

# VICTIMS' RIGHTS IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS

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## Arizona Laws

### Arizona Constitution:

Article II, Section 2.1 — *Victims' Bill of Rights*

### Arizona Revised Statutes:

Title 13, Chapter 40 — *Crime Victims' Rights*

Title 8, Chapter 3, Article 7 — *Victims' Rights for Juvenile Offenses*

**MESSAGE FROM COUNTY ATTORNEY  
ALLISTER ADEL**



It is often said that crime victims are traumatized twice: first by the crime itself and then by their experience in criminal justice process. In Arizona, the Victim's Bill of Rights and related statutes are designed to protect and support victims from this secondary experience. All victims of crime deserve respect, protection, and fair treatment during every step of the criminal justice process. The Maricopa County Attorney's Office is committed to seeking justice, ensuring that the rights of victims are upheld in every courtroom, and that victims have access to services and the support they need. Every victim has a voice and story, and it is our mission to make sure it's heard. I hope you find the information in this handbook valuable and that it can help raise awareness and understanding of victim's rights.

- Allister Adel

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**ARIZONA CONSTITUTION, Article 2, Section 2.1.**

**Victims' Bill of Rights**

- (A) To preserve and protect victims' rights to justice and due process, a victim of crime has a right:
1. To be treated with fairness, respect, and dignity and to be free from intimidation, harassment, or abuse, throughout the criminal justice process.
  2. To be informed, upon request, when the accused or convicted person is released from custody or has escaped.
  3. To be present at and, upon request, to be informed of all criminal proceedings where the defendant has the right to be present.
  4. To be heard at any proceeding involving a post-arrest release decision, a negotiated plea, and sentencing.
  5. To refuse an interview, deposition, or other discovery request by the defendant, the defendant's attorney, or other person acting on behalf of the defendant.
  6. To confer with the prosecution, after the crime against the victim has been charged, before trial or before any disposition of the case and to be informed of the disposition.
  7. To read pre-sentence reports relating to the crime against the victim when they are available to the defendant.
  8. To receive prompt restitution from the person or persons convicted of the criminal conduct that caused the victim's loss or injury.
  9. To be heard at any proceeding when any post-conviction release from confinement is being considered.
  10. To a speedy trial or disposition and prompt and final conclusion of the case after the conviction and sentence.
  11. To have all rules governing criminal procedure and the admissibility of evidence in all criminal proceedings protect victims' rights and to have these rules be subject to amendment or repeal by the legislature to ensure the protection of these rights.
  12. To be informed of victims' constitutional rights.
- (B) A victim's exercise of any right granted by this section shall not be grounds for dismissing any criminal proceeding or setting aside any conviction or sentence.
- (C) "Victim" means a person against whom the criminal offense has been committed or, if the person is killed or incapacitated, the person's spouse, parent, child or other lawful representative, except if the person is in custody for an offense or is the accused.
- (D) The legislature, or the people by initiative or referendum, have the authority to enact substantive and procedural laws to define, implement, preserve and protect the rights guaranteed to victims by this section, including the authority to extend any of these rights

to juvenile proceedings.

- (E) The enumeration in the constitution of certain rights for victims shall not be construed to deny or disparage others granted by the legislature or retained by victims.

**ARIZONA REVISED STATUTES, Title 13, Chapter 40**

**Crime Victims' Rights**

**13-4401. Definitions**

In this chapter, unless the context otherwise requires:

- A. "**Accused**" means a person who has been arrested for committing a criminal offense and who is held for an initial appearance or other proceeding before trial.
- B. "**Appellate proceeding**" means any contested matter before the state court of appeals, the state supreme court, a federal court of appeals or the United States supreme court.
- C. "**Arrest**" means the actual custodial restraint of a person or the person's submission to custody.
- D. "**Court**" means all state, county and municipal courts in this state.
- E. "**Crime victim advocate**" means a person who is employed or authorized by a public or private entity to provide counseling, treatment or other supportive assistance to crime victims.
- F. "**Criminal offense**" means conduct that gives a peace officer or prosecutor probable cause to believe that a felony, a misdemeanor, a petty offense or a violation of a local criminal ordinance has occurred.
- G. "**Criminal proceeding**" means any hearing, argument or other matter that is scheduled by and held before a trial court but does not include any deposition, lineup, grand jury proceeding or other matter that is not held in the presence of the court.
- H. "**Custodial agency**" means any law enforcement officer or agency, a sheriff or municipal jailer, the state department of corrections or a secure mental health facility that has custody of a person who is arrested or in custody for a criminal offense.
- I. "**Defendant**" means a person or entity that is formally charged by complaint, indictment or information of committing a criminal offense.
- J. "**Final disposition**" means the ultimate termination of the criminal prosecution of a defendant by a trial court, including dismissal, acquittal or imposition of a sentence.
- K. "**Immediate family**" means a victim's spouse, parent, child, sibling, grandparent or lawful guardian.
- L. "**Lawful representative**" means a person who is designated by the victim or appointed by the court and who acts in the best interests of the victim.
- M. "**Post-arrest release**" means the discharge of the accused from confinement on recognizance, bond or other condition.
- N. "**Post-conviction release**" means parole, work furlough, community supervision, probation if the court waived community supervision pursuant to section 13-603, home arrest or any other permanent, conditional or temporary discharge from confinement in the custody of

the state department of corrections or a sheriff or from confinement in a municipal jail or a secure mental health facility.

- O. "**Post-conviction relief proceeding**" means a contested argument or evidentiary hearing that is held in open court and that involves a request for relief from a conviction or sentence.
- P. "**Prisoner**" means a person who has been convicted of a criminal offense against a victim and who has been sentenced to the custody of the sheriff, the state department of corrections, a municipal jail or a secure mental health facility.
- Q. "**Release**" means no longer in the custody of a custodial agency and includes transfer from one custodial agency to another custodial agency.
- R. "**Rights**" means any right that is granted to the victim by the laws of this state.
- S. "**Victim**" means a person against whom the criminal offense has been committed, including a minor, or if the person is killed or incapacitated, the person's spouse, parent, child, grandparent or sibling, any other person related to the person by consanguinity or affinity to the second degree or any other lawful representative of the person, except if the person or the person's spouse, parent, child, grandparent, sibling, other person related to the person by consanguinity or affinity to the second degree or other lawful representative is in custody for an offense or is the accused.

**3-4401.01. Victims' rights for neighborhood associations**

- A. A neighborhood association may register with the city, town or county in which the neighborhood association is located to invoke the rights that are afforded pursuant to this article. The city, town or county shall establish procedures for the registration of neighborhood associations pursuant to this section. The procedures shall require the neighborhood association to provide to the city, town or county the name and telephone number of one person who shall act on behalf of the neighborhood association and who may receive notice or invoke rights pursuant to this section. The neighborhood association shall notify the city, town or county of any changes to this information. If the neighborhood association fails to keep this information current, the neighborhood association is deemed to have waived its rights under this section.
- B. Notwithstanding any law to the contrary, if a person commits an act in violation of section 13-1602, subsection A, paragraph 5, section 13-3102, subsection A, paragraph 9, section 13-3201 or 13-3204, section 13-3208, subsection B or section 13-3209, 13-3405, 13-3407, 13-3408, 13-3409, 13-3421 or 13-4702, a neighborhood association that is registered with a city, town or county pursuant to subsection A of this section may receive notice or may invoke rights pursuant to the following sections:
  - 1. Section 13-4409.

2. Section 13-4420.
  3. Section 13-4426.
- C. Sections 13-4428, 13-4434 and 13-4436 apply to all matters in which a neighborhood association invokes rights under this section.
- D. If the neighborhood association wishes to invoke victims' rights for a crime as prescribed in subsection B of this section that resulted in an arrest, the person who is registered with the city, town or county pursuant to subsection A of this section shall contact the law enforcement agency responsible for the arrest. The law enforcement agency shall fill out the form prescribed by section 13-4405. Thereafter the neighborhood association, through the contact person, shall be afforded all of the rights listed under subsection B of this section.

**13-4402. Implementation of rights and duties**

- A. Except as provided in sections 13-4405 and 13-4433 and section 13-4408, subsection B, the rights and duties that are established by this chapter arise on the arrest or formal charging of the person or persons who are alleged to be responsible for a criminal offense against a victim. The rights and duties continue to be enforceable pursuant to this chapter until the final disposition of the charges, including acquittal or dismissal of the charges, all post-conviction release and relief proceedings and the discharge of all criminal proceedings relating to restitution. If a defendant is ordered to pay restitution to a victim, the rights and duties continue to be enforceable by the court until restitution is paid.
- B. If a defendant's conviction is reversed and the case is returned to the trial court for further proceedings, the victim has the same rights that were applicable to the criminal proceedings that led to the appeal or other post-conviction relief proceeding.
- C. After the final termination of a criminal prosecution by dismissal with prejudice or acquittal, a person who has received notice and the right to be present and heard pursuant to the victims' rights act, article II, section 2.1, Constitution of Arizona, any implementing legislation or court rule is no longer entitled to such rights.

**13-4402.01. Victims' rights; dismissed counts**

- A. If a criminal offense against a victim has been charged but the prosecution on the count or counts involving the victim has been or is being dismissed as the result of a plea agreement in which the defendant is pleading to or pled to other charges, the victim of the offenses involved in the dismissed counts, on request, may exercise all the applicable rights of a crime victim throughout the criminal justice process as though the count or counts involving the person had not been dismissed.

- B. As to each count that is dismissed, the prosecutor shall notify the probation department if the victim requested the victim's rights pursuant to this chapter.
- C. For each victim who is involved in the dismissed counts and who requested the victim's rights, the prosecutor shall forward to the probation department information within the prosecutor's possession that would enable the probation department to carry out its duties as prescribed by this chapter.

**13-4403. Inability to exercise rights; lawful representatives; notice; definition**

- A. If a victim is physically or emotionally unable to exercise any right but is able to designate a lawful representative who is not a bona fide witness, the designated representative may exercise the same rights that the victim is entitled to exercise. The victim may revoke this designation at any time and exercise the victim's rights.
- B. If a victim is incompetent, deceased or otherwise incapable of designating a representative to act in the victim's place, the court may appoint a lawful representative who is not a witness. If at any time the victim is no longer incompetent, incapacitated or otherwise incapable of acting, the victim may personally exercise the victim's rights.
- C. If the victim is a minor or vulnerable adult the victim's parent, child or other immediate family member may exercise all of the victim's rights on behalf of the victim. If the criminal offense is alleged against a member of the minor's or vulnerable adult's immediate family, the victim's rights may not be exercised by that person but may be exercised by another member of the immediate family unless, after considering the guidelines in subsection D of this section, the court finds that another person would better represent the interests of the minor or vulnerable adult for purposes of this chapter.
- D. The court shall consider the following guidelines in appointing a representative for a minor or vulnerable adult victim:
  - 1. Whether there is a relative who would not be so substantially affected or adversely impacted by the conflict occasioned by the allegation of criminal conduct against a member of the immediate family of the minor or vulnerable adult that the relative could not represent the victim.
  - 2. The representative's willingness and ability to do all of the following:
    - (a) Undertake working with and accompanying the minor or vulnerable adult victim through all proceedings, including criminal, civil and dependency proceedings.
    - (b) Communicate with the minor or vulnerable adult victim.
    - (c) Express the concerns of the minor or vulnerable adult victim to those authorized to come in contact with the minor or vulnerable adult as a result of the proceedings.

