

REFERENCE TITLE: **criminal street gang database; appeal**

State of Arizona  
Senate  
Fifty-fifth Legislature  
Second Regular Session  
2022

## **SB 1302**

Introduced by  
Senators Quezada: Terán; Representatives Andrade, Hernandez M

**AN ACT**

**AMENDING TITLE 13, CHAPTER 23, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-2321.01; RELATING TO LAW ENFORCEMENT RECORDS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 13, chapter 23, Arizona Revised Statutes, is  
3 amended by adding section 13-2321.01, to read:

4 13-2321.01. Criminal street gang database; notification;  
5 appeals; definitions

6 A. BEFORE A LOCAL LAW ENFORCEMENT AGENCY DESIGNATES A PERSON AS A  
7 SUSPECTED GANG MEMBER, ASSOCIATE OR AFFILIATE IN A SHARED GANG DATABASE,  
8 SUBMITS A DOCUMENT TO THE ATTORNEY GENERAL'S OFFICE FOR THE PURPOSE OF  
9 DESIGNATING A PERSON IN A SHARED GANG DATABASE OR OTHERWISE IDENTIFIES THE  
10 PERSON IN A SHARED GANG DATABASE, THE LOCAL LAW ENFORCEMENT AGENCY SHALL  
11 PROVIDE WRITTEN NOTICE TO THE PERSON AND THE PERSON'S PARENT OR GUARDIAN  
12 IF THE PERSON IS UNDER EIGHTEEN YEARS OF AGE OF THE DESIGNATION AND THE  
13 BASIS FOR THE DESIGNATION UNLESS PROVIDING THAT NOTIFICATION WOULD  
14 COMPROMISE AN ACTIVE CRIMINAL INVESTIGATION OR THE HEALTH OR SAFETY OF THE  
15 PERSON IF THE PERSON IS UNDER EIGHTEEN YEARS OF AGE. THE NOTICE SHALL  
16 DESCRIBE THE PROCESS FOR THE PERSON, THE PERSON'S PARENT OR GUARDIAN IF  
17 THE PERSON IS UNDER EIGHTEEN YEARS OF AGE OR AN ATTORNEY WORKING ON BEHALF  
18 OF THE PERSON TO CONTEST THE DESIGNATION OF THE PERSON IN THE SHARED GANG  
19 DATABASE.

20 B. A PERSON, THE PERSON'S PARENT OR GUARDIAN IF THE PERSON IS UNDER  
21 EIGHTEEN YEARS OF AGE OR AN ATTORNEY WORKING ON BEHALF OF THE PERSON MAY  
22 REQUEST IN WRITING THAT A LOCAL LAW ENFORCEMENT AGENCY PROVIDE INFORMATION  
23 AS TO WHETHER THE PERSON IS DESIGNATED AS A SUSPECTED GANG MEMBER,  
24 ASSOCIATE OR AFFILIATE IN A SHARED GANG DATABASE ACCESSIBLE BY THAT LAW  
25 ENFORCEMENT AGENCY AND THE NAME OF THE LOCAL LAW ENFORCEMENT AGENCY THAT  
26 MADE THE DESIGNATION. IF A PERSON ABOUT WHOM INFORMATION IS REQUESTED IS  
27 DESIGNATED AS A SUSPECTED GANG MEMBER, ASSOCIATE OR AFFILIATE IN A SHARED  
28 GANG DATABASE BY THAT LAW ENFORCEMENT AGENCY, THE PERSON MAKING THE  
29 REQUEST MAY ALSO REQUEST INFORMATION AS TO THE BASIS FOR THE DESIGNATION  
30 FOR THE PURPOSE OF CONTESTING THE DESIGNATION.

31 C. THE LOCAL LAW ENFORCEMENT AGENCY SHALL PROVIDE THE INFORMATION  
32 REQUESTED UNDER SUBSECTION B OF THIS SECTION UNLESS PROVIDING THE  
33 INFORMATION WOULD COMPROMISE AN ACTIVE CRIMINAL INVESTIGATION OR THE  
34 HEALTH OR SAFETY OF THE PERSON IF THE PERSON IS UNDER EIGHTEEN YEARS OF  
35 AGE. THE LOCAL LAW ENFORCEMENT AGENCY SHALL RESPOND IN WRITING TO A VALID  
36 REQUEST FOR INFORMATION WITHIN THIRTY CALENDAR DAYS AFTER RECEIVING THE  
37 REQUEST.

