 3-145(D)
Individual operations regarding production and use of fertilizer materials	§ 3-266(A)
Pesticide trade secrets, consumer or financial information	§ 3-351(H)
Individual totals of affected commodities produced or shipped	§ 3-407(C)
Individual votes for Marketing and Produce Safety	§ 3-410(E)
Individual votes for terminating a marketing order	§ 3-412(I)
Individual or business records of individual producers and shippers, gross annual sales, and audit and inspection records	§ 3-422(C)
Individual totals of citrus fruit produced or shipped	§ 3-449.03(B)
Information provided by shippers for exemption from citrus fruit standardization	§ 3-450(G)
Individual totals of fruits and vegetables produced or shipped	§ 3-488(A)
Information provided by shippers for exemption from fruit or vegetable standardization	§ 3-491(G)
Financial statements for milk handlers' license renewal	§ 3-609(A)(3)
Individual production and use of commercial feeds and customer-formula feeds	§ 3-2604(A)(1)
Trade secrets obtained or reported in inspections and investigations	§ 3-3121

#### **Amusements and Sports**

State Lottery, information maintained by the commission	§ 5-554(F)
State Lottery, contracts, bids received	§ 5-559(B)

#### **Banks and Financial Institutions**

Banking Department Records relating to financial institutions	§ 6-129(A)(E)
Trust companies, trust and escrow records	§ 6-860(B)

## **Appendix 6.1**

### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

Deferred presentment companies, applicants statement of personal history      § 6-1253(B)(1)

#### **Children**

Adoption, putative fathers registry	§ 8-106.01(B)
Adoption, hearing information	§ 8-115(A)
Adoption files, records, and information	§ 8-120(A), 121
Personal information of adoption license applicants, DCS information, and addresses for foster children	§ 8-132
Adoption, subsidized adoption records	§ 8-144(E)
Juvenile Court, certain court records	§ 8-208(G)
Healthy Families Pilot Program, access to records	§ 8-481(J)
Adoption, foster parent and child welfare agency information	§ 8-502
Child Welfare, records, foster care review board	§ 8-519(C)
Child Welfare, information reviewed/acquired/produced by a special advocate	§ 8-522(F)
Child Welfare, parental rights termination hearing information	§ 8-537
Child Welfare, termination of parental rights, records and information	§ 8-541, 542
Dependent Children, clergy privilege	§ 8-805(C)
Dependent Children, Department of Child Safety information	§ 8-807(A)(P)(U)
Dependent Children, abuse/neglect investigation information	§ 8-811(D)

#### **Corporations and Associations**

Arizona Corporation Commission interrogatories, answers, and information	§ 10-1634
Professional corporations, privileged communications	§ 10-2233

## Appendix 6.1

### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

#### **Counties**

Board of Supervisors, county officer audits	§ 11-251(10)
Certain board or county hospital board records	§ 11-254.03(6)
County Recorder, discharge papers of military service personnel	§ 11-465
Residential address and phone numbers of peace officers or other eligible persons	§ 11-483(A)
County Treasurer, taxpayer identification or personal documents submitted by taxpayers	§ 11-505
Information collected by medical examiners in death investigations, criminal identification section of DPS	§ 11-593(F)

#### **Courts and Civil Proceedings**

Trade secrets subject to product safety analysis or review	§ 12-687(4)
Plaintiffs address on petition for injunction against harassment	§ 12-1809(C)
Privileged communications, husband and wife	§ 12-2231, 2232
Privileged communications, clergyman or priest	§ 12-2233
Privileged communications, attorney and client	§ 12-2234
Privileged communications, doctor and patient	§ 12-2235
Privileged communications, reporter and informant	§ 12-2237
Privileged communications, mediation process	§ 12-2238
Privileged communications, domestic violence victim advocates	§ 12-2239
Privileged communications, sexual assault victim advocate	§ 12-2240
Medical records, confidentiality	§ 12-2292, 2293, 2294
Silent Witness program records	§ 12-2312
Genetic Testing, results	§ 12-2802
Genetic testing, info and records	§ 12-2804
Arbitration, protective orders	§ 12-3017(E)

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#### **Criminal Code**

Identity of executioners and people who perform ancillary functions in execution	§ 13-757(C)
Sexual offenses, victim information	§ 13-1415(B)
Fraud and terrorism financial records relating to the investigation of racketeering records	§ 13-2315(A)
Proprietary or confidential computer security information	§ 13-2316.02(A)
Grand jury testimony or decision	§ 13-2812
Orders for interception or installation of trace device or identity of persons subject to ex parte order	§ 13-3011
Surreptitious photograph, videotape, film, or digital recording	§ 13-3019(B)
Concealed weapon permit record system	§ 13-3112(J)
School records of student involved in possession, use or sale in a drug-free school zone	§ 13-3411(G)
Minor's medical records, non-disclosable related to reportable injury Sex Offender statements, photographs, and fingerprints	§ 13-3620(G) § 13-3823
Wrongful arrest/indictment court order to clear person on such records	§ 13-4051(B)
Presentence report	§ 13-4425
Victims' communications with victim advocates and corresponding records	§ 13-4430
Information locating or identifying victims	§ 13-4434
Crime victim's rights, employee leave records	§ 13-4439(H)
Defendant's statements during competency or sanity evaluations and reports	§ 13-4508(C)

#### **Education**

State board of education's records during an investigation of school district financial mismanagement	§ 15-103(T)
State board of education's records during an investigation of school district overspending	§ 15-107(M)

## Appendix 6.1

### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

Educational records	§ 15-141
School district construction bids	§ 15-213 (A)(2)(d)
School accountability, annual achievement profile	§ 15-241(C)
State board of education's investigation records about management of school district affairs	§ 15-241.01(J)
Investigation records of employee immoral or unprofessional conduct	§ 15-350
Certification and Employment of Teachers, teacher evaluations	§ 15-537(J)
Pupil's name and testimony in disciplinary hearing	§ 15-551(A)
Student standardized test results requested by education agency	§ 15-741(F)
Records of student level data	§ 15-1042(I)
Pupil's personal information	§ 15-1045(A)
Non-profit healthcare institution records on an individual's treatment or nongovernmental proprietary information	§ 15-1638(A)
University's intellectual property or trade secrets, historical records and donor records	§ 15-1640(A)
College Savings Plan, personal information of account holders and beneficiaries	§ 15-1875(R)
Fingerprinting form for post-secondary health sciences programs	§ 15-1881(C)
Interstate Commission minutes and documents of closed meetings	§ 15-1911(H)

#### **Elections and Electors**

Record of voter registration or declination	§ 16-112(C) § 16-152(A)
Information on register to vote or declination forms	§ 16-140(C)(D)
Voter registration records of peace officers and eligible persons	§ 16-153(A)
Death records sent to Secretary of State	§ 16-165(D)