3. The representative's training, if any, to serve as a minor or vulnerable adult victim's representative.
  4. The likelihood of the representative being called as a witness in the case.
- E. The minor or vulnerable adult victim's representative shall accompany the minor or vulnerable adult through all proceedings, including delinquency, criminal, dependency and civil proceedings, and, before the minor's or vulnerable adult's courtroom appearance, shall explain to the minor or vulnerable adult the nature of the proceedings and what the minor or vulnerable adult will be asked to do, including telling the minor or vulnerable adult that the minor or vulnerable adult is expected to tell the truth. The representative shall be available to observe the minor or vulnerable adult in all aspects of the case in order to consult with the court as to any special needs of the minor or vulnerable adult. Those consultations shall take place before the minor or vulnerable adult testifies. The court may recognize the minor or vulnerable adult victim's representative when the representative indicates a need to address the court. A minor or vulnerable adult victim's representative shall not discuss the facts and circumstances of the case with the minor or vulnerable adult witness, unless the court orders otherwise upon a showing that it is in the best interests of the minor or vulnerable adult.
- F. Any notices that are to be provided to a victim pursuant to this chapter shall be sent only to the victim or the victim's lawful representative.
- G. For the purposes of this section, "vulnerable adult" has the same meaning prescribed in section 13-3623.

**13-4404. Limited rights of a legal entity**

- A. A corporation, partnership, association or other legal entity which, except for its status as an artificial entity, would be included in the definition of victim in section 13-4401, shall be afforded the following rights:
1. The prosecutor shall, within a reasonable time after arrest, notify the legal entity of the right to appear and be heard at any proceeding relating to restitution or sentencing of the person convicted of committing the criminal offense against the legal entity.
  2. The prosecutor shall notify the legal entity of the right to submit to the court a written statement containing information and opinions on restitution and sentencing in its case.
  3. On request, the prosecutor shall notify the legal entity in a timely manner of the date, time and place of any proceeding relating to restitution or sentencing of the person convicted of committing the criminal offense against the legal entity.

4. A lawful representative of the legal entity shall have the right, if present, to be heard at any proceeding relating to the sentencing or restitution of the person convicted of committing the criminal offense against the legal entity.

**13-4405. Information provided to victim by law enforcement agencies**

- A. As soon after the detection of a criminal offense as the victim may be contacted without interfering with an investigation or arrest, the law enforcement agency that has responsibility for investigating the criminal offense shall provide electronic forms, pamphlets, information cards or other materials to the victim:
  1. That allows the victim to request or waive applicable rights to which the victim is entitled, on request, under this article.
  2. That provides the victim a method to designate a lawful representative if the victim chooses pursuant to section 13-4403, subsection A or section 13-4404.
  3. That provides notice to the victim of all of the following information:
    - (a) The victim's right under the victims' bill of rights, article II, section 2.1, Constitution of Arizona, to be treated with fairness, respect and dignity and to be free of intimidation, harassment or abuse throughout the criminal or juvenile justice process.
    - (b) The availability, if any, of crisis intervention services and emergency and medical services and, where applicable, that medical expenses arising out of the need to secure evidence may be reimbursed pursuant to section 13-1414.
    - (c) In cases of domestic violence, the procedures and resources available for the protection of the victim pursuant to section 13-3601.
    - (d) The names and telephone numbers of public and private victim assistance programs, including the county victim compensation program and programs that provide counseling, treatment and other support services.
    - (e) The police report number, if available, other identifying case information and the following statement:
    - (f) If within thirty days you are not notified of an arrest in your case, you may call (the law enforcement agency's telephone number) for the status of the case.
    - (g) Whether the suspect is an adult or juvenile, a statement that the victim will be notified by the law enforcement agency at the earliest opportunity after the arrest of a suspect.
    - (h) If the suspect is an adult and has been arrested, the victim's right, on request, to be informed of the suspect's release, of the next regularly

scheduled time, place and date for initial appearances in the jurisdiction and of the victim's right to be heard at the initial appearance and that, to exercise these rights, the victim is advised to contact the custodial agency regarding the suspect's release and to contact the court regarding any changes to the initial appearance schedule.

- (i) If the victim chooses to exercise the right to be heard through a written statement, how that statement may be submitted to the court.
  - (j) That the victim or the immediate family member of the victim, if the victim is killed or incapacitated, has the right to receive one copy of the police report, including any supplements to the report, from the investigating law enforcement agency at no charge pursuant to section 39-127.
- B. If at the time of contact with a law enforcement agency the victim is physically or emotionally unable to request or waive applicable rights, the law enforcement agency shall designate this in the format that is authorized by subsection A of this section and the entities that may be subsequently affected shall presume that the victim invoked the victim's right to request applicable rights to which the victim is entitled, on request, unless the victim later waives those rights.
- C. The law enforcement agency shall submit a copy of the victim's request or waiver of preconviction rights form to the custodial agency and a copy to the prosecutor if a suspect is arrested, at the time the suspect is taken into custody. If there is no arrest, the form copies shall be submitted to the prosecutor at the time the case is otherwise presented to the prosecutor for review. The prosecutor shall submit a copy of the victim's request or waiver of preconviction rights form to the departments or sections of the prosecutor's office, if applicable, that are mandated by this article to provide victims' rights services on request.
- D. If the suspected offender is cited and released, the law enforcement agency responsible for investigating the offense shall inform the victim of the court date and how to obtain additional information about the subsequent criminal proceedings.
- E. Law enforcement agencies within a county may establish different procedures designed to efficiently and effectively provide notice of the victim's rights pursuant to this section and notice to affected entities of the victim request or waiver information. If different procedures are established, the procedures shall:
- 1. Be reported to the entities within a county affected by the procedures and reported to the attorney general.
  - 2. Be designed so that custodial agencies and prosecutors within a county receive notice of the victim's request or waiver of the victim's preconviction rights at the same time that an adult suspect is arrested.

3. Be designed so that prosecutors within a county receive notice of the victim's request or waiver of the victim's preconviction rights, if there is no arrest, at the same time that the case is otherwise presented to the prosecutor for review.
  4. Provide that the notice to affected entities of a victim's request or waiver of the victim's preconviction rights includes information that affords the affected entity the ability to contact the victim.
  5. Be supported by use of electronic forms, brochures or other written materials that are developed by the law enforcement agencies within a county and reviewed by the attorney general pursuant to section 13-4417, subsection B.
- F. If a suspect has not been arrested at the time of contact with the victim pursuant to subsection A of this section, the law enforcement agency that is responsible for investigating the offense shall notify the victim of the arrest of a suspect at the earliest opportunity after the arrest and of the time, place and date for the initial appearance.

**13-4405.01. Issuance and execution of arrest warrants**

- A. Beginning on the effective date of this section, on the issuance of an arrest warrant, the court issuing the warrant shall state in the warrant whether the person named in the warrant is to be arrested for or is to be charged with committing a criminal offense as defined in section 13-4401 or is materially related to a criminal offense as defined in section 13-4401.
- B. On receipt of notice of an arrest or an impending arrest of a suspect and if applicable pursuant to subsection A of this section, the agency that is responsible for holding the original warrant shall notify the law enforcement agency that was responsible for the original investigation of the offense of the impending incarceration of a suspect who is arrested on the law enforcement agency's warrant.
- C. On receiving notice that the warrant was executed pursuant to subsection B of this section, the law enforcement agency that was responsible for the original investigation of the offense shall do all of the following if the victim has requested notice pursuant to section 13-4405:
  1. Notify the victim of the arrest and of the time, place and date for the initial appearance.
  2. Inform the victim of the telephone number of the custodial agency in which the arrested person is held.
  3. Provide the custodial agency with the victim information pursuant to section 13-4405 so that the custodial agency may notify the victim of the release of the suspect pursuant to section 13-4412, if applicable.

- D. A law enforcement agency is not required to provide victim information pursuant to Section 13-4405, subsections C and E to the custodial agency at the time a suspect is taken into custody unless the law enforcement agency that performs that warrant arrest is also the law enforcement agency that was responsible for the original investigation of the offense.
- E. The victim's right to be informed of an arrest or a release after a suspect is arrested pursuant to a warrant applies to warrants that are issued on or after September 1, 1996.
- F. Law enforcement, courts and custodial agencies are not liable pursuant to section 13-4437 for the failure to inform a victim of the arrest or release of a suspect on warrants that were issued before September 1, 1996.

**13-4406. *Notice of initial appearance***

On becoming aware of the date, time and place of the initial appearance of the accused, the law enforcement agency shall inform the victim of that information unless the accused appeared in response to a summons or writ of habeas corpus. In that case, the prosecutor's office shall, on receiving that information, provide the notice to the victim.

**13-4407. *Notice of terms and conditions of release***

On the request of the victim, the custodial agency shall provide a copy of the terms and conditions of release to the victim unless the accused appeared in response to a summons. In that case, on request of the victim, the prosecutor's office, on receiving such information, shall provide a copy of the terms and conditions of release to the victim. The copy of the terms and conditions of release may be provided to the victim in an electronic form, pamphlet, information card or other material.

**13-4408. *Pretrial notice***

- A. Within seven days after the prosecutor charges a criminal offense by complaint, information or indictment and the accused is in custody or has been served a summons, the prosecutor's office shall give the victim notice of the following:
  - 1. The victim's rights under the victims' bill of rights, article II, section 2.1, Constitution of Arizona, any implementing legislation and court rule.
  - 2. The charge or charges against the defendant and a clear and concise statement of the procedural steps involved in a criminal prosecution.
  - 3. The procedures a victim shall follow to invoke the victim's right to confer with the prosecuting attorney pursuant to section 13-4419.
  - 4. The person within the prosecutor's office to contact for more information.
  - 5. The victim's right to request a preconviction restitution lien pursuant to section 13-806.

- B. Notwithstanding subsection A of this section, if a prosecutor declines to proceed with a prosecution after the final submission of a case by a law enforcement agency at the end of an investigation, the prosecutor, before the decision not to proceed is final, shall notify the victim, whose information has been provided to the prosecutor pursuant to section 13-4405, and provide the victim with the reasons for declining to proceed with the case. The notice shall inform the victim of the victim's right on request to confer with the prosecutor before the decision not to proceed is final. This notice applies only to violations of a state criminal statute.

**13-4409. Notice of criminal proceedings**

- A. Except as provided in subsection B, the court shall provide notice of criminal proceedings, for criminal offenses filed by information, complaint or indictment, except initial appearances and arraignments, to the prosecutor's office at least five days before a scheduled proceeding to allow the prosecutor's office to provide notice to the victim.
- B. If the court finds that it is not reasonable to provide the five days' notice to the prosecutor's office under subsection A, the court shall state in the record why it was not reasonable to provide five days' notice.
- C. On receiving the notice from the court, the prosecutor's office shall, on request, give notice to the victim in a timely manner of scheduled proceedings and any changes in that schedule, including any continuances.

**13-4410. Notice of conviction, acquittal or dismissal; impact statement**

- A. The prosecutor's office, on request, shall give to the victim within fifteen days after the conviction or acquittal or dismissal of the charges against the defendant notice of the criminal offense for which the defendant was convicted or acquitted or the dismissal of the charges against the defendant.
- B. If the defendant is convicted and the victim has requested notice, the victim shall be notified, if applicable, of:
  - 1. The function of the presentence report.
  - 2. The name and telephone number of the probation department that is preparing the presentence report.
  - 3. The right to make a victim impact statement under section 13-4424.
  - 4. The defendant's right to view the presentence report.
  - 5. The victim's right to view the presentence report except those parts excised by the court or made confidential by law and, on request, to receive a copy from the prosecutor.

6. The right to be present and be heard at any presentence or sentencing proceeding pursuant to section 13-4426.
  7. The time, place and date of the sentencing proceeding.
  8. If the court orders restitution, the right to:
  9. File a restitution lien pursuant to section 13-806.
  10. Request a copy of the defendant's restitution payment history from the clerk of the court pursuant to section 13-810 or 31-412.
- C. The victim shall be informed that the victim's impact statement may include the following:
1. An explanation of the nature and extent of any physical, psychological or emotional harm or trauma suffered by the victim.
  2. An explanation of the extent of any economic loss or property damage suffered by the victim.
  3. An opinion of the need for and extent of restitution.
  4. Whether the victim has applied for or received any compensation for the loss or damage.
- D. Notice provided pursuant to this section does not remove the probation department's responsibility pursuant to section 12-253 to initiate the contact between the victim and the probation department concerning the victim's economic, physical, psychological or emotional harm. At the time of contact, the probation department shall advise the victim of the date, time and place of sentencing and of the victim's right to be present and be heard at that proceeding.