38 D. AFTER RECEIVING NOTICE PURSUANT TO SUBSECTION A OF THIS SECTION  
39 OR A LOCAL LAW ENFORCEMENT AGENCY RESPONDS TO AN INFORMATION REQUEST  
40 PURSUANT TO SUBSECTION C OF THIS SECTION, THE PERSON DESIGNATED OR TO BE  
41 DESIGNATED AS A SUSPECTED GANG MEMBER, ASSOCIATE OR AFFILIATE OR THE  
42 PERSON'S PARENT OR GUARDIAN IF THE PERSON IS UNDER EIGHTEEN YEARS OF AGE  
43 MAY SUBMIT WRITTEN DOCUMENTATION TO THE LOCAL LAW ENFORCEMENT AGENCY  
44 CONTESTING THE DESIGNATION. THE LOCAL LAW ENFORCEMENT AGENCY SHALL REVIEW  
45 THE DOCUMENTATION AND IF THE AGENCY DETERMINES THAT THE PERSON IS NOT A

1 SUSPECTED GANG MEMBER, ASSOCIATE OR AFFILIATE, THE AGENCY SHALL REMOVE THE  
2 PERSON'S NAME FROM THE SHARED GANG DATABASE. THE LOCAL LAW ENFORCEMENT  
3 AGENCY SHALL PROVIDE THE PERSON AND THE PERSON'S PARENT OR GUARDIAN IF THE  
4 PERSON IS UNDER EIGHTEEN YEARS OF AGE WITH WRITTEN VERIFICATION OF THE  
5 AGENCY'S DECISION WITHIN THIRTY DAYS AFTER THE AGENCY RECEIVES THE WRITTEN  
6 DOCUMENTATION CONTESTING THE DESIGNATION. IF THE LOCAL LAW ENFORCEMENT  
7 AGENCY DENIES THE REQUEST FOR REMOVAL, THE AGENCY SHALL PROVIDE WRITTEN  
8 NOTICE OF THE AGENCY'S DETERMINATION THAT STATES THE REASON FOR THE  
9 DENIAL. IF THE LOCAL LAW ENFORCEMENT AGENCY DOES NOT VERIFY THE AGENCY'S  
10 DECISION WITHIN THIRTY DAYS, THE REQUEST TO REMOVE THE PERSON'S NAME FROM  
11 THE SHARED GANG DATABASE IS DEEMED DENIED. THE PERSON OR THE PERSON'S  
12 PARENT OR GUARDIAN IF THE PERSON IS UNDER EIGHTEEN YEARS OF AGE MAY  
13 PETITION THE COURT TO REVIEW THE LOCAL LAW ENFORCEMENT AGENCY'S DENIAL OF  
14 THE REQUEST FOR REMOVAL AND ORDER THE LOCAL LAW ENFORCEMENT AGENCY TO  
15 REMOVE THE PERSON'S NAME FROM THE SHARED GANG DATABASE.

16 E. A PERSON WHO IS LISTED IN A SHARED GANG DATABASE AS A SUSPECTED  
17 GANG MEMBER, ASSOCIATE OR AFFILIATE AND WHO CONTESTS THE PERSON'S  
18 DESIGNATION PURSUANT TO SUBSECTION D OF THIS SECTION MAY PETITION THE  
19 COURT TO REVIEW THE LOCAL LAW ENFORCEMENT AGENCY'S DENIAL OF THE REQUEST  
20 FOR REMOVAL AND TO ORDER THE LOCAL LAW ENFORCEMENT AGENCY TO REMOVE THE  
21 PERSON'S NAME FROM THE SHARED GANG DATABASE. THE PETITION MAY BE BROUGHT  
22 BY THE PERSON OR THE PERSON'S ATTORNEY, OR IF THE PERSON IS UNDER EIGHTEEN  
23 YEARS OF AGE, BY THE PERSON'S PARENT OR GUARDIAN OR AN ATTORNEY ON BEHALF  
24 OF THE PARENT OR GUARDIAN. THE PETITION SHALL BE FILED AND SERVED WITHIN  
25 NINETY CALENDAR DAYS AFTER THE LOCAL LAW ENFORCEMENT AGENCY'S MAILING OR  
26 PERSONAL SERVICE OF THE VERIFICATION OF THE AGENCY'S DECISION TO DENY THE  
27 REQUEST FOR REMOVAL FROM THE SHARED GANG DATABASE OR THE DATE THAT THE  
28 REQUEST IS DEEMED DENIED UNDER SUBSECTION D OF THIS SECTION. A PROCEEDING  
29 UNDER THIS SUBSECTION IS NOT A CRIMINAL CASE. THE PETITION SHALL BE FILED  
30 IN EITHER THE SUPERIOR COURT IN THE COUNTY IN WHICH THE LOCAL LAW  
31 ENFORCEMENT AGENCY IS LOCATED OR, IF THE PERSON RESIDES IN THIS STATE, IN  
32 THE COUNTY IN WHICH THE PERSON RESIDES. A COPY OF THE PETITION SHALL BE  
33 SERVED ON THE LOCAL LAW ENFORCEMENT AGENCY IN PERSON OR BY FIRST CLASS  
34 MAIL. PROOF OF SERVICE OF THE PETITION ON THE LOCAL LAW ENFORCEMENT  
35 AGENCY SHALL BE FILED IN THE SUPERIOR COURT.