## Appendix 6.1

### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

Computer election programs filed with the Secretary of State § 16-445(D)

#### **Information Technology**

Secretary of State's electronic signature records § 18-106(E)

#### **Insurance**

Insurer claim files provided to the Director	§ 20-157.01(B)
Documents, materials, and reports insurer examinations	§ 20-158(F)(G)
Insurance Companies, financial analysis ratios and examination synopses	§ 20-234(C)
Information sharing between the director and state or federal agencies	§ 20-299
Insurer information provided to rating organizations	§ 20-364
Confidential HIV-related records	§ 20-448.01(K)
Genetic testing results	§ 20-448.02(A)
Information and materials used for an insurance fraud investigation	§ 20-466(E)
Mortgage or lending agreement policy information	§ 20-475.01
Domestic insurer merger agreement statement	§ 20-481.03(A)(4)
Documents obtained in investigation or examination records	§ 20-481.21(A)(F)
Insurance Holding Company Systems pre-acquisition notification	§ 20-481.25(C)
Insurance administrators records containing trade secrets and policy and certificate holder information	§ 20-485.03(B)
Director's summary of basis for refusal to license	§ 20-486.01(E)
Insurers' information in risk-based capital	§ 20-488.07(A)
Company information collected for standard valuation	§ 20-510(V)(2)(a)
Report of acquisitions and dispositions	§ 20-517(D)
Life and health actuarial opinion and memoranda	§ 20-696.04(E)(F)

## Appendix 6.1

### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

Property casualty actuarial opinion and memoranda	§ 20-697.01(A)
Information submitted by captive insurers	§ 20-1098.23(A)
Disability Insurance, natural parents identity	§ 20-1342 (A)(12)
Group and Blanket Disability Insurance, natural parents identity	§ 20-1402 (A)(8)
Mortgage guaranty insurer reinsurance report	§ 20-1557(F)
Reports of personal injury claims or actions to healthcare insurers	§ 20-1742(B)
Auto, theft, fire and arson investigation information	§ 20-1904
Individual information collected for insurance transactions	§ 20-2113
Utilization Review, information concerning customers, patients, or review plans	§ 20-2504(D)
Utilization Review, patient data and medical records	§ 20-2509

#### **Juries**

Records of prospective juror's mental or physical condition	§ 21-202 (B)(1)(c)
Juror names, records, and seating list	§ 21-312
Grand Juries, non-disclosure of testimony and witnesses	§ 21-411(B)

#### **Labor**

Industrial commission, private entity's financial information	§ 23-107(D)
Trade secrets in occupational safety and health investigations	§ 23-426
Employee drug/alcohol testing communications	§ 23-493.09(A)
Employee information gathered in investigating employment security	§ 23-722(A)
Employee information gather from new hires	§ 23-722.01(G)
Individual unemployment insurance information	§ 23-722.04(D)
Individual's HIV records	§ 23-1043.02(D)

## Appendix 6.1

### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

#### **Marital and Domestic Relations**

Locations of residence and employment of domestic violence victims	§ 25-322(E)
Court of Conciliation hearings	§ 25-381.16(D)
Family Support Duties, Individual Financial Records	§ 25-523
Child Custody Jurisdiction, child's address and identifying information	§ 25-1039(E)
Uniform Interstate Family Support Act, identifying information	§ 25-1252

#### **Military Affairs and Emergency Management**

Military Affairs Commission, proprietary strategies and military	§ 26-261(F)
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#### **Minerals, Oil and Gas**

Arizona Geological Survey, trade secrets	§ 27-110(B)
Reports of mining properties or prospects	§ 27-127(A)
Geologic and economic evidence of mineral resources	§ 27-233(B)
Lease of state lands, property tax assessment information	§ 27-234(F),(H)
Lease of state lands, tax records and trade secrets obtained in investigations and audits	§ 27-239(F)
Terms of mineral exploration permit, drill hole information	§ 27-252(A)(8)
Lease of state lands, trade secrets	§ 27-274(C)
Name of employee submitting complaint dangerous mining conditions	§ 27-308
Oil and Gas, well records	§ 27-308
Trade secrets in well inspection records	§ 27-571(C)
Geothermal Resources, information regarding drilled wells	§ 27-653
Mined Land Reclamation, trade secrets and information confidential to the party's competitive position	§ 27-930(A)
Aggregate Mined Land Reclamation, trade secrets and information confidential to the party's competitive position	§ 27-1231(A)

## Appendix 6.1

### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

#### **Transportation**

Employment of Personnel, criminal history record information	§ 28-376(A)
Records, fees for copies, exemptions	§ 28-446(D)
Medical reports for driver license application	§ 28-447(A)
Residential addresses, telephone numbers, and photographs of peace officers	§ 28-454(F)(I)
MVD records, personal information	§ 28-455(A)
Traffic and Vehicle Regulation, city/town accident report	§ 28-671
Spaying and neutering of animals fund donation application information	§ 28-2422.02(E)(4)
Don't tread on me special plates fund, grant application information	§ 28-2439.02(E)(3)
Defensive Driving School, database of persons attending	§ 28-3395(C)
Tax Administration, confidential tax information	§ 28-5931(1), 5935
Information provided to qualify for state construction contracts	§ 28-7366(G), 7367(G)
Public-Private partnership proposals with trade secrets or confidential commercial, financial or proprietary information	§ 28-7707(A)
Light Rail Transit Systems, information threatening public safety and security	§ 28-9202
For-Hire Transportation, complainant information	§ 28-9502(C)

#### **Power**

Electric Power Competition, customer-specific information	§ 30-806(G)
Electric Retail Competition, competitive activity records and proceedings	§ 30-808

#### **Prisons and Prisoners**

Prisoners, certain records regarding prisoner care and custody	§ 31-221(C)
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## **Appendix 6.1**

### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

Executive Clemency or Paroles, addresses of victim and family	§ 31-412(F)
Psychiatric Security Review Board, medical, social, and criminal history records	§ 31-502(A)(4)

#### **Professions and Occupations**

Architects, Assayers, Engineers, Geologists, Home Inspectors, Landscape Architects and Surveyors, examination, Education references, and investigation records	§ 32-129
Architects, Assayers, Engineers, Geologists, Home Inspectors, Landscape Architects and Surveyors, complainant's name	§ 32-147
Cosmetology, examination, education, and investigation	§ 32-576
Certified Public Accountants, records regarding letters of concern	§ 32-741(D)
Certified Public Accountants, certain client records and tax information, complaint and investigation information	§ 32-749
Podiatry, examination and education records	§ 32-825(F)
Podiatry, patient records, patient/family identifying information, investigation records	§ 32-852.01
Chiropractic patient/family identifying information, investigative records	§ 32-929(C)(D)
Collection Agencies, financial statement information	§ 32-1022(A)
Dentistry, pending complaints and investigations, board-dismissed/terminated complaints	§ 32-1207(A)(3)
Dentistry, dental board, examination/investigation/educational records	§ 32-1209
Dentistry, dental board complainant names, patient records, patient/family identifying information, investigation records	§ 32-1263.02
Board of Funeral Directors and Embalmers, examination, education, and investigation records	§ 32-1310