**13-4411. Notice of post-conviction review and appellate proceedings**

- A. Within fifteen days after sentencing the prosecutor's office shall, on request, notify the victim of the sentence imposed on the defendant.
- B. The prosecutor's office shall provide the victim with a form that allows the victim to request post-conviction notice of all post-conviction review and appellate proceedings, all post-conviction release proceedings, all probation modification proceedings that impact the victim, all probation revocation or termination proceedings, any decisions that arise out of these proceedings, all releases and all escapes.
- C. The prosecutor's office shall advise the victim on how the completed request form may be filed with the appropriate agencies and departments.
- D. On request of the victim, the prosecutor's office that is responsible for handling any post-conviction or appellate proceedings immediately shall notify the victim of the proceedings and any decisions that arise out of the proceedings.
- E. Beginning December 1, 2007, the supreme court or court of appeals shall send a victim who requests notice pursuant to this section a copy of the memorandum decision or opinion

from the issuing court concurrently with the parties. If the victim is represented by counsel, the notice shall be provided to the victim's counsel.

**13-4411.01. Notice of right to request not to receive inmate mail**

- A. Within fifteen days after a defendant is sentenced to the state department of corrections, the prosecutor's office shall notify the victim of the right of the victim, any member of the victim's family or any member of the victim's household, to request not to receive mail from the inmate who was convicted of committing a criminal offense against the victim. The notice shall:
1. Be made on the postconviction notice request form provided by the prosecutor to the victim pursuant to section 13-4411.
  2. Inform the victim of the right of the victim, or any member of the victim's family or household who is denoted by the victim on the form, to request not to receive mail from the inmate.
  3. Instruct the victim how to file the completed request form with the state department of corrections.
  4. Include the following statement: "If the defendant is incarcerated in the state department of corrections, you have the right to request that the defendant not send you, members of your family or members of the victim's household mail. If the defendant sends you or your family or household members mail after you have made this request, you or the members of your family or household have the right to report the incident to the state department of corrections for sanctions against the defendant."
- B. On receipt of a postconviction notice request form in which a request not to receive inmate mail is indicated, the state department of corrections shall notify the inmate of the request and that sending mail to the victim, or the family or household members who are denoted by the victim, will result in appropriate sanctions, including reduction or denial of earned release credits and review of all outgoing mail.
- C. The department shall not knowingly forward mail addressed to any person who requests not to receive mail, pursuant to this section, is not to receive mail.

**13-4412. Notice of release or escape**

- A. The sheriff or municipal jailer, on request, shall notify the victim and the prosecutor's office of the release of the accused.
- B. The custodial agency shall immediately give notice to a victim and the prosecutor's office of an escape by, and again on the subsequent rearrest of, an incarcerated person who is

accused or convicted of committing a criminal offense against the victim. The custodial agency shall give notice by any reasonable means.

**13-4413. Notice of prisoner's status**

- A. If the victim has made a request for post-conviction notice, the director of the state department of corrections shall mail to the victim the following information about a prisoner in the custody of the department of corrections:
  - 1. Within thirty days after the request, notice of the earliest release date of the prisoner if his sentence exceeds six months.
  - 2. At least fifteen days before the prisoner's release, notice of the release.
  - 3. Within fifteen days after the prisoner's death, notice of the death.
- B. If the victim has made a request for post-conviction notice, the sheriff having custody of the prisoner shall mail to the victim notice of release at least fifteen days before the prisoner's release or notice of death within fifteen days after the prisoner's death.

**13-4414. Notice of postconviction release; right to be heard; hearing; final decision; free electronic recording**

- A. The victim has the right to be present and be heard at any proceeding in which postconviction release from confinement is being considered pursuant to section 31-233, 31-411 or 41-1604.13.
- B. If the victim has made a request for postconviction notice, the board of executive clemency shall, at least fifteen days before the hearing, give to the victim written notice of the hearing and of the victim's right to be present and be heard at the hearing.
- C. If the victim has made a request for postconviction notice, the board of executive clemency shall give to the victim notice of the decision reached by the board. The notice shall be mailed within fifteen days after the board reaches its decision.
- D. Any electronic recordings that are made during a postconviction release hearing shall be provided, on request, to the victim free of charge.

**13-4415. Notice of probation modification, termination or revocation disposition matters; notice of arrest**

- A. On request of a victim who has provided an address or other contact information, the court or, if the case is in the superior court, the probation department shall notify the victim of any of the following:
  - 1. A probation revocation disposition proceeding or any proceeding in which the court is asked to terminate the probation or intensive probation of a person who is convicted of committing a criminal offense against the victim.

2. Any hearing on a proposed modification of the terms of probation or intensive probation.
  3. The arrest of a person who is on supervised probation and who is arrested pursuant to a warrant issued for a probation violation.
- B. On request of a victim who has provided a current address or other current contact information, the court, or if the case is in the superior court, the probation department shall notify the victim of the following:
1. Any proposed modification to any term of probation if the modification affects restitution or incarceration status or the defendant's contact with or the safety of the victim.
  2. The victim's right to be heard at a hearing that is set to consider any modification to be made to any term of probation.
  3. Any violation of any term of probation that results in the filing with the court of a petition to revoke probation.
  4. That a petition to revoke probation alleging that the defendant absconded from probation has been filed with the court.
  5. Any conduct by the defendant that raises a substantial concern for the victim's safety.
- C. If a victim has requested postconviction notice, the court or, if the case is in the superior court, the probation department shall provide notice of that request to the state department of corrections and the board of executive clemency if a defendant's probation is revoked and the defendant is committed to the custody of the state department of corrections.
- D. On the request of a victim, the state department of corrections shall provide the victim with the notices that are required by sections 13-4412 and 13-4413.
- E. On the request of the victim, the board of executive clemency shall provide the victim with the notice that is required by section 13-4414.

**13-4416. Notice of release, discharge or escape from a mental health treatment agency**

- A. If the victim has made a request for notice, a mental health treatment agency shall mail to the victim at least ten days before the release or discharge of the person accused or convicted of committing a criminal offense against the victim, notice of the release or discharge of the person who is placed by court order in a mental health treatment agency pursuant to section 13-3994, 31-226, 31-226.01, 36-540.01, 36-541.01 or 36-3707.
- B. A mental health treatment agency shall mail to the victim immediately after the escape or subsequent readmission of the person accused or convicted of committing a criminal offense against the victim, notice of the escape or subsequent readmission of the person

who is placed by court order in a mental health treatment agency pursuant to section 13-3994, 31-226, 31-226.01, 36-540.01, 36-541.01 or 36-3707.

**13-4417. *Request for notice; forms; notice system***

- A. The victim shall provide to and maintain with the agency that is responsible for providing notice to the victim a request for notice on a form that is provided by that agency or the investigating law enforcement agency. The form shall include a telephone number and address. If the victim fails to keep the victim's telephone number and address current, the victim's request for notice is withdrawn. At any time the victim may request notice of subsequent proceedings by filing on a request form provided by the agency the victim's current telephone number and address.
- B. All notices provided to a victim pursuant to this chapter shall be on forms developed or reviewed by the attorney general.
- C. The court and all agencies that are responsible for providing notice to the victim shall establish and maintain a system for the receipt of victim requests for notice.

**13-4418. *Construction of chapter***

This chapter shall be liberally construed to preserve and protect the rights to which victims are entitled.

**13-4419. *Victim conference with prosecuting attorney***

- A. On request of the victim, the prosecuting attorney shall confer with the victim about the disposition of a criminal offense, including the victim's views about a decision not to proceed with a criminal prosecution, dismissal, plea or sentence negotiations and pretrial diversion programs.
- B. On request of the victim, the prosecuting attorney shall confer with the victim before the commencement of the trial.
- C. The right of the victim to confer with the prosecuting attorney does not include the authority to direct the prosecution of the case.

**13-4420. *Criminal proceedings; right to be present***

The victim has the right to be present throughout all criminal proceedings in which the defendant has the right to be present.

**13-4421. *Initial appearance***

The victim has the right to be heard at the initial appearance of the person suspected of committing the criminal offense against the victim.

**13-4422. *Post-arrest custody decisions***

The victim has the right to be heard at any proceeding in which the court considers the post-arrest release of the person accused of committing a criminal offense against the victim or the conditions of that release.

**13-4423. *Plea negotiation proceedings***

- A. On request of the victim, the victim has the right to be present and be heard at any proceeding in which a negotiated plea for the person accused of committing the criminal offense against the victim will be presented to the court.
- B. The court shall not accept a plea agreement unless:
  - 1. The prosecuting attorney advises the court that before requesting the negotiated plea reasonable efforts were made to confer with the victim pursuant to section 13-4419.
  - 2. Reasonable efforts are made to give the victim notice of the plea proceeding pursuant to section 13-4409 and to inform the victim that the victim has the right to be present and, if present, to be heard.
  - 3. The prosecuting attorney advises the court that to the best of the prosecutor's knowledge notice requirements of this chapter have been complied with and the prosecutor informs the court of the victim's position, if known, regarding the negotiated plea.

**13-4424. *Impact statement; presentence report***

- A. The victim may submit a written impact statement or make an oral impact statement to the probation officer for the officer's use in preparing a presentence report.
- B. The probation officer shall consider the economic, physical and psychological impact that the criminal offense has had on the victim and the victim's immediate family pursuant to section 12-253.

**13-4425. *Inspection of presentence report***

If the presentence report is available to the defendant, the court shall permit the victim to inspect the presentence report, except those parts excised by the court or made confidential by law. If the probation department excises any portion of the presentence report, it shall inform the parties and the victim of its decision and shall state on the record its reasons for the excision. On request of the victim, the prosecutor's office shall provide to the victim a copy of the presentence report.

**13-4426. Sentencing**

- A. The victim may present evidence, information and opinions that concern the criminal offense, the defendant, the sentence or the need for restitution at any aggravation, mitigation, presentencing or sentencing proceeding.
- B. At any disposition proceeding the victim has the right to be present and to address the court.

**13-4426.01. Sentencing; victims' right to be heard**

In any proceeding in which the victim has the right to be heard pursuant to article II, section 2.1, Constitution of Arizona, or this chapter, the victim's right to be heard is exercised not as a witness, the victim's statement is not subject to disclosure to the state or the defendant or submission to the court and the victim is not subject to cross-examination. The state and the defense shall be afforded the opportunity to explain, support or deny the victim's statement.

**13-4427. Probation modification, revocation disposition or termination proceedings**

- A. The victim has the right to be present and be heard at any probation revocation disposition proceeding or any proceeding in which the court is requested to terminate the probation or intensive probation of a person who is convicted of committing a criminal offense against the victim.
- B. The victim has the right to be heard at any proceeding in which the court is requested to modify the terms of probation or intensive probation of a person if the modification will substantially affect the person's contact with or safety of the victim or if the modification involves restitution or incarceration status.

**13-4428. Victim's discretion; form of statement**

- A. It is at the victim's discretion to exercise the victim's rights under this chapter to be present and heard at a court proceeding, and the absence of the victim at the court proceeding does not preclude the court from going forth with the proceeding.
- B. Except as provided in subsection C of this section, a victim's right to be heard may be exercised, at the victim's discretion, through an oral statement, submission of a written statement or submission of a statement through audiotape or videotape or any other video or digital media that is available to the court.
- C. If a person against whom a criminal offense has been committed is in custody for an offense, the person may be heard by submitting a written statement to the court.