36 F. THE EVIDENTIARY RECORD FOR THE COURT'S DETERMINATION OF THE  
37 PETITION SHALL BE LIMITED TO THE LOCAL LAW ENFORCEMENT AGENCY'S STATEMENT  
38 OF THE BASIS OF THE AGENCY'S DESIGNATION MADE PURSUANT TO SUBSECTION A OR  
39 B OF THIS SECTION AND THE DOCUMENTATION PROVIDED TO THE AGENCY BY THE  
40 PERSON CONTESTING THE DESIGNATION PURSUANT TO SUBSECTION D OF THIS  
41 SECTION.

42 G. IF, ON DE NOVO REVIEW OF THE RECORD AND ANY ARGUMENTS PRESENTED  
43 TO THE COURT, THE COURT FINDS THAT THE LOCAL LAW ENFORCEMENT AGENCY HAS  
44 FAILED TO ESTABLISH THE PERSON'S ACTIVE GANG MEMBERSHIP, ASSOCIATE STATUS  
45 OR AFFILIATE STATUS BY CLEAR AND CONVINCING EVIDENCE, THE COURT SHALL

1 ORDER THE LOCAL LAW ENFORCEMENT AGENCY TO REMOVE THE PERSON'S NAME FROM  
2 THE SHARED GANG DATABASE. THE COURT SHALL NOTIFY THE PERSON OF THE  
3 APPEARANCE DATE BY MAIL OR PERSONAL DELIVERY.

4 H. THIS SECTION DOES NOT APPLY TO A DATABASE THAT IS ACCESSED  
5 SOLELY BY JAIL OR CORRECTIONAL FACILITY STAFF FOR CLASSIFICATION OR  
6 OPERATIONAL DECISIONS IN THE ADMINISTRATION OF THE JAIL OR CORRECTIONAL  
7 FACILITY.

8 I. FOR THE PURPOSES OF THIS SECTION:

9 1. "GANG DATABASE" MEANS A DATABASE THAT IS ACCESSED BY A LOCAL LAW  
10 ENFORCEMENT AGENCY AND THAT DESIGNATES A PERSON AS A SUSPECTED GANG  
11 MEMBER, ASSOCIATE OR AFFILIATE, OR THAT INCLUDES OR POINTS TO INFORMATION,  
12 INCLUDING FACT-BASED OR UNCORROBORATED INFORMATION, THAT REFLECTS A  
13 DESIGNATION OF THAT PERSON AS A GANG MEMBER, ASSOCIATE OR AFFILIATE.

14 2. "LOCAL LAW ENFORCEMENT AGENCY" MEANS A GOVERNMENTAL AGENCY OR A  
15 SUBUNIT OF A GOVERNMENTAL AGENCY AND ITS AUTHORIZED SUPPORT STAFF AND  
16 CONTRACTORS WHOSE PRIMARY FUNCTION IS DETECTING, INVESTIGATING OR  
17 APPREHENDING CRIMINAL OFFENDERS OR WHOSE PRIMARY DUTIES INCLUDE DETENTION,  
18 PRETRIAL RELEASE, POSTTRIAL RELEASE OR CORRECTIONAL SUPERVISION OR  
19 COLLECTING, STORING OR DISSEMINATING CRIMINAL HISTORY RECORD INFORMATION.

20 3. "SHARED GANG DATABASE" MEANS A GANG DATABASE THAT IS ACCESSED BY  
21 A LOCAL LAW ENFORCEMENT AGENCY OR PERSON OUTSIDE OF THE LOCAL LAW  
22 ENFORCEMENT AGENCY THAT CREATED THE RECORDS THAT POPULATE THE DATABASE.