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### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

Board of Funeral Directors and Embalmers, funeral establishments, notices filed with the board by prospective new owners	§ 32-1388(F)
Board of Funeral Directors and Embalmers, crematories, notices filed with the board by prospective new owners	§ 32-1397(F)
Board of Medical Examiners, drug/alcohol impairment informant names, certain complainant names	§ 32-1451(A)(G)
Board of Medical Examiners, patient records, patient/family identifying information, investigation records, hospital records	§ 32-1451.01(C)-(E)
Naturopathic Medicine, examination records	§ 32-1525(K)
Naturopathic Medicine, patient records, patient/family identifying information, investigation records, hospital records	§ 32-1551.01(C)-(E)
Board of Nursing, confidential treatment of chemical dependency	§ 32-1605.01(B)(7)
Board of Nursing, name of person/entity reporting concerns, patient and investigation records, patient/family identifying information, hospital records	§ 32-1664(D)(M)(N)
Dispensing Opticians, names of complainants	§ 32-1691.01(B)
Board of Optometry, certain complainant names, certain complaint/investigation records, patient names	§ 32-1744(P)(Q)
Board of Optometry, patient examination and education records	§ 32-1746(B)
Osteopathic Physicians and Surgeons, certain informants' names	§ 32-1855(A)
Osteopathic Board, informants' names, hospital, patient and investigation records, patient/family identifying information	§ 32-1855.03(A)(C)(D)
Board of Pharmacy, investigation records, patient identity Pharmacy/prescription of medication orders	§ 32-1940(A)-(C) § 32-1964
Board of Physical Therapy, complaints and investigations	§ 32-2045(D)(E)
Board of Physical Therapy, informant's identity	§ 32-2049
Board of Physical Therapy, information and records regarding physical therapists and patients	§ 32-2051(B)(F)(H)(I)

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### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

Psychologists, informant's identity	§ 32-2081(E)
Psychologists, investigation records, patient/client names	§ 32-2082(E)(F)
Psychologists, psychologist client/patient communications	§ 32-2085
Behavior analysts, investigation records, client names	§ 32-2091.10(E)(F)
Behavior analysts, behavior analyst/client communications	§ 32-2091.13
Real estate, licensee/applicant's residential address, telephone number, email, and social security number	§ 32-2125.03
Veterinarians, examination and educational records	§ 32-2214(G)
Veterinarians, complaint and investigation records	§ 32-2237(H)
Private Investigators, licensee financial statements	§ 32-2402(C)
Physician Assistants, informant and complainant identity	§ 32-2551(A)(F)
Physician Assistants, patient information, patient investigation and hospital records	§ 32-2552(C)-(E)
Homeopathic Physicians, licensee's home address and telephone number	§ 32-2916(B)
Homeopathic Physicians, complainant's identity	§ 32-2934(B)
Homeopathic Physicians, patient information, patient investigation and hospital records	§ 32-2935(D)(E)(F)
Private Post-secondary Education Board, informant's name	§ 32-3052(C)
Private Post-secondary Education Board, educational records	§ 32-3058(D)
Stipulated agreements and programs monitoring licensees with chemical dependencies or mental disorders	§ 32-3253(C)(D)
Behavioral Health Professionals, certain dismissed complaints	§ 32-3281(E)
Behavioral Health Professionals, client information, client and investigator records	§ 32-3282(C)(D)
Behavioral Health Professionals, confidential behavioral health professional/client relationship	§ 32-3283
Respiratory Care, stipulated agreements and programs monitoring chemically dependent licensees	§ 32-3504(A)(10), 3506(C)(7)
Respiratory Care informant's name, patient information, patient, hospital and investigation records	§ 32-3553(B)(M)

## **Appendix 6.1**

### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

Real Estate Appraisal, certain examination, appraisal, and complaint records	§ 32-3609
Real Estate Appraisal, property tax agents, certain complaint records	§ 32-3656
Privacy Rights, residential addresses and telephone numbers	§ 32-3801
Athletic Trainers, regulation, pending complaints, and investigations	§ 32-4154(E)
Athletic Trainers, informant's identity	§ 32-4158(C)
Athletic Trainers, licensee home address and telephone number, treated person's information	§ 32-4160(B)(C)
Massage Therapy, Informants' identity	§ 32-4256(C)
Massage Therapy, home address and telephone number, treated person's information	§ 32-4259(B)(C)

#### **Property**

Condominium Management, certain records of the unit owners' association, board of directors, and officers	§ 33-1258(B)(C)
Planned Communities, certain owners' associations' books and records	§ 33-1805(B)(C)

#### **Public Health and Safety**

Department of Health Services, applicant/claimant/recipient/employer name/information	§ 36-107
Department of Health Services, chronic disease surveillance system, individual identifying information	§ 36-133(F)
Department of Health Services, child immunization reporting system, identifying information	§ 36-135(D)(E)(I)
Department of Health Services, certain patient information	§ 36-136(H)(I)(11)
Department of Health Services, home health services, medical records	§ 36-160
Vital Records, amended birth records	§ 36-322, 337(G)(H)
Vital Records, medical information, vital records	§ 36-324(A)(D)(E)

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### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

Vital Records, vital record information	§ 36-342
Health Care Institutions, certain information received/kept by Department of Health Services	§ 36-404
Health Care Institutions, health screening services, privileged communications	§ 36-405.01(D)
Health Care Institutions, Children's behavioral health programs, personal certification forms	§ 36-425.03(E)
Health Care Institutions, health care utilization committees, utilization review proceedings, records, and materials	§ 36-441(B)(F)
Health Care Institutions, reviews of certain health care practices, review proceedings, records, and materials	§ 36-445.01, 445.03
Health Care Institutions, freestanding urgent health center patient deaths, personally identifying patient and physician information	§ 36-445.04
Health Care Institutions, nursing care institutions and administrators' examination, educational, and pending investigation records	§ 36-446.10
Health Care Institutions, reporting procedures, informant identity	§ 36-450.01
Mental Health Services, patient's photograph	§ 36-507(2)
Mental Health Services, healthcare entities, patient records and information	§ 36-509
Department of Developmental Disabilities, developmentally disabled persons, financial information	§ 36-562(F)
Department of Developmental Disabilities, client care information and records	§ 36-568.01
Department of Developmental Disabilities, competent adult and emancipated minor medical and/or behavioral health records	§ 36-568.02(B)
Public Health Control, communicable disease-related information	§ 36-664, 665
Maternal and Child Health, newborn screening program for hearing loss and congenital disorder test results	§ 36-694(E)
Public Health Control, maternal and child health, Health Start program records	§ 36-697(G)