**13-4429. Return of victim's property; release of evidence**

- A. On request of the victim and after consultation with the prosecuting attorney, the law enforcement agency responsible for investigating the criminal offense shall return to the victim any property belonging to the victim that was taken during the course of the investigation or shall inform the victim of the reasons why the property will not be returned. The law enforcement agency shall make reasonable efforts to return the property to the victim as soon as possible.
- B. If the victim's property has been admitted as evidence during a trial or hearing, the court may order its release to the victim if a photograph can be substituted. If evidence is released pursuant to this subsection, the defendant's attorney or investigator may inspect and independently photograph the evidence before it is released.

**13-4430. Consultation between crime victim advocate and victim; privileged information; exception**

- A. A crime victim advocate shall not disclose as a witness or otherwise any communication made by or with the victim, including any communication made to or in the presence of others, unless the victim consents in writing to the disclosure.
- B. Unless the victim consents in writing to the disclosure, a crime victim advocate shall not disclose records, notes, documents, correspondence, reports or memoranda that contain opinions, theories or other information made while advising, counseling or assisting the victim or that are based on communications made by or with the victim, including communications made to or in the presence of others.
- C. The communication is not privileged if the crime victim advocate knows that the victim will give or has given perjured testimony or if the communication contains exculpatory evidence.
- D. A defendant may make a motion for disclosure of privileged information. If the court finds there is reasonable cause to believe the material is exculpatory, the court shall hold a hearing in camera. Material that the court finds is exculpatory shall be disclosed to the defendant.
- E. If, with the written or verbal consent of the victim, the crime victim advocate discloses to the prosecutor or a law enforcement agency any communication between the victim and the crime victim advocate or any records, notes, documents, correspondence, reports or memoranda, the prosecutor or law enforcement agent shall disclose such material to the defendant's attorney only if such information is otherwise exculpatory.
- F. Notwithstanding subsections A and B, if a crime victim consents either verbally or in writing, a crime victim advocate may disclose information to other professionals and administrative support persons that the advocate works with for the purpose of assisting the advocate in

providing services to the victim and to the court in furtherance of any victim's right pursuant to this chapter.

**13-4431. *Minimizing victim's contacts***

Before, during and immediately after any court proceeding, the court shall provide appropriate safeguards to minimize the contact that occurs between the victim, the victim's immediate family and the victim's witnesses and the defendant, the defendant's immediate family and defense witnesses.

**13-4432. *Motion to revoke bond or personal recognizance***

If the prosecutor decides not to move to revoke the bond or personal recognizance of the defendant, the prosecutor shall inform the victim that the victim may petition the court to revoke the bond or personal recognizance of the defendant based on the victim's notarized statement asserting that harassment, threats, physical violence or intimidation against the victim or the victim's immediate family by the defendant or on behalf of the defendant has occurred.

**13-4433. *Victim's right to refuse an interview; applicability***

- A. Unless the victim consents, the victim shall not be compelled to submit to an interview on any matter, including any charged criminal offense witnessed by the victim and that occurred on the same occasion as the offense against the victim, or filed in the same indictment or information or consolidated for trial, that is conducted by the defendant, the defendant's attorney or an agent of the defendant.
- B. The defendant, the defendant's attorney or an agent of the defendant shall only initiate contact with the victim through the prosecutor's office. The prosecutor's office shall promptly inform the victim of the defendant's request for an interview and shall advise the victim of the victim's right to refuse the interview.
- C. The prosecutor shall not be required to forward any correspondence from the defendant, the defendant's attorney or an agent of the defendant to the victim or the victim's representative.
- D. If the victim consents to an interview, the prosecutor's office shall inform the defendant, the defendant's attorney or an agent of the defendant of the time and place the victim has selected for the interview. If the victim wishes to impose other conditions on the interview, the prosecutor's office shall inform the defendant, the defendant's attorney or an agent of the defendant of the conditions. The victim has the right to terminate the interview at any time or to refuse to answer any question during the interview. The prosecutor has standing

at the request of the victim to protect the victim from harassment, intimidation or abuse and, pursuant to that standing, may seek any appropriate protective court order.

- E. Unless otherwise directed by the victim, the prosecutor may attend all interviews. If a transcript or tape recording of the interview is made and on request of the prosecutor, the prosecutor shall receive a copy of the transcript or tape recording at the prosecutor's expense.
- F. If the defendant or the defendant's attorney comments at trial on the victim's refusal to be interviewed, the court shall instruct the jury that the victim has the right to refuse an interview under the Arizona Constitution.
- G. This section applies to the parent or legal guardian of a minor child who exercises victims' rights on behalf of the minor child. Notwithstanding subsection E of this section, the defendant, the defendant's attorney or an agent of the defendant may not interview a minor child who has agreed to an interview, even if the minor child's parent or legal guardian initiates contact with the defendant, the defendant's attorney or an agent of the defendant, unless the prosecutor has actual notice at least five days in advance and the minor child is informed that the prosecutor may be present at the interview.
- H. Except in cases involving a dismissal with prejudice or an acquittal, the right of a victim and a victim's representative to refuse an interview, a deposition or any other discovery request related to the criminal case involving the victim by the defendant, the defendant's attorney or any other person acting on behalf of the defendant remains enforceable beyond a final disposition of the charges. This subsection does not require any other right enumerated in article II, section 2.1, Constitution of Arizona, to remain enforceable beyond a final disposition as prescribed in section 13-4402, subsection A.

**13-4434. *Victim's right to privacy; exception; definitions***

- A. The victim has the right at any court proceeding not to testify regarding any identifying or locating information unless the victim consents or the court orders disclosure on finding that a compelling need for the information exists. A court proceeding on the motion shall be in camera.
- B. A victim's identifying and locating information that is obtained, compiled or reported by a law enforcement agency or prosecution agency shall be redacted by the originating agency and prosecution agencies from records pertaining to the criminal case involving the victim, including discovery disclosed to the defendant, the defendant's attorney or any of the attorney's staff.
- C. Subsection B of this section does not apply to:
  - 1. The victim's name except, if the victim is a minor, the victim's name may be redacted from public records pertaining to the crime if the countervailing interests

of confidentiality, privacy, the rights of the minor or the best interests of this state outweigh the public interest in disclosure.

2. Any records that are transmitted between law enforcement and prosecution agencies or a court.
  3. Any records if the victim or, if the victim is a minor, the victim's representative as designated under section 13-4403 has consented to the release of the information.
  4. The general location at which the reported crime occurred.
- D. For the purposes of this section:
1. "Identifying information" includes a victim's date of birth, social security number and official state or government issued driver license or identification number.
  2. "Locating information" includes the victim's address, telephone number, e-mail address and place of employment.

**13-4435. *Speedy trial; continuance; notice***

- A. In any criminal proceeding, the court, prosecutor and law enforcement officials shall take appropriate action to ensure a speedy trial for the victim.
- B. The prosecutor shall make reasonable efforts to notify a victim of any request for a continuance, except that if the victim is represented by counsel who has filed a notice of appearance, the court, if the request for a continuance is in writing, shall make reasonable efforts to notify the victim's counsel in the same manner in which a party is notified.
- C. A motion to continue shall be in writing unless the court makes a finding on the record that exigent circumstances exist to permit an oral motion.
- D. The court shall grant a continuance only if extraordinary circumstances exist and the delay is indispensable to the interests of justice. A continuance may be granted only for the time necessary to serve the interests of justice.
- E. Subsections B, C and D do not apply to justice of the peace and municipal courts.
- F. Before ruling on a motion for a continuance, the court shall consider the victim's views and the victim's right to a speedy trial. If a continuance is granted, the court shall state on the record the specific reason for the continuance.

**13-4436. *Effect of failure to comply***

- A. The failure to comply with a victim's constitutional or statutory right is a ground for the victim to request a reexamination proceeding within ten days of the proceeding at which the victim's right was denied or with leave of the court for good cause shown. After the victim requests a reexamination proceeding and after the court gives reasonable notice, the court shall afford the victim a reexamination proceeding to consider the issues raised by the denial of the victim's right. Except as provided in subsection B, the court shall reconsider

any decision that arises from a proceeding in which the victim's right was not protected and shall ensure that the victim's rights are thereafter protected.

- B. The failure to use reasonable efforts to perform a duty or provide a right is not cause to seek to set aside a conviction after trial. Failure to afford a right under this chapter shall not provide grounds for a new trial. A victim who was given notice of a plea or sentencing proceeding may make a motion to reopen a plea or sentence only if the victim was not voluntarily absent from the proceeding and has asserted the right to be heard before or during the proceeding at issue and the right to be heard was denied and, in the case of a plea, the accused has not pled to the highest offense charged. This subsection does not affect the victim's right to restitution, which the victim may seek to enforce at any time.
- C. Unless the prisoner is discharged from the prisoner's sentence, the failure to use reasonable efforts to provide notice and a right to be present or be heard pursuant to this chapter at a proceeding that involves a post-conviction release is a ground for the victim to seek to set aside the post-conviction release until the victim is afforded the opportunity to be present or be heard.
- D. If the victim seeks to have a post-conviction release set aside pursuant to subsection C, the court, board of executive clemency or state department of corrections shall afford the victim a reexamination proceeding after the parties are given notice.
- E. A reexamination proceeding conducted pursuant to this section or any other proceeding that is based on the failure to perform a duty or provide a right shall commence not more than thirty days after the appropriate parties have been given notice that the victim is exercising the right to a reexamination proceeding pursuant to this section or to another proceeding based on the failure to perform a duty or provide a right.

**13-4437. *Standing to invoke rights; recovery of damages; right to counsel***

- A. The rights enumerated in the victims' bill of rights, article II, section 2.1, Constitution of Arizona, any implementing legislation or court rules belong to the victim. The victim has standing to seek an order, to bring a special action or to file a notice of appearance in a trial court or an appellate proceeding, seeking to enforce any right or to challenge an order denying any right guaranteed to victims. A victim may not be charged a filing fee to file a special action or to seek an order pursuant to this subsection. In asserting any right, the victim has the right to be represented by personal counsel at the victim's expense and the proceedings may be initiated by the victim's counsel or the prosecutor.
- B. A victim has the right to recover damages from a governmental entity responsible for the intentional, knowing or grossly negligent violation of the victim's rights under the victims' bill of rights, article II, section 2.1, Constitution of Arizona, any implementing legislation or

court rules. Nothing in this section alters or abrogates any provision for immunity provided for under common law or statute.

- C. At the request of the victim, the prosecutor may assert any right to which the victim is entitled.
- D. On the filing of a notice of appearance, counsel for the victim shall be endorsed on all pleadings and, if present, be included in all bench conferences and in chambers meetings and sessions with the trial court that directly involve a victim's right enumerated in article II, section 2.1, Constitution of Arizona.
- E. Notwithstanding any other law and without limiting any rights and powers of the victim, the victim has the right to present evidence or information and to make an argument to the court, personally or through counsel, at any proceeding to determine the amount of restitution pursuant to section 13-804.

**13-4438. *Statement of rights***

In order to assure that any victim who comes before the court has been advised of the victim's constitutional rights, the following statement shall be prominently posted in each superior, justice of the peace and municipal court in this state and shall be read out loud by a judge of the superior court at the daily commencement of the regular criminal docket at which accused persons are arraigned, appear for a status conference, make a change of plea or are sentenced:

If you are the victim of a crime with a case pending before this court, you are advised that you have rights to justice and due process under Arizona law that, among others, include the right to be treated with fairness, respect and dignity, to a speedy trial and a prompt and final conclusion of the case, to be present at court proceedings, to choose whether or not to be interviewed by the defendant or the defendant's attorney, to be heard before the court makes a decision on release, negotiation of a plea, scheduling and sentencing and to receive restitution from a person who is convicted of causing your loss. If you have not already been provided with a written statement of all victims' rights, please contact the victim services division of the prosecutor's office.