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### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

Tuberculosis Control, afflicted person's identity	§ 36-714(B)(1)
Tuberculosis Control, court hearings and records	§ 36-727(H)
Midwifery, investigation – related patient records	§ 36-756.01(C)
Enhanced Surveillance Reporting, trade secrets	§ 36-783(E)
Enhanced Surveillance Advisories and Public Health Emergencies, Medical Information and Personal Identifiers	§ 36-785(C), 790(A)
Child Care Programs, day care centers, personnel forms	§ 36-883.02(E)
Child Care Programs, child care facility records, child/parent/guardian personally identifiable information	§ 36-887(B)
Child Care Programs, day care group homes, certification forms of applicants, certificate holders and personnel	§ 36-897.03(E)
Child Care Programs child care group homes, child/parent/guardian personally identifiable information	§ 36-897.12(B)
Hearing Aid Dispensers, clinical and confidential information	§ 36-1940.04(D)(9)
Abortion, parental consent forms and notary records, parental proceedings and appeals	§ 36-2152(A)(E)(G)
Abortion Reports and complication reports; identifying information	§ 36-2163
Emergency Medical Services, patient records and information, review and certain investigation information	§ 36-2220
Emergency Medical Service state trauma registry, personally identifiable information	§ 36-2221(D)
Emergency Medical Services, informal reviews, patient's personal identifying information	§ 36-2227
Emergency Medical Services, certain investigation information	§ 36-2245(M)
Protection of Minors, infant care review committee, proceedings and records, patient identity	§ 36-2284(C)(E)(G)
Health Care Quality Assurance, quality assurance information	§ 36-2403
Uniform Controlled Substances Act, registered manufacturers, distributers or dispensers program records or inventories	§ 36-2523(C)

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### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

Controlled Substances Prescription Monitoring, prescription information submitted to the Board of Pharmacy	§ 36-2604(A)(D)
Medical Marijuana Act, cardholder's address information in online registry verification system	§ 36-2807(C)(1)
Medical Marijuana Act, annual report, identifying information of card holder, dispensaries, and physicians	§ 36-2809
Medical Marijuana Act, certain applications and renewals, personal identifying information	§ 36-2810
AHCCCS, lab test results provided to member's contractor	§ 36-2903(Q)(3)
AHCCCS, review committees records, procedures, and actions	§ 36-2917(B)-(D)
Shelters for Domestic Violence Victims, annual report, personally identifying information	§ 36-3007(C)
Shelters for Domestic Violence Victims, personnel, notarized forms and certification forms	§ 36-3008(C)
Shelters for Domestic Violence Victims, location/address information	§ 36-3009(A)
Healthcare Directive Registry, registrant file numbers, passwords, and other information	§ 36-3295(B)
Child Fatalities, certain investigative records, information/records, acquired by child fatality review team	§ 36-3503(B)-(D)
Telemedicine, medical records, patient identifying information	§ 36-3602
Sexually Violent Persons, medical and care records, detained persons property inventory	§ 36-3712(B)-(C)

### **Public Lands**

State Land Commissioner, certain information collected during urban planning process, certain proprietary information	§ 37-132(B)(4)(5)
Geospatial Data Sharing, critical infrastructure information	§ 37-178(D)
Sale of State Lands, participation contract proposals	§ 37-239(E)
proprietary information	

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Lease of State Lands, land use information furnished by lessee	§ 37-282
Department of Forestry and Fire Management, certain arson prevention advisory committee records	§ 37-1387(C)

#### **Public Officers and Employees**

Open Meeting Law, executive session minutes and discussions	§ 38-431.03(B)
Conflict of Interest, confidential information acquired in course of public officers/employees official duties	§ 38-504(B)
Conflict of Interest, Attorney General and other opinion requests	§ 38-507
Health and Accidental Insurance, for dental and medical insurance, contracts information provided in executive session to JLBC	§ 38-658(A)
ASRS certain member information	§ 38-755
Law Enforcement Officers, LEO witness interview information	§ 38-1105(B)
Law Enforcement Officers, LEO polygraph exam data/reports	§ 38-1108(B)
Law Enforcement Officers, disciplinary investigation information	§ 38-1109(A)
Law Enforcement Officers, designated person's information to critical incident stress management team member	§ 38-1111
Law Enforcement Officers, fitness for duty examination reports	§ 38-1112(D)
Probation Officers, Witness interview information	§ 38-1135(B)
Probation Officers, disciplinary investigation information	§ 38-1137
Probation Officers, polygraph exam data/reports	§ 38-1138(B)
Probation Officers, information to critical incident stress management team member	§ 38-1139(A)
Probation Officers, fitness for duty examination reports	§ 38-1140(D)

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Searches and Copies, eligible person's home address and telephone number, peace officer's photograph	§ 39-123
Searches and Copies, archaeological discovery locations, certain historic places/objects	§ 39-125
Searches and Copies, federal risk assessments of infrastructure	§ 39-126
Local government; telecommunications infrastructure records	§ 39-126.01

#### **Public Utilities and Carriers**

Public Service Corporations, customer information, account information and related proprietary information	§ 40-202(C)(5)
Public Service Corporations, information furnished to Corporation Commission	§ 40-204(C)
Power Plant and Transmission Line Sitting Committee, plant construction plans	§ 40-360.02(D)
Underground facilities, certain installation records	§ 40-360.30

#### **State Government**

Prevention of Child Abuse Fund, application donation	§ 41-109(E)(4)
Secretary of State, Library, Archives and Public Records, public library user records	§ 41-151.22
Secretary of State, address confidentiality program, participant's actual address and telephone number	§ 41-165, 166, 167 168
The Attorney General and The Department of Law Domestic Violence Fatality Review Teams, individual identifying information and records acquired by team	§ 41-198(A)(2)(D)
Notaries Public, privileged/confidential notarial acts, notary journals	§ 41-319(A)(E)
Notaries Public, electronic notaries journal, privileged/confidential notarial acts	§ 41-361(A)
Constitutional Defense Council, executive session	§ 41-401(L)

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### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

Department of Veteran Services, applications for assistance and committee considerations/evaluations	§ 41-608.04(E)
Board of Fingerprinting, criminal history record information, central registry information, exception determinations	§ 41-619.54(A)(C)
Department of Administration, information technology personnel, criminal history records	§ 41-710(B)
State, internal audit draft working papers and draft audit files	§ 41-735(C)(D)
State and Personnel Board, certain disciplinary hearings/appeals	§ 41-783(B)
Auditor General, personnel criminal history records	§ 41-1279.02(C)
Auditor General, state tax returns, report contents	§ 41-1279.04(C)
Auditor General, working papers and other audit files, special research, request information	§ 41-1279.05
Office of Ombudsman-Citizens Aide, investigations regarding confidential information	§ 41-1377(E)-(G)
Office of Ombudsman-Citizens Aide, complainant/witness identity	§ 41-1378(F)
Office of Ombudsman-Citizens Aide, preliminary opinions/recommendations	§ 41-1379(A)
Ombudsman-citizens aide protections, certain records and files regarding Department of Child Safety investigations	§ 41-1380(D)
Civil Rights Division, charges and investigation	§ 41-1481(A)(B)
Civil Rights Division, certain employment practices information	§ 41-1482
Civil Rights Division, fair housing, conciliation information	§ 41-1491.26(D)-(F)
Arizona Commerce Authority, executive session	§ 41-1502(J)(1)
Arizona Commerce Authority, trade secrets and competitive information	§ 41-1504(L)
Solar Energy Tax Incentives, tax credit applications	§ 41-1510.01(C)
Healthy Forest Enterprise Incentives, business activity reports	§ 41-1516 (H)
Arizona Quality Jobs Incentive, certain business information	§ 41-1525(G)

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### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

Department of Corrections, prisoner medical history information	§ 41-1606(B)
Division of Arizona Highway Patrol, central state repository, disclosure of criminal history record information	§ 41-1750(G)(Q)
Department of Public Safety, critical infrastructure and key resource information	§ 41-1803(G)
Department of Economic Security, certain personally identifiable and investigatory information	§ 41-1959
Department of Economic Security, child care personnel certification forms	§ 41-1964(D)
Department of Economic Security, child care provider certification forms	§ 41-1967.01(E)
Department of Economic Security, information technology Personnel fingerprint clearance card information	§ 41-1969(B)
Arizona Procurement Code, competitive sealed bidding	§ 41-2533(D)
Arizona Procurement Code, competitive sealed proposals	§ 41-2534(D)
Arizona Procurement Code, information submitted by bidders	§ 41-2535(D)(4)
Arizona Procurement Code, competitor proposal information	§ 41-2538(D), 2578(F)(5), 2579(F)(5)
Arizona Procurement Code, bidder/offeror information	§ 41-2540(B), 2578(H), 2579(H)
Solicitation and Award of Grants, grant application information	§ 41-2702(E)
Automobile Theft Authority, personal/vehicle information	§ 41-3452
Information provided to JLC on Border and Homeland Security	§ 41-3804(I)
Executive session	§ 41-4257(H)
Department of Homeland Security, critical infrastructure reports	§ 41-4273(B)

### **Taxation**

Taxation, tax collection, financial institution data match, personal financial record	§ 42-1207
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### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

Taxpayer Protection and Services, certain tax information	§ 42-2001, 2002, 2003
Taxpayer Protection and Services, federally authorized tax practitioner/taxpayer privilege	§ 42-2069
Taxpayer Protection and Services, certain taxpayer rulings	§ 42-2101(L)
Taxpayer Protection and Services, taxpayer software	§ 42-2252(A), 2254

#### **Taxation of Income**

Returns, taxpayer information given to tax report/return preparer	§ 43-381
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#### **Trade and Commerce**

Unclaimed Property Act, Department of Revenue, claimant and holder information	§ 44-315
Unclaimed Property Act, Department of Revenue examination documents and working papers	§ 44-322(D)
Uniform Trade Secrets Act, trade secrets in court actions	§ 44-405
Telephone Solicitations, subpoenaed public service corporation records	§ 44-1280
Commercial Electronic Mail, trade secret/computer information	§ 44-1372.03
Confidentiality of Personally Identifying Information, social security numbers and financial information	§ 44-1373, 1373.02
Confidentiality of Petroleum Industry Information, petroleum industry related information designated confidential	§ 44-1374
Uniform State Antitrust Act, investigation information	§ 44-1406(E)
Consumer Fraud, investigation of information and evidence	§ 44-1525
Consumer Reporting Agencies, consumer reports	§ 44-1692
Securities Sales, criminal history record information and fingerprints	§ 44-1813(C)
Securities Sales, complainant names, examination/investigation information, salesman and individual investment adviser information	§ 44-2042, 3300

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#### **Welfare**

State Department of Public Welfare, recipient names	§ 46-135
Temporary Assistance for Needy Families, child support obligor information	§ 46-291(E)
Child Care Food Program, child care personnel certification forms	§ 46-321(H)
Child Support, obligations, child support case registry information	§ 46-442(C)
Adult Protective Services, vulnerable adults medical and financial records	§ 46-454(E)

#### **Environment**

Environmental Quality Department, trade secrets	§ 49-111
Emergency and hazardous chemical inventory forms	§ 49-130(B)(6)
Water Quality Control, income tax returns and vulnerability assessments, trade secrets and other information	§ 49-205(A)
Aquifer Protection Permits, financial information	§ 49-243(N)(7)
Water Quality Control, remedial actions, pre-determination access to information claimed to be confidential	§ 49-288(B)
Water Quality Control, remedial actions, applicant information marked confidential	§ 49-292.01(B), 292.02(B)
State Air Pollution Control, information containing trade secrets or harmful to Attorney General actions	§ 49-432(C)(D)
County Air Pollution Control, information containing trade secrets or harmful to Attorney General actions	§ 49-487(C)
Management of Used Oil, client names and related data	§ 49-802(E)
Hazardous Waste Management, information containing trade secrets or harmful to Attorney General actions	§ 49-928(A)(B)
Hazardous Waste Disposal, information containing trade secrets or harmful to Attorney General actions	§ 49-967(A)(B)
Underground Storage Tank Regulation, trade secrets and operational and financial information	§ 49-1012

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Underground Storage Tank Regulation, financial information	§ 49-1017.01(D)
Environmental Audit Privilege	§ 49-1403, 1404(D), 1405(C)

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### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

Abortion	§ 36-2152(A)(E)(G)
Accident reports required by city or town	§ 28-671
Accountancy board records	§ 32-749
Achievement profiles, school district	§ 15-241(C)
Acquisitions, insurance, submitted information pertaining to	§ 20-481.25(C), § 20-517(D)
Actuarial Opinion & Memorandum	§ 20-696.04(B), 697.01
Address confidentiality program	§ 41-165, 166, 167, 168
Adoption records and information	§ 8-106.01(B), § 8-115(A), § 8-120, § 8-121, § 8-132, § 8-134, § 8-144, § 8-502
Adult protective services	§ 41-1959, § 46-454(E)
Agricultural laboratories test results	§ 3-145(D)
Agricultural operations	§ 3-266(A)
AHCCCS	§ 36-2903(Q)(3), § 36-2917(B)-(D), § 41-1377(E)-(G), § 41-1378(F)
Air pollution control	§ 49-432(C)(D), § 49-487(C)
Animal and bird feeds, information concerning an individual's operations	§ 3-2604(A)(1)
Aquifer protection permits	§ 49-243(N)(7)
Arbitrators, protective orders	§ 12-3017(E)
Architects, assayers, engineers, geologists and surveyors	§ 32-129, § 32-147
Arizona Commerce Authority	§ 41-1502(I)(1), 1504(L)
Arizona Corporation Commission	§ 10-1634