**13-4439. *Right to leave work; scheduled proceedings; counseling; employment rights; nondiscrimination; confidentiality; definition***

- A. An employer who has fifty or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of that employer, shall allow an employee who is a victim of a crime to leave work to:
  - 1. Exercise the employee's right to be present at a proceeding pursuant to sections 13-4414, 13-4420, 13-4421, 13-4422, 13-4423, 13-4426, 13-4427 and 13-4436.

2. Obtain or attempt to obtain an order of protection, an injunction against harassment or any other injunctive relief to help ensure the health, safety or welfare of the victim or the victim's child.
- B. An employer may not dismiss an employee who is a victim of a crime because the employee exercises the right to leave work pursuant to subsection A of this section.
  - C. An employer is not required to compensate an employee who is a victim of a crime when the employee leaves work pursuant to subsection A of this section.
  - D. If an employee leaves work pursuant to subsection A of this section, the employee may elect to use or an employer may require the employee to use the employee's accrued paid vacation, personal leave or sick leave.
  - E. An employee who is a victim of a crime shall not lose seniority or precedence while absent from employment pursuant to subsection A of this section.
  - F. Before an employee may leave work pursuant to subsection A of this section, the employee shall do all of the following:
    1. Provide the employer with a copy of the form provided to the employee by the law enforcement agency pursuant to section 13-4405, subsection A, the information the law enforcement agency provides to the employee pursuant to section 13-4405, subsection E, a court order the employee is subject to or any other proper documentation.
    2. If applicable, give the employer a copy of the notice of each scheduled proceeding that is provided to the victim by the agency that is responsible for providing notice to the victim.
  - G. It is unlawful for an employer or an employer's agent to refuse to hire or employ, to bar or to discharge from employment or to discriminate against an individual in compensation or other terms, conditions or privileges of employment because the individual exercises the right to leave work pursuant to subsection A of this section.
  - H. Employers shall keep confidential records regarding the employee's leave pursuant to this section.
  - I. An employer may limit the leave provided under this section if the employee's leave creates an undue hardship to the employer's business.
  - J. The prosecutor shall inform the victim of the victim's rights pursuant to this section. A victim may notify the prosecutor if exercising the victim's right to leave under this section would create an undue hardship for the victim's employer. The prosecutor shall communicate the notice to the court during the scheduling of proceedings where the victim has the right to be present. The court shall continue to take the victim's schedule into consideration when scheduling a proceeding pursuant to subsection A of this section.

- K. For the purposes of this section, "undue hardship" means a significant difficulty and expense to a business and includes the consideration of the size of the employer's business and the employer's critical need of the employee.

**13-4440. Notice of petition of factual innocence; right to be heard; hearing**

- A. The victim has the right to be present and be heard at any proceeding in which a person's factual innocence is being considered pursuant to section 12-771.
- B. The prosecuting agency shall provide written notice of the following to the victim:
  - 1. The date, time and location of the hearing.
  - 2. The victim's right to be present and be heard at the hearing.
- C. If the court makes a determination of factual innocence pursuant to section 12-771, the prosecuting agency shall provide the victim with a copy of the court order within fifteen days after the order is entered.

**13-4441. Right to be heard on a petition to restore the right to possess a firearm; notice**

- A. A victim has the right to be present and be heard at any proceeding in which the defendant has filed a petition pursuant to section 13-925 to restore the defendant's right to possess a firearm.
- B. If the victim has made a request for postconviction notice, the attorney for the state shall provide notice to the victim at least five days before the hearing.

**13-4442. Use of a facility dog in court proceedings; definition**

- A. The court shall allow a victim who is under eighteen years of age to have a facility dog, if available, accompany the victim while testifying in court. A party seeking the use of a facility dog must file a notice with the court that includes the certification of the facility dog, the name of the person or entity who certified the dog and evidence that the facility dog is insured.
- B. The court may allow a victim who is eighteen years of age or more or a witness to use a facility dog.
- C. To ensure that the presence of a facility dog assisting a victim, or a witness does not influence the jury or is not a reflection on the truthfulness of any testimony that is offered by the victim or witness, the court shall instruct the jury on the role of the facility dog and that the facility dog is a trained animal.
- D. For the purposes of this section, "facility dog" means a dog that is a graduate of an assistance dog organization that is a member of an organization or entity whose main purpose is to improve the areas of training, placement and utilization of assistance dogs,

staff and volunteer education and to establish and promote standards of excellence in all areas of assistance dog acquisition, training and partnership.

**13-4443. *Notice of available civil remedies***

To preserve and protect the rights of crime victims to justice, due process and other rights established for victims, it is the policy of this state that, following the final disposition of any criminal proceeding, the court may notify the victim that civil remedies may be available pursuant to section 12-514, if applicable.

**ARIZONA REVISED STATUTES**

**Other Victim-Related Statutes**

**12-1809. *Injunction against harassment; petition; venue; fees; notices; enforcement; definition***

- A. A person may file a verified petition with a magistrate, justice of the peace or superior court judge for an injunction prohibiting harassment. If the person is a minor, the parent, legal guardian or person who has legal custody of the minor shall file the petition unless the court determines otherwise. The petition shall name the parent, guardian or custodian as the plaintiff, and the minor is a specifically designated person for the purposes of subsection F of this section. If a person is either temporarily or permanently unable to request an injunction, a third party may request an injunction on behalf of the plaintiff. After the request, the judicial officer shall determine if the third party is an appropriate requesting party for the plaintiff. Notwithstanding the location of the plaintiff or defendant, any court in this state may issue or enforce an injunction against harassment.
- B. An injunction against harassment shall not be granted:
  - 1. Unless the party who requests the injunction files a written verified petition for injunction.
  - 2. Against a person who is less than twelve years of age unless the injunction is granted by the juvenile division of the superior court.
  - 3. Against more than one defendant.
- C. The petition shall state all of the following:
  - 1. The name of the plaintiff. The plaintiff's address and contact information shall be disclosed to the court for purposes of service and notification. The address and contact information shall not be listed on the petition. Whether or not the court issues an injunction against harassment, the plaintiff's address and contact information shall be maintained in a separate document or automated database and is not subject to release or disclosure by the court or any form of public access except as ordered by the court.
  - 2. The name and address, if known, of the defendant.
  - 3. A specific statement showing events and dates of the acts constituting the alleged harassment.
  - 4. The name of the court in which there was or is any prior or pending proceeding or order concerning the conduct that is sought to be restrained.
  - 5. The relief requested.
- D. A fee shall not be charged for filing a petition under this section. Fees for service of process may be deferred or waived under any rule or law applicable to civil actions, except that fees

for service of process shall not be charged if the petition arises out of a dating relationship or sexual violence as defined in section 23-371. The court shall advise a plaintiff that the plaintiff may be eligible for the deferral or waiver of these fees at the time the plaintiff files a petition. The court shall not require the plaintiff to perform community restitution as a condition of the waiver or deferral of fees for service of process. A law enforcement agency or constable shall not require the advance payment of fees for service of process of injunctions against harassment. If the court does not waive the fees, the serving agency may assess the actual fees against the plaintiff. On request of the plaintiff, an injunction against harassment that is issued by a municipal court may be served by the police agency for that city if the defendant can be served within the city. If the defendant cannot be served within the city, the police agency in the city in which the defendant can be served may serve the injunction. On request of the plaintiff, each injunction against harassment that is issued by a justice of the peace shall be served by the constable for that jurisdiction if the defendant can be served within the jurisdiction. If the defendant cannot be served within that jurisdiction, the constable in the jurisdiction in which the defendant can be served shall serve the injunction. On request of the plaintiff, an injunction against harassment that is issued by a superior court judge or commissioner may be served by the sheriff of the county. If the defendant cannot be served within that jurisdiction, the sheriff in the jurisdiction in which the defendant can be served may serve the order. The court shall provide, without charge, forms for purposes of this section for assisting parties without counsel.

- E. The court shall review the petition, any other pleadings on file and any evidence offered by the plaintiff, including any evidence of harassment by electronic contact or communication, to determine whether the injunction requested should issue without a further hearing. Rules 65(a)(1) and 65(e) of the Arizona rules of civil procedure do not apply to injunctions that are requested pursuant to this section. If the court finds reasonable evidence of harassment of the plaintiff by the defendant during the year preceding the filing of the petition or that good cause exists to believe that great or irreparable harm would result to the plaintiff if the injunction is not granted before the defendant or the defendant's attorney can be heard in opposition and the court finds specific facts attesting to the plaintiff's efforts to give notice to the defendant or reasons supporting the plaintiff's claim that notice should not be given, the court shall issue an injunction as provided in subsection F of this section. If the court denies the requested relief, it may schedule a further hearing within ten days with reasonable notice to the defendant. For the purposes of determining the one year period, any time that the defendant has been incarcerated or out of this state shall not be counted.
- F. If the court issues an injunction, the court may do any of the following:

1. Enjoin the defendant from committing a violation of one or more acts of harassment.
  2. Restrain the defendant from contacting the plaintiff or other specifically designated persons and from coming near the residence, place of employment or school of the plaintiff or other specifically designated locations or persons.
  3. Grant relief necessary for the protection of the alleged victim and other specifically designated persons proper under the circumstances.
- G. The court shall not grant a mutual injunction against harassment. If opposing parties separately file verified petitions for an injunction against harassment, the courts after consultation between the judicial officers involved may consolidate the petitions of the opposing parties for hearing. This does not prohibit a court from issuing cross injunctions against harassment.
- H. At any time during the period during which the injunction is in effect, the defendant is entitled to one hearing on written request. No fee may be charged for requesting a hearing. A hearing that is requested by a defendant shall be held within ten days from the date requested unless the court finds compelling reasons to continue the hearing. The hearing shall be held at the earliest possible time. An *ex parte* injunction that is issued under this section shall state on its face that the defendant is entitled to a hearing on written request and shall include the name and address of the judicial office where the request may be filed. After the hearing, the court may modify, quash or continue the injunction.
- I. The injunction shall include the following statement:  
Warning  
This is an official court order. If you disobey this order, you may be arrested and prosecuted for the crime of interfering with judicial proceedings and any other crime you may have committed in disobeying this order.
- J. An injunction that is not served on the defendant within one year after the date that the injunction is issued expires. The injunction is effective on the defendant on service of a copy of the injunction and petition and expires one year after service on the defendant. A modified injunction is effective on service and expires one year after service of the initial injunction and petition.
- K. A supplemental information form that is used solely for the purposes of service of process on the defendant and that contains information provided by the plaintiff is confidential.
- L. Each affidavit, declaration, acceptance or return of service shall be filed as soon as practicable but not later than seventy-two hours, excluding weekends and holidays, with the clerk of the issuing court or as otherwise required by court rule. This filing shall be completed in person, electronically or by fax. Within twenty-four hours after the affidavit,

declaration, acceptance or return of service has been filed, excluding weekends and holidays, the court from which the injunction or any modified injunction was issued shall register the injunction with the national crime information center. The supreme court shall maintain a central repository for injunctions so that the existence and validity of the injunctions can be easily verified. The effectiveness of an injunction does not depend on its registration, and for enforcement purposes pursuant to section 13-2810, a copy of an injunction, whether or not registered, is presumed to be a valid existing order of the court for a period of one year from the date of service of the injunction on the defendant.