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Arizona Quality Jobs Incentive, applicant information	§ 41-1525(G)
Arrest records	§ 13-4051(B)
Attorney-client privilege	§ 12-2234
Attorney General opinion requests	§ 38-507
Auditor General	§ 41-1279.02(C), § 41-1279.04(C), § 41-1279.05
Audits	§ 27-239(F), § 41-1279.05, § 49-1403, 1404(D), 1405(C)
Authorized agency, confidentially held information	§ 20-1904
Banking department's financial institution records	§ 6-129(A)(E), 1253(B)(1)
Banks and banking, trust and escrow records	§ 6-860
Behavioral health professionals	§ 32-3282(C)(D), 3253(C)(D), 3283
Bids	§ 5-559(B), § 41-2535(D)(4), § 41-2540(B)
Board of Fingerprinting	§ 41-619.54(A)(C)
Board of Funeral Directors, exam materials	§ 32-1310
Board of Medical Examiners, records	§ 32-1451.01(C)-(E)
Board of Physical Therapy	§ 32-2045(D)(E), § 32-2049, § 32-2051(B)(F)(H)(I)
Board of Supervisors, Board powers relating to hospitals	§ 11-254.03(6)
Cannabis tax licenses, applications and payments for	§ 42-2002(C)
Captive insurers, licensing, authority	§ 20-1098.23
Charges (civil rights)	§ 41-1481(A)(B)
Child abuse reports/medical records	§ 13-3620(G)
Child care group homes, information relating to	§ 36-897.03(E), 897.12(B)

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Child care provider notarized forms	§ 41-1967.01(E)
Child Day Care Programs	§ 36-883.02(E), § 36-897.03(E)
Child fatalities review team records	§ 36-3503(D)
Child immunizations (identifying information)	§ 36-135(D)(E)(I)
Child Protective Services investigations	§ 41-1959
Child support	§ 25-523, § 46-291(E), § 46-442(C)
Child support case registry	§ 46-442(C)
Child welfare and placement records	§ 8-541, § 8-542
Chronic disease surveillance system information	§ 36-133(F)
Citrus fruit standardization, commercial information	§ 3-449.03(B), 450(G)
Civil Rights Division	§ 41-1481(A)(B), § 41-1482, § 41-1491.26(D)-(F)
Clearance of records (wrongful arrests, indictment, charges)	§ 13-4051(B)
Clergy privilege	§ 8-805(C), § 12-2233
College savings plan, personal information	§ 15-1875(R)
Commercial information, agriculture,	§ 3-407(C), 410(E), 412(I), 422(C)
Commissioners, Judges, Justices, personally identifiable voter registration information	§ 16-153(A)(J)
Complaints	§ 27-308, § 32-2045(D)(E), § 32-2237(H), § 41-1481(A)
Computer Security Information, proprietary or confidential	§ 13-2316.02
Concealed weapon permit records	§ 13-3112(J)
Condominium Associations, books and records	§ 33-1258(B)(C)

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### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

Confidential Communications	§ 25-381.16(D), § 32-2085
Conflict of interest	§ 38-504(B), § 38-507
Consumer fraud	§ 44-1525
Consumer reports	§ 44-1692
Controlled substances prescription monitoring information	§ 36-2604(A)(D)
Controlled substances tax licenses information	§ 42-2002
Corporation Commission, information furnished to	§ 40-204(C)
Cosmetology, confidentiality of education records	§ 32-576
County recorder records	§ 11-465, § 11-483
County Treasurer, taxpayer information	§ 11-505
Crime victim communications	§ 13-4430, § 13-4434
Criminal history record information	§ 41-619.54(A)(C), § 41-1279.02(C), § 41-1750(G)(Q)
Customer information	§ 40-202(C)(5)
Dairies and dairying, financial condition of milk handlers	§ 3-609(A)(3)
Death record information, for county recorder voter registration purposes	§ 16-165(D)
Dental board, pending complaints and investigations	§ 32-1207(A)(3)
Department of Corrections	§ 41-1606(B)
Department of Developmental Disabilities	§ 36-562(F)
Department of Health Services	§ 36-107, § 36-133(F), § 36-135(D)(E)(I), § 36-136(H)(11), § 36-160, § 41-1377(E)-(G)
Department of Public Safety	§ 41-1750(G)(Q)

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### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

Dependent Children	§ 8-805(C), § 8-807, § 8-811(D)
Developmental Disabilities	§ 36-568.01
Disability insurance, identity of the natural parent	§ 20-1342(A)(12), § 20-1402(A)(8)
Dissolution of marriage, confidential communications	§ 25-381.16(D)
Dissolution of marriage, records pertaining to maintenance and support	§ 25-322(E)
Doctor and patient communications	§ 12-2235
Domestic violence shelters information	§ 36-3008(C), 3009(A)
Domestic Violence fatality review teams information acquireds	§ 41-198(A)(2), (D)
Domestic violence victim advocate communications	§ 12-2239
Draft audit files and draft working papers	§ 41-735(C)(D)
Education records	§ 13-3411(G), § 15-141, § 15-213(A)(2)(d), § 15-350, § 15-537(I), § 15-551, § 15-1638, § 32-2214(G), § 32-3058(D), § 36-446.10
Election programs, computer programs, electronic signatures	§ 16-445(D), § 18-106(E)
Electric power competition, consumer and account information	§ 30-806(G)
Electric retail competition information, records pertaining to competitive activity	§ 30-808
Emergency medical services	§ 36-2220, 2221(D), 2227, 2245(M)
Employee drug testing, records and results	§ 23-493.09
Employer reporting, new hires	§ 23-722.01(G)
Employment security, sworn and unsworn reports	§ 23-722(A)

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Environmental Quality Department, trade secrets	§ 49-111
Executioners, identity of	§ 13-757(C)
Executive session	§ 38-431.03(B), § 38-658(A), § 41-401(L)
Financial information	§ 32-2402(C), § 44-1373, 1373.02, § 49-243(N)(7), § 49-292.01(B), § 49-292.02(B), 1012, 1017.01(D)
Financial institution data match	§ 25-523, § 42-1207(C)
Fingerprints	§ 15-1881(C), § 36-883.02(E)
Fire Marshall	§ 37-1387(C), 41-2167(C)
Foster care, special advocate	§ 8-522(F)
Foster Care Review Board, child welfare records	§ 8-519(C)
Freestanding urgent health care center incident reporting; personal identifying information	§ 36-445.04
Fruit and vegetable standardization, commercial information	§ 3-488(A), 491(G)
Genetic testing results	§ 12-2802, 2804
Geospatial data sharing, critical infrastructure information	§ 37-178(D)
Geothermal resources, well records	§ 27-653
Grand Jury testimony or decision	§ 13-2812, § 21-411(B)
Grant Application Information	§ 41-2702(E)
Hazardous wastes	§ 49-928(A), (B)
Health Care Directive Registry	§ 36-3295(B)

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Health care institutions' records	§ 36-404, § 36-405.01(D), 441(B)(F), 445.01, 445.03, 446.10
Health care quality assurance information	§ 36-2403
Healthy families pilot program	§ 8-481(J)
Healthy forest enterprise incentives, report information	§ 41-1516(H)
Hearing aid dispensers, clinical or confidential information	§ 36-1940.04(D)(9)
Hearings	§ 8-115(A), § 41-783(B)
HIV Information	§ 13-1415(B), § 20-448.01, § 23-1043.02(D)
Homeopathic physicians	§ 32-2916(B), 2934(B), 2935(D)-(F)
Human Rights Committee, information provided to	§ 41-3804(I)
Identity of informants	§ 32-2081(E), 2049, 2551(A)(F), 2934(B), 3052(C), 3553(B)(M), § 37-1387(C)
Identity of natural parent	§ 20-826(K), 1057(L), 1342(A)(12), 1402(A)(8), 2321(C)
Industrial Commission, information sharing	§ 23-107(D)
Inspections, trade secrets	§ 3-3121, § 27-239(F), § 49-432(C)(D)
Insurance, administrative officers and procedures, report of examinations by director	§ 20-158(F)(G)
Insurance, information pertaining to HIV	§ 20-448.01
Insurance, information provided to rating organizations	§ 20-364
Insurance acquisitions, submitted information	§ 20-481.25(C)
Insurance administrators records	§ 20-485.03(B)

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Insurance companies, financial analysis ratio and examination synopses	§ 20-234(C)
Insurance coverage, identity of natural parents	§ 20-1057(L)
Insurance disclosure and privacy protections	§ 20-2113
Insurance fraud unit, investigative materials	§ 20-466(E)(H)
Insurance holding company systems, investigative records	§ 20-481.21(A)(F)
Insurance holding company system statements	§ 20-481.03(A)(4)
Insurance information, genetic test results	§ 20-448.02
Insurer claim files	§ 20-157.01(B)
Insurer's report of acquisitions and dispositions	§ 20-517(D)
Insurer's reports of professional liability claims	§ 20-1742(B)
Intellectual property, university trade secrets	§ 15-1640(A)
Interstate compacts for military children	§ 15-1911(H)
Investigations, disclosure of information	§ 3-3121, § 6-129(E), § 8-811(D), § 11-593(F), § 13-3011, § 13-2315(A), § 20-466(E)(H), 481.21(A)(F), § 27-239(F), § 32-129, 2082(E), 2237(H), 2552(C)-(E), 2935(D)-(F), § 36-756.01(C), § 41-1378(F), 1481(A)(B), 1482, 1959, § 44-1406(E), 1525 § 49-205(A), 288(B), 487(C), 928(A)(B), 967(A)(B)
Judges, Justices, Commissioners, personally identifiable voter registration information	§ 16-153(A)(J)
Jurors, medical statements concerning inability to serve	§ 21-202(B)(1)(c)
Juror records	§ 21-312

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Lease of state lands	§ 37-282
Lease of state lands for mineral claims, information gathered	§ 27-110(B), 233(B), 234(F)(H), 239(F), 274(C), 571(C)
Lessee, information provided	§ 37-282
Light rail transit systems, public records, confidentiality	§ 28-9202
Lottery Commission, information maintained by	§ 5-554(F)
Malpractice claims and actions, insurer's reports	§ 20-1742(B)
Maternal and child health programs	§ 36-694(E), 697(G)
Maternity benefits and coverage, insurance, identity of the natural parent	§ 20-2321(C)
Mediation process, communications	§ 12-2238
Medical marijuana act, cardholder identifying information in annual report	§ 36-2809
Medical marijuana act, non-disclosable address information in on-line registry verification system	§ 36-2807(C)(1)
Medical marijuana act, records kept by health department	§ 36-2810
Medical records	§ 12-2292, 2293, 2294, § 20-2509, § 32-1805(B)(C), 2552(C)-(E), 2935(D)-(F), 3282(C), 3553(B)(M), § 36-136(H)(11), 160, 404, -2220, 2284(C)(E)(G), 2403, 2903(Q)(3), 2917(B)-(D), § 41-1606(B)
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Midwifery	§ 36-756.01(C)
Military Affairs Commission	§ 26-261(F)

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Mine Inspector, State, restrictions on divulging information by inspectors and employees	§ 27-127
Mined land reclamation	§ 27-930(A)
Mineral appraisal information	§ 27-234(F)(H)
Mineral exploration permit terms	§ 27-252(A)(8)
Minors, infant care review committee records	§ 36-2284(C)(E)(G)
Mortgage guarantee insurance, information relating to reinsurance agreements	§ 20-1557(F)
MVD records, personal information	§ 28-455
Naturopathic Medicine	§ 32-1525(K), 1551.01(C)-(E)
Notaries Public	§ 41-319(A)(E)
Notarized forms	§ 41-1964(D), § 46-321(H)
Occupational safety and health, trade secrets	§ 23-426
Ombudsman-Citizens Aide	§ 41-1377(E)-(G), 1378(F), 1379(A), 1380(D)
Operations of mines, complaint to inspector of dangerous conditions	§ 27-308
Open Meeting Law, executive sessions	§ 38-431.03(B)
Opinion, Ombudsman-Citizens Aide preliminary	§ 41-1379(A)
Opinion requests, Attorney General	§ 38-507
Organized crime records of racketeering	§ 13-2315
Parental consent forms and proceedings	§ 36-2152(A)(E)(G)
Parolees, address of victim and victim's immediate family	§ 31-412(F)