- M. A peace officer, with or without a warrant, may arrest a person if the peace officer has probable cause to believe that the person has violated section 13-2810 by disobeying or resisting an injunction that is issued pursuant to this section, whether or not the violation occurred in the presence of the officer. The provisions for release under section 13-3903 do not apply to an arrest made pursuant to this subsection. A person who is arrested pursuant to this subsection may be released from custody in accordance with the Arizona rules of criminal procedure or any other applicable statute. An order for release, with or without an appearance bond, shall include pretrial release conditions that are necessary to provide for the protection of the alleged victim and other specifically designated persons and may provide for additional conditions that the court deems appropriate, including participation in any counseling programs available to the defendant.
- N. If a peace officer responds to a call alleging that harassment has been or may be committed, the officer shall inform in writing any alleged or potential victim of the procedures and resources available for the protection of the victim including:
  - 1. An injunction pursuant to this section.
  - 2. The emergency telephone number for the local police agency.
  - 3. Telephone numbers for emergency services in the local community.
- O. The remedies provided in this section for enforcement of the orders of the court are in addition to any other civil and criminal remedies available. The municipal court and the justice court may hear and decide all matters arising pursuant to this section. After a hearing with notice to the affected party, the court may enter an order requiring any party to pay the costs of the action, including reasonable attorney fees, if any. An order that is entered by a justice court or municipal court after a hearing pursuant to this section may be appealed to the superior court as provided in title 22, chapter 2, article 4, section 22-425, subsection B and the superior court rules of civil appellate procedure without regard to an amount in controversy. No fee may be charged to either party for filing an appeal.
- P. A peace officer who makes an arrest pursuant to this section is not civilly or criminally liable for the arrest if the officer acts on probable cause and without malice. A peace officer is not civilly liable for noncompliance with subsection N of this section.

- Q. This section does not apply to preliminary injunctions issued pursuant to an action for dissolution of marriage or legal separation or for protective orders against domestic violence.
- R. In addition to the persons who are authorized to serve process pursuant to rule 4(d), Arizona rules of civil procedure, a peace officer or a correctional officer as defined in section 41-1661 who is acting in the officer's official capacity may serve an injunction against harassment that is issued pursuant to this section.
- S. For the purposes of this section, "harassment":
  - 1. Means any of the following:
    - (a) A series of acts over any period of time that is directed at a specific person and that would cause a reasonable person to be seriously alarmed, annoyed or harassed and the conduct in fact seriously alarms, annoys or harasses the person and serves no legitimate purpose.
    - (b) One or more acts of sexual violence as defined in section 23-371.
    - (c) Any contact if the person is the victim of a crime that was committed by the defendant. For the purposes of this subdivision, "crime" means a conviction for an offense, whether completed or preparatory, that is a dangerous offense as defined in section 13-105, a serious offense or violent or aggravated felony as defined in section 13-706 or any offense in Title 13, Chapter 14 or 35.1.
  - 2. Includes unlawful picketing, trespassory assembly, unlawful mass assembly, concerted interference with lawful exercise of business activity and engaging in a secondary boycott as defined in section 23-1321 and defamation in violation of section 23-1325.

**12-511. Civil action arising from criminal conduct; definitions**

- A. Notwithstanding sections 12-505 and 12-542, if a defendant is charged by a criminal complaint or indictment the statute of limitations for any civil cause of action that is brought by a victim against the defendant for criminal conduct against the victim is extended for one year from the final disposition of the criminal proceedings, regardless of whether the defendant is convicted of criminal conduct against the victim.
- B. There is no duty under a policy of insurance to defend or indemnify for any loss resulting from criminal conduct if the civil action is not commenced within the time period that would be applicable without any tolling or extension of the statute of limitations pursuant to this section.

- C. This section does not toll or extend any statute of limitations applicable to a civil cause of action brought against the employer or former employer of any defendant who is subject to this section.
- D. This section does not shorten any other applicable tolling provisions.
- E. In any action brought pursuant to this section, the standard of proof is by the preponderance of the evidence.
- F. This section applies to all cases in which the victim files a civil action within one year after the final disposition of the defendant's criminal proceedings, regardless of when the defendant committed the criminal conduct.
- G. For the purposes of this section:
  - 1. "Civil cause of action" means any civil claim that the victim could have brought against the defendant for criminal conduct committed against the victim regardless of whether any of these incidents was criminally prosecuted.
  - 2. "Criminal conduct":
    - (a) Means any act, including all preparatory offenses, in violation of section 13-1103, 13-1104, 13-1105, 13-1202, 13-1203, 13-1204, 13-1208, 13-1304, 13-1404, 13-1405, 13-1406, 13-1410, 13-1417, 13-2314.04, 13-2915, 13-2916, 13-2921, 13-2921.01, 13-3019, 13-3552, 13-3553, 13-3554, 13-3601 or 13-3601.02.
    - (b) Includes any act involving sexual assault of a spouse that was committed before the effective date of this amendment to this section.
  - 3. "Defendant" means a natural person.
  - 4. "Final disposition" has the same meaning prescribed in sections 8-382 and 13-4401.
  - 5. "Victim" has the same meaning prescribed in sections 8-382 and 13-4401.

**13-805. Jurisdiction**

- A. The trial court shall retain jurisdiction of the case as follows:
  - 1. Subject to paragraph 2 of this subsection, for purposes of ordering, modifying and enforcing the manner in which court-ordered payments are made until paid in full or until the defendant's sentence expires.
  - 2. For all restitution orders in favor of a victim, including liens and criminal restitution orders, for purposes of ordering, modifying and enforcing the manner in which payments are made until paid in full.
- B. At the time the defendant is ordered to pay restitution by the court, the court may enter a criminal restitution order in favor of each person who is entitled to restitution for the unpaid balance of any restitution order. A criminal restitution order does not affect any other monetary obligation imposed on the defendant pursuant to law.

- C. At the time the defendant completes the defendant's period of probation or the defendant's sentence or the defendant absconds from probation or the defendant's sentence, the court shall enter both:
  - 1. A criminal restitution order in favor of the state for the unpaid balance, if any, of any fines, costs, incarceration costs, fees, surcharges or assessments imposed.
  - 2. A criminal restitution order in favor of each person entitled to restitution for the unpaid balance of any restitution ordered, if a criminal restitution order is not issued pursuant to subsection B of this section.
- D. The clerk of the court shall notify each person who is entitled to restitution of the criminal restitution order.
- E. A criminal restitution order may be recorded and is enforceable as any civil judgment, except that a criminal restitution order does not require renewal pursuant to section 12-1611 or 12-1612. Enforcement of a criminal restitution order by any person or by the state on behalf of any person who is entitled to restitution includes the collection of interest that accrues at a rate of ten percent a year. Enforcement of a criminal restitution order by the state includes the collection of interest that accrues at a rate of four percent a year. A criminal restitution order does not expire until paid in full. A filing fee, a recording fee or any other charge is not required for recording a criminal restitution order.
- F. All monies paid pursuant to a criminal restitution order entered by the court shall be paid to the clerk of the court.
- G. Monies received as a result of a criminal restitution order entered pursuant to this section shall be distributed in the following order of priority:
  - 1. Restitution ordered that is reduced to a criminal restitution order.
  - 2. Associated interest.
- H. The interest accrued pursuant to subsection E of this section does not apply to fees imposed for collection of the court ordered payments.
- I. A criminal restitution order is a criminal penalty for the purposes of a federal bankruptcy involving the defendant.

**13-901. Probation**

- A. If a person who has been convicted of an offense is eligible for probation, the court may suspend the imposition or execution of sentence and, if so, shall without delay place the person on intensive probation supervision pursuant to section 13-913 or supervised or unsupervised probation on such terms and conditions as the law requires and the court deems appropriate, including participation in any programs authorized in title 12, chapter 2, article 11. If a person is not eligible for probation, imposition or execution of sentence shall not be suspended or delayed. If the court imposes probation, it may also impose a fine as

authorized by chapter 8 of this title. If probation is granted the court shall impose a condition that the person waive extradition for any probation revocation procedures and it shall order restitution pursuant to section 13-603, subsection C where there is a victim who has suffered economic loss. When granting probation to an adult the court, as a condition of probation, shall assess a monthly fee of not less than \$65 unless, after determining the inability of the probationer to pay the fee, the court assesses a lesser fee. This fee is not subject to any surcharge. In justice and municipal courts the fee shall only be assessed when the person is placed on supervised probation. For persons placed on probation in the superior court, the fee shall be paid to the clerk of the superior court and the clerk of the court shall pay all monies collected from this fee to the county treasurer for deposit in the adult probation services fund established by section 12-267. For persons placed on supervised probation in the justice court, the fee shall be paid to the justice court and the justice court shall transmit all of the monies to the county treasurer for deposit in the adult probation services fund established by section 12-267. For persons placed on supervised probation in the municipal court, the fee shall be paid to the municipal court. The municipal court shall transmit all of the monies to the city treasurer who shall transmit the monies to the county treasurer for deposit in the adult probation services fund established by section 12-267. Any amount assessed pursuant to this subsection shall be used to supplement monies used for the salaries of adult probation and surveillance officers and for support of programs and services of the superior court adult probation departments.

- B. The period of probation shall be determined according to section 13-902, except that if a person is released pursuant to section 31-233, subsection B and community supervision is waived pursuant to section 13-603, subsection K, the court shall extend the period of probation by the amount of time the director of the state department of corrections approves for the inmate's temporary release.
- C. The court, in its discretion, may issue a warrant for the rearrest of the defendant and may modify or add to the conditions or, if the defendant commits an additional offense or violates a condition, may revoke probation in accordance with the rules of criminal procedure at any time before the expiration or termination of the period of probation. If the court revokes the defendant's probation and the defendant is serving more than one probationary term concurrently, the court may sentence the person to terms of imprisonment to be served consecutively.
- D. At any time during the probationary term of the person released on probation, any probation officer, without warrant or other process and at any time until the final disposition of the case, may rearrest any person and bring the person before the court.
- E. The court, on its own initiative or on application of the probationer, after notice and an opportunity to be heard for the prosecuting attorney and, on request, the victim, may

terminate the period of probation or intensive probation and discharge the defendant at a time earlier than that originally imposed if in the court's opinion the ends of justice will be served and if the conduct of the defendant on probation warrants it. On the petition of the victim pursuant to section 12-1809 and before the court terminates the period of probation or intensive probation early, the court after hearing from the victim shall determine whether to prohibit the defendant from contacting the victim and, if necessary, issue an injunction against harassment against the defendant. If the court issues an injunction against harassment, the injunction must be served on the defendant before terminating the period of probation or intensive probation.

- F. When granting probation the court may require that the defendant be imprisoned in the county jail at whatever time or intervals, consecutive or nonconsecutive, the court shall determine, within the period of probation, as long as the period actually spent in confinement does not exceed one year or the maximum period of imprisonment permitted under chapter 7 of this title, whichever is the shorter.
- G. If the defendant is placed on lifetime probation and has served one year in the county jail as a term of probation, the court may require that the defendant be additionally imprisoned in the county jail at whatever time or intervals, consecutive or nonconsecutive, the court shall determine, within the period of probation if the defendant's probation is revoked by the court and the defendant is subsequently reinstated on probation. The period actually spent in confinement as a term of being reinstated on probation shall not exceed one year or when including the initial one year period of incarceration imposed as a term of probation, the maximum period of imprisonment permitted under chapter 7 of this title, whichever is shorter.
- H. If restitution is made a condition of probation, the court shall fix the amount of restitution and the manner of performance pursuant to chapter 8 of this title.
- I. When granting probation, the court shall set forth at the time of sentencing and on the record the factual and legal reasons in support of each sentence.
- J. If the defendant meets the criteria set forth in section 13-901.01 or 13-3422, the court may place the defendant on probation pursuant to either section. If a defendant is placed on probation pursuant to section 13-901.01 or 13-3422, the court may impose any term of probation that is authorized pursuant to this section and that is not in violation of section 13-901.01.

**13-905. *Setting aside judgment of convicted person on discharge; application; release from disabilities; firearm possession; exceptions***

- A. Except as provided in subsection K of this section, every person convicted of a criminal offense, on fulfillment of the conditions of probation or sentence and discharge by the

court, may apply to the court to have the judgment of guilt set aside. The convicted person shall be informed of this right at the time of sentencing. The court may issue an order that includes a certificate of second chance to a person whose judgement of guilt is set aside pursuant to Subsection K or L of this section.

- B. The person or the person's attorney or probation officer may apply to set aside the judgment. The clerk of the court may not charge a filing fee for an application to have a judgment of guilt set aside.
- C. The court shall consider the following factors when determining whether to set aside the conviction:
  - 1. The nature and circumstances of the offense that the conviction is based on.
  - 2. The applicant's compliance with the conditions of probation, the sentence imposed and any state department of corrections' rules or regulations, if applicable.
  - 3. Any prior or subsequent convictions.
  - 4. The victim's input and the status of victim restitution, if any.
  - 5. The length of time that has elapsed since the completion of the applicant's sentence.
  - 6. The applicant's age at the time of the conviction.
  - 7. Any other factor that is relevant to the application.
- D. If the application is granted, the court shall set aside the judgment of guilt, dismiss the complaint, information or indictment and order that the person be released from all penalties and disabilities resulting from the conviction except those imposed by:
  - 1. The department of transportation pursuant to section 28-3304, 28-3305, 28-3306, 28-3307, 28-3308, 28-3312 or 28-3319.
  - 2. The game and fish commission pursuant to section 17-314 or 17-340.
- E. A conviction that is set aside may be:
  - 1. Used as a conviction if the conviction would be admissible had it not been set aside.
  - 2. Alleged as an element of an offense.
  - 3. Used as a prior conviction.
  - 4. Pleaded and proved in any subsequent prosecution of the person by this state or any political subdivision of this state for any offense.
  - 5. Used by the department of transportation in enforcing section 28-3304, 28-3305, 28-3306, 28-3307, 28-3308, 28-3312 or 28-3319 as if the judgment of guilt had not been set aside.
- F. The clerk of the court must notify the department of public safety if a conviction is set aside. The department of public safety must update the person's criminal history with an annotation that the conviction has been set aside and, if applicable, a certificate of second chance has been issued but may not redact or remove any part of the person's record.
- G. This section does not:

1. Require a law enforcement agency to redact or remove a record or information from the record of a person whose conviction is set aside.
  2. Preclude the department of public safety or the board of fingerprinting from considering a conviction that has been set aside when evaluating an application for a fingerprint clearance card pursuant to section 41-1758.03 or 41-1758.07.
- H. If the state or the victim objects to an application to have a judgement of guilt set aside, an objection to the application must be filed within thirty days after the application is filed with the court, If an objection is filed, the court may set a hearing.
- I. If the court denies an application to have a judgment of guilt set aside, the court shall state its reasons for the denial in writing and on the record.
- J. A victim has the right to be present and be heard at any proceeding in which the defendant has filed an application to have a judgment of guilt set aside pursuant to this section. If the victim has made a request for postconviction notice, the attorney for the state shall provide the victim with notice of the defendant's application, whether the person is eligible for a certificate of second chance and of the rights provided to the victim in this section.
- K. If the court grants the application to set aside the judgement of guilt, the court's order must include a certificate of second chance if the person has not previously received a certificate of second chance and the person was convicted of a misdemeanor, if the person was convicted of a class 4, 5, or 6 felony and at least two years have elapsed since the person fulfilled the conditions of probation or sentence or if the person was convicted of a class 2 or 3 felony and at least five years have elapsed since the person fulfilled the conditions of probation or sentence. The certificate of second chance:
1. Unless specifically excluded by this section, releases the person from all barriers and disabilities in obtaining an occupational license issued under Title 32 that resulted from the conviction if the person is otherwise qualified.
  2. Provides an employer of the person with all of the protections that are provided pursuant to Section 12-558.03.
  3. Provides another person or an entity that provides housing to the person with all of the protections limiting the introduction of evidence that are provided to an employer pursuant to Section 12/558.03, Subsection B.
  4. Is not a recommendation or sponsorship for or a promotion of the person who possess the certificate of second chance when applying for an occupational license, employment, or housing.
- L. If the court does not issue an order that includes a certificate of second chance when the person's conviction is set aside, the person may apply to the court for a certificate of second chance after meeting the requirements prescribed in Subsection K of this section. If a victim has made a request for postconviction notice, the attorney for the state shall

provide the victim with notice of the person's application for a certificate of second chance and the victim's rights under this section.

- M. Notwithstanding section 13-910, if a conviction is set aside, the person's right to possess a firearm is restored. This subsection does not apply to a person who was convicted of a serious offense as defined in section 13-706.
- N. This section does not apply to a person who was convicted of any of the following:
  - 1. A dangerous offense.
  - 2. An offense for which the person is required or ordered by the court to register pursuant to section 13-3821.
  - 3. An offense for which there has been a finding of sexual motivation pursuant to section 13-118.
  - 4. A felony offense in which the victim is a minor under fifteen years of age.
  - 5. An offense in violation of section 28-3473, any local ordinance relating to stopping, standing or operation of a vehicle or title 28, chapter 3, except a violation of section 28-693 or any local ordinance relating to the same subject matter as section 28-693.

**13-911. Sealing of arrest, conviction and sentencing records; requirements; fee; appeal; definition**

- A. A person may file a petition to seal all case records related to a criminal offense if the person was:
  - 1. Convicted of a criminal offense and has completed all of the terms and conditions of the sentence that was imposed by the court, including the payment of all monetary obligations and restitution to all victims.
  - 2. Charged with a criminal offense and the charge was subsequently dismissed or resulted in a not guilty verdict at a trial.
  - 3. Arrested for a criminal offense and no charges were filed.
- B. All case records that are sealed pursuant to this section may be:
  - 1. Alleged as an element of an offense.
  - 2. Used as a historical prior felony conviction.
  - 3. Admissible for impeaching any party or witness in a subsequent trial.
  - 4. Used to enhance the sentence for a subsequent felony.
  - 5. Used to enhance the sentence pursuant to sections 28-1381 and 28-1382.
  - 6. Pleaded and proved in any subsequent prosecution of the person by this state or a political subdivision of this state.
  - 7. Used as a conviction if the conviction would be admissible if the conviction was not sealed.
- C. The person shall file a petition to seal all case records in one of the following:

1. The court in which the person was convicted of an offense.
  2. The court in which an indictment, information, criminal citation or complaint against the person was filed and the charges were dismissed, the person was found not guilty or the person's conviction was vacated, except that if the complaint was filed in a justice court and subsequent information was filed, the petition must be filed in the superior court.
  3. The court in which the person had an initial appearance if charges were not filed.
  4. The superior court in the county where a person was arrested if the person did not have an initial appearance and no charges were filed.
- D. The court may not grant or deny a petition to seal a person's case records until thirty calendar days after the court receives the petition unless the court receives notice that both the prosecutor and all victims who have made a request for postconviction notice do not object to the petition. Unless the petitioner, prosecutor or victim requests a hearing, the court may grant or deny a petition to seal case records without a hearing. The court may dismiss a petition that does not meet the requirements prescribed in this section without a hearing. The court shall grant the petition if the court determines that granting the petition is in the best interests of the petitioner and the public's safety. The clerk of the court shall provide a copy of the petition to seal case records to the prosecutor. The prosecutor may respond to the petition and request a hearing. The victim has a right to be present and heard at any proceeding in which the defendant has filed a petition to seal case records. If the victim has made a request for postconviction notice, the prosecutor shall provide the victim with notice of the defendant's petition and of the victim's rights under this section.
- E. At the time of sentencing, the court shall inform the person on the record that the person may be eligible to petition the court for an order that seals all case records of the person's arrest, conviction and sentence that are related to the offense pursuant to this section and shall provide this notice in writing. A person who was convicted of an offense and who has not subsequently been convicted of any other offense except a misdemeanor violation included in title 28, excluding a conviction for a violation of section 28-1381, 28-1382 or 28-1383, may petition the court to seal the person's records of arrest, conviction and sentence after the person completes all of the terms and conditions of the person's sentence, including paying all fines, fees and restitution that are ordered by the court, and the following period of time has passed since the person completed the conditions of probation or sentence and was discharged by the court:
1. Ten years for a class 2 or 3 felony.
  2. Five years for a class 4, 5 or 6 felony.
  3. Three years for a class 1 misdemeanor.
  4. Two years for a class 2 or 3 misdemeanor.

- F. Notwithstanding subsection e of this section, if the person has a prior historical felony conviction, the person may petition the court to seal the person's records of arrest, conviction and sentence pursuant to subsection e of this section after an additional five years.
- G. A person who is convicted of two or more offenses may not petition the court to seal the person's case records until the period of time prescribed in subsection e of this section has passed for each conviction.
- H. After a petition to seal case records is filed, the court shall notify the department of public safety and request the department to prepare and submit a report to the court that includes all of the petitioner's state and federal arrests, prosecutions and convictions and any other information that the court requests or that the department believes will assist the court in making its determination. The director may charge the petitioner a fee that is determined by the director for the investigation unless the petitioner is indigent or has been found not guilty or the case was dismissed or not prosecuted and the petition is filed pursuant to subsection c, paragraph 2 or 3 of this section.
- I. If the court grants a petition to seal case records:
  - 1. The court shall issue an order sealing all records relating to the petitioner's arrest, conviction and sentence and directing the clerk of the court to notify the department of public safety and the prosecutor of the sealing order.
  - 2. On order of a court, the clerk of the court shall seal all case records relating to the petitioner's arrest, conviction and sentence. A court order to seal case records pursuant to this section is only subject to the disclosure requirements in this section and shall be treated differently than a record that is sealed pursuant to any other statute or court rule. The clerk shall create and manage a system for sealing case records pursuant to this section and for providing sealed case records to an entity or person that is listed in subsection j of this section and that requests the record. On the request of an entity or person listed in subsection j of this section, the clerk shall provide the entity or person with any sealed case records. The clerk may not provide sealed case records pursuant to this section to any person or entity that is not listed in subsection j of this section.
  - 3. The department of public safety shall designate the case records as sealed within the department's records and inform all appropriate state and federal law enforcement agencies of the sealing. The department may not share or provide sealed case records with any person or entity that is not listed in subsections b and j of this section. The department may charge the successful petitioner a fee determined by the director to research and correct the petitioner's criminal history record unless the petitioner is indigent or has been found not guilty or the case has been

dismissed or not prosecuted and the petition is filed pursuant to subsection c, paragraph 2 or 3 of this section.

4. The arresting and prosecuting agencies shall clearly identify in each agency's files and electronic records that the petitioner's arrest or conviction and sentence records are sealed.
5. A person whose records are sealed pursuant to this section may state, in all instances, that the person has never been arrested for, charged with or convicted of the crime that is the subject of the arrest or conviction, including in response to questions on employment, housing, financial aid or loan applications unless any of the following applies:
  - (a) the person is submitting an application that requires a fingerprint clearance card pursuant to Title 41, Chapter 12, Article 3.1.
  - (b) the sealed case records involved a violation of chapter 34 of this title.
  - (c) the sealed case records involved burglary or theft from a residential or nonresidential structure and the person is applying for a job that requires entering into and performing services inside of a residential structure.
  - (d) the sealed case records involved child abuse or aggravated assault and the person is applying for a job involving supervising, educating or administering care to a minor.
  - (e) the sealed case records involved vulnerable adult abuse and the person is applying for a job involving supervising or administering care to a vulnerable adult or a person who is at least sixty-five years of age.
  - (f) the sealed case records involved a violation of section 5-395.01, 5-396, 5-397, 13-1814, 28-1381, 28-1382, 28-1383, 28-8282, 28-8284, 28-8286, 28-8287 or 28-8288 and the person is applying for a job involving the commercial or private operation of a motor vehicle, boat or airplane.
  - (g) the sealed case records involved theft, theft of means of transportation, forgery, taking the identity of another or fraudulent schemes and artifices and the person is applying for a job involving accounting, overseeing, transporting, handling or managing another person's money or financial assets.
  - (h) the person is applying for a position with a law enforcement agency, a prosecutor's office, a court, a probation department, a child welfare agency as defined in section 8-501, the department of child safety, the department of juvenile corrections or the state department of corrections.
  - (i) the person is undergoing a background check for the placement with that person of a child who is in the custody of the department of child safety.
  - (j) the disclosure is required by a state or federal law.