## **Appendix 6.2**

### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

Patient information	§ 20-2504(D), 2509, § 32-852.01, 929(C), 1263.02, 1451.01(C), 1551.01(C)(D), 1664(M), 1744(P)(Q), 1746(B), 1855.03(D), 1940(A)-(C), 2051(F)(H)(I), 2552(C)-(E), 2082(E)(F), 2935(D)-(F), § 36-136(H)(11), 404, 405.01(D), 445.03, 445.04, 507(2), 509, 562(F), 568.01, 697(G), 714(B)(1), 756.01(C), 2220, 2227, 2284(C)(E)(G), 2917(B)-(D), 3602
Peace officer residential address and telephone numbers	§ 11-483(A)
Personally identifiable information	§ 15-1045, § 44-1280, § 46-135, -291(E), § 49-1012
Pesticides, trade secrets, commercial and financial information	§ 3-351(H)
Petroleum Industry Information	§ 44-1374
Photographing, surreptitious	§ 13-3019(B)
Physician assistants	§ 32-2551(A)(F), 2552(C)(E)
Planned communities, books and records	§ 33-1805(B)(C)
Police informants, identity of	§ 41-1378(F)
Policy information and expiration dates, insurance on mortgaged property	§ 20-475.01
Pollution prevention	§ 49-967(A), (B)
Private Postsecondary Education Board	§ 32-3052(C), 3058(D)

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### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

Pre-sentence reports	§ 13-4425
Prevention of Child Abuse Fund, donation application	§ 41-109(E)(4)
Prisoner care and custody records	§ 31-221(C)
Private investigators, financial statements	§ 32-2402(C)
Privileged communications	§ 12-2231, 2232, 2234, 2235, 2237, 2238, 2239, 2240, § 13-4430, § 32-2085, 3282(D), 3283, § 32-2091.13, § 33-1258(B)(C) § 36-405.01(D), 917(C), § 41-319(A), 1378(F)
Proceedings	§ 36-2152(A)(E)(G), 2284(C)(E)(G), 2403
Procurement	§ 41-2533(D), 2534(D), 2535(D)(4), 2538(D), 2540(B), 2578(H), (F)(5), 2579(H), (F)(5)
Professional corporations	§ 10-2233
Proprietary information	§ 13-3620(G), § 28-7707(A), § 37-132(B)(4)(5), 239(E), § 40-202(C)(5) § 41-2533(D), 2534(D)
Psychiatric security review board, confidential records	§ 31-502(A)(4)
Psychology board	§ 32-2081(E), 2082(E), 2091.13
Public Health, enhanced surveillance advisory information	§ 36-783(E), 785(C), 790(A)

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### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

Public health control	§ 36-664, 665, 697(G), 714(B)(1), 727(H)
Public service corporations	§ 40-202(C)(5), 204(C)
Putative father registry, adoptions	§ 8-106.01(B)
Real estate, confidentiality of licensee's information	§ 32-2125.03
Records maintained by insurance administrators	§ 20-485.03
Reinsurance intermediaries, basis for refusal to license	§ 20-486.01(E)
Reporter/informant communications	§ 12-2237
Registration forms, voter information and declination	§ 16-140(C) § 16-152(A)(21)(22)
Respiratory Care Examiners Board records	§ 32-3553(B)(M)
Risk-based capital information collected by insurers	§ 20-488.07
Sale of state lands	§ 37-239(E)
School Accountability, records kept by State Board of Education	§ 15-103(T), 107(M), 241.01(J)
School District Governing Boards, general powers and duties, reports of bullying	§ 15-341(A)(36)(e), (A)(37)
School district test results, annual report	§ 15-743(A)(3)(B)
Sealed court records	§ 41-1378(F)
Secretary of State, electronic signature records	§ 18-106(E)
Security Sales, criminal records, complainant information	§ 44-1813(C), 2042
Self-incrimination	§ 13-4508
Sex offender identifiable information	§ 13-3823
Sexually violent persons records	§ 36-3712(B)(C)
Shelters for domestic violence	§ 36-3007(C), 3008(C), 3009(A)
Silent witness program records, anonymity	§ 12-2311, 2312
Social security numbers, financial information	§ 44-1373.02
Solar energy tax incentives, applications for	§ 41-1510.01(C)

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### **Records Made Confidential/Non-Disclosable by Arizona Statute (Alphabetical by Subject)**

Spaying and neutering of animals fund, donation application information	§ 28-2422.02(E)(4)
State contracts, information presented to JLBC in executive session	§ 38-658(A)
State Mine Inspector, information collected	§ 27-1231(A)
Statistical data	§ 28-446(D), 49-1012
Standard valuation law, company information	§ 20-510(E), (V)
State Board of Appraisal, confidential records	§ 32-3656
State Board of Education, non-disclosure of personal information	§ 15-741
State Land Commissioner, planning information	§ 37-132(B)(4)(5)
State Trauma Registry, personally identifiable information	§ 36-2221(D)
Student records, level data	§ 13-3411(G), § 15-1042(I), 1043, § 15-551
Surveillance system, chronic disease information collected on individuals	§ 36-133(F)
Tax collection, taxpayer information and communications	§ 11-505, § 27-239(F), § 28-5931(1), 5935, § 41-1279.04(C), 1377(E)-(G), 1378(F), § 42-2001, 2002, 2003 § 43-381, § 49-205(A), § 42-2069
Telemedicine, confidentiality protections	§ 36-3602
Telephone subscriber information	§ 44-1280
Termination of parental rights	§ 8-537, 541, 542
Testimony and witness names, grand jury	§ 21-411(B)

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Trade secrets/practices	§ 3-351(H), 374, 3121, § 12-687(4), § 23-426, § 27-239(F), § 41-2534(D), § 44-405, 1372.03, § 49-111, 288(B), 487(C), 928(A), (B), 967(A), (B), 1012
Transportation, accident reports required by city or town	§ 28-671
Transportation, information pertaining to peace officers	§ 28-454(F)(I)
Transportation, records exemption, tax collection	§ 28-446(D), 5931(1), 5935
Tuberculosis Control	§ 36-714(B)(1), 727(H)
Unclaimed Property	§ 4-322(D)
Underground storage tanks, trade secrets, financial information	§ 49-1012, 1017.01(D)
Unemployment insurance	§ 23-722.04
Uniform Controlled Substances Act, records pertaining to registrants	§ 36-2523(C)
Uniform State Antitrust Act	§ 44-1406(E)
Uniform Trade Secrets Act	§ 44-405
Used oil program, personal information	§ 49-802(E)
Utilization Review, information concerning customers, patients, or utilization review plans	§ 20-2504(D), § 20-2509, §36-441(B)(F)
Veterinarians	§ 32-2214(G), 2237(H)
Victim records, personal information	§ 8-409, § 12-2239 § 8-413, § 31-412(F), § 13-4439(H)
Vital Records	§ 36-322, 337(G)(H), 324(A)(D)(E), 342

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Voter registration forms	§ 16-112, 152(A)(21)(22), 140(C), 165(D), 445(D)
Water quality control	§ 49-205(A), 288(B), 292.01(B), 292.02(B)
Welfare	§ 46-291(E), 321(H)
Well records, geothermal resources, minerals, oil, and gas	§ 27-522(B), § 27-571(C), § 27-653