- (k) the disclosure is required to comply with program integrity provisions of medicare, medicaid or any other federal health care program.
- 6. The person's employer is not liable for hiring or contracting with the person as prescribed in section 12-558.03.
- J. If the person's case records are sealed pursuant to this section, the records shall be made available for the purposes listed in subsection b of this section and to the following:
  - 1. The person whose records are sealed and any attorney who has filed a notice of appearance on behalf of the person whose records are sealed.
  - 2. The victim in the case if the victim has exercised victims' rights pursuant to section 13-4414.
  - 3. Any of the following if the purpose relates to the operation of the requesting party's official duties or internal hiring practices, or both:
    - (a) a law enforcement agency.
    - (b) a prosecuting agency. On request of a person who is charged with a criminal offense or that person's attorney of record, a prosecuting agency shall provide the sealed case records of any person whom the prosecuting agency intends to call as a witness in that person's prosecution.
    - (c) a probation department or any agency that is responsible for the preparation of a presentence report.
    - (d) a court.
    - (e) the department of child safety or a child welfare agency as defined in section 8-501.
    - (f) the department of juvenile corrections.
    - (g) the state department of corrections or any other correctional facility in this state.
    - (h) the clerk of the court or any department that is responsible for maintaining court records.
- K. This section does not require the supreme court or the court of appeals to seal any record.
- L. If the court denies a petition to seal case records, a person may not file a new petition until three years after the date of the denial.
- M. A conviction for an offense that is committed in another jurisdiction and that if committed in this state would not constitute an offense in this state may not be used against the petitioner or prohibit the petitioner from having a record sealed. For the purposes of this section, the classification of an offense committed in another jurisdiction has the classification that the offense would have if committed in this state.
- N. If the petitioner is charged with an offense after filing a petition to seal case records and the offense could result in a conviction that cannot be sealed or that could extend the time to

file a petition to seal case records, the court may not grant or deny the petition until the court disposes of that charge.

- O. This section does not apply to a person who is:
1. Sentenced as a dangerous offender pursuant to section 13-704.
  2. Convicted of a dangerous crime against children as defined in section 13-705.
  3. Convicted of a serious offense or violent or aggravated felony as defined in section 13-706.
  4. Convicted of any offense that has either of the following as an element of the offense:
    - (a) the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument.
    - (b) the knowing infliction of serious physical injury on another person.
  5. Convicted of sex trafficking pursuant to section 13-1307.
  6. Convicted of a class 2, 3, 4 or 5 felony offense that is included in chapter 14 or 35.1 of this title.
- P. This section does not affect any of the following:
1. The right of the person whose case records are sealed to appeal the conviction or sentence or to rely on it in bar of any subsequent proceeding for the same offense.
  2. The right of a law enforcement agency to maintain an arrest and conviction record and to communicate information regarding the sealed record of arrest or conviction to prosecuting agencies, courts, probation departments and other law enforcement agencies for a purpose listed in Subsection J of this section or in defense of a civil action that arises out of the facts of the arrest or to the Arizona peace officer standards and training board solely to assist the board in determining the fitness of a person to serve as a peace officer, except that in any of these cases the information may not be disclosed to any person or entity that is not listed in subsection j of this section.
  3. The department of public safety or the board of fingerprinting from considering a conviction that is sealed pursuant to this section when evaluating an application for a fingerprint clearance card pursuant to section 41-1758.03 or 41-1758.07.
- Q. For the purposes of this section, "case records" means all records that pertain to a person's arrest, conviction and sentence for a particular offense and that may be sealed pursuant to this section.

**13-1414. Expenses of investigation**

Any medical or forensic interview expenses arising out of the need to secure evidence that a

person has been the victim of a dangerous crime against children as defined in section 13-705 or a sexual assault shall be paid by the county in which the offense occurred.

**13-2009. Aggravated taking identity of another person or entity; knowingly accepting the identity of another person; classification**

- A. A person commits aggravated taking the identity of another person or entity if the person knowingly takes, purchases, manufactures, records, possesses or uses any personal identifying information or entity identifying information of either:
  - 1. Three or more other persons or entities, including real or fictitious persons or entities, without the consent of the other persons or entities, with the intent to obtain or use the other persons' or entities' identities for any unlawful purpose or to cause loss to the persons or entities whether or not the persons or entities actually suffer any economic loss.
  - 2. Another person or entity, including a real or fictitious person or entity, without the consent of that other person or entity, with the intent to obtain or use the other person's or entity's identity for any unlawful purpose and causes another person or entity to suffer an economic loss of one thousand dollars or more.
  - 3. Another person, including a real or fictitious person, with the intent to obtain employment.
- B. A person commits knowingly accepting the identity of another person if the person, in hiring an employee, knowingly does both of the following:
  - 1. Accepts any personal identifying information of another person from an individual and knows that the individual is not the actual person identified by that information.
  - 2. Uses that identity information for the purpose of determining whether the individual who presented that identity information has the legal right or authorization under federal law to work in the United States as described and determined under the processes and procedures under 8 United States Code section 1324a.
- C. In an action for aggravated taking the identity of another person or entity under subsection A, paragraph 1 of this section, proof of possession out of the regular course of business of the personal identifying information or entity identifying information of three or more other persons or entities may give rise to an inference that the personal identifying information or entity identifying information of the three or more other persons or entities was possessed for an unlawful purpose.
- D. This section does not apply to a violation of section 4-241 by a person who is under twenty-one years of age.
- E. Aggravated taking the identity of another person or entity or knowingly accepting the identity of another person is a class 3 felony.

**13-2010. *Trafficking in the identity of another person or entity; classification***

- A. A person commits trafficking in the identity of another person or entity if the person knowingly sells, transfers or transmits any personal identifying information or entity identifying information of another person or entity, including a real or fictitious person or entity, without the consent of the other person or entity for any unlawful purpose or to cause loss to the person or entity whether or not the other person or entity actually suffers any economic loss, or allowing another person to obtain or continue employment.
- B. This section does not apply to a violation of section 4-241 by a person who is under twenty-one years of age.
- C. Trafficking in the identity of another person or entity is a class 2 felony.

**13-3601. *Domestic violence; definition; classification; sentencing option; arrest and procedure for violation; weapon seizure***

- A. "Domestic violence" means any act that is a dangerous crime against children as defined in section 13-705 or an offense prescribed in section 13-1102, 13-1103, 13-1104, 13-1105, 13-1201, 13-1202, 13-1203, 13-1204, 13-1302, 13-1303, 13-1304, 13-1406, 13-1425, 13-1502, 13-1503, 13-1504, 13-1602 or 13-2810, section 13-2904, subsection A, paragraph 1, 2, 3 or 6, section 13-2910, subsection A, paragraph 8 or 9, section 13-2915, subsection A, paragraph 3 or section 13-2916, 13-2921, 13-2921.01, 13-2923, 13-3019, 13-3601.02 or 13-3623, if any of the following applies:
  - 1. The relationship between the victim and the defendant is one of marriage or former marriage or of persons residing or having resided in the same household.
  - 2. The victim and the defendant have a child in common.
  - 3. The victim or the defendant is pregnant by the other party.
  - 4. The victim is related to the defendant or the defendant's spouse by blood or court order as a parent, grandparent, child, grandchild, brother or sister or by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law or sister-in-law.
  - 5. The victim is a child who resides or has resided in the same household as the defendant and is related by blood to a former spouse of the defendant or to a person who resides or who has resided in the same household as the defendant.
  - 6. The relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship. The following factors may be considered in determining whether the relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship:
    - (a) The type of relationship.

- (b) The length of the relationship.
  - (c) The frequency of the interaction between the victim and the defendant.
  - (d) If the relationship has terminated, the length of time since the termination.
- B. A peace officer, with or without a warrant, may arrest a person if the officer has probable cause to believe that domestic violence has been committed and the officer has probable cause to believe that the person to be arrested has committed the offense, whether the offense is a felony or a misdemeanor and whether the offense was committed within or without the presence of the peace officer. In cases of domestic violence involving the infliction of physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument, the peace officer shall arrest a person who is at least fifteen years of age, with or without a warrant, if the officer has probable cause to believe that the offense has been committed and the officer has probable cause to believe that the person to be arrested has committed the offense, whether the offense was committed within or without the presence of the peace officer, unless the officer has reasonable grounds to believe that the circumstances at the time are such that the victim will be protected from further injury. Failure to make an arrest does not give rise to civil liability except pursuant to section 12-820.02. In order to arrest both parties, the peace officer shall have probable cause to believe that both parties independently have committed an act of domestic violence. An act of self-defense that is justified under chapter 4 of this title is not deemed to be an act of domestic violence. The release procedures available under section 13-3883, subsection A, paragraph 4 and section 13-3903 are not applicable to arrests made pursuant to this subsection.
- C. A peace officer may question the persons who are present to determine if a firearm is present on the premises. On learning or observing that a firearm is present on the premises, the peace officer may temporarily seize the firearm if the firearm is in plain view or was found pursuant to a consent to search and if the officer reasonably believes that the firearm would expose the victim or another person in the household to a risk of serious bodily injury or death. A firearm that is owned or possessed by the victim shall not be seized unless there is probable cause to believe that both parties independently have committed an act of domestic violence.
- D. If a firearm is seized pursuant to subsection C of this section, the peace officer shall give the owner or possessor of the firearm a receipt for each seized firearm. The receipt shall indicate the identification or serial number or other identifying characteristic of each seized firearm. Each seized firearm shall be held for at least seventy-two hours by the law enforcement agency that seized the firearm.

- E. If a firearm is seized pursuant to subsection C of this section, the victim shall be notified by a peace officer before the firearm is released from temporary custody.
- F. If there is reasonable cause to believe that returning a firearm to the owner or possessor may endanger the victim, the person who reported the assault or threat or another person in the household, the prosecutor shall file a notice of intent to retain the firearm in the appropriate superior, justice or municipal court. The prosecutor shall serve notice on the owner or possessor of the firearm by certified mail. The notice shall state that the firearm will be retained for not more than six months following the date of seizure. On receipt of the notice, the owner or possessor may request a hearing for the return of the firearm, to dispute the grounds for seizure or to request an earlier return date. The court shall hold the hearing within ten days after receiving the owner's or possessor's request for a hearing. At the hearing, unless the court determines that the return of the firearm may endanger the victim, the person who reported the assault or threat or another person in the household, the court shall order the return of the firearm to the owner or possessor.
- G. A peace officer is not liable for any act or omission in the good faith exercise of the officer's duties under subsections C, D, E and F of this section.
- H. Each indictment, information, complaint, summons or warrant that is issued and that involves domestic violence shall state that the offense involved domestic violence and shall be designated by the letters DV. A domestic violence charge shall not be dismissed, or a domestic violence conviction shall not be set aside for failure to comply with this subsection.
- I. A person who is arrested pursuant to subsection B of this section may be released from custody in accordance with the Arizona rules of criminal procedure or any other applicable statute. Any order for release, with or without an appearance bond, shall include pretrial release conditions that are necessary to provide for the protection of the alleged victim and other specifically designated persons and may provide for additional conditions that the court deems appropriate, including participation in any counseling programs available to the defendant.
- J. When a peace officer responds to a call alleging that domestic violence has been or may be committed, the officer shall inform in writing any alleged or potential victim of the procedures and resources available for the protection of the victim including:
  - 1. An order of protection pursuant to section 13-3602, an injunction pursuant to section 25-315 and an injunction against harassment pursuant to section 12-1809.
  - 2. The emergency telephone number for the local police agency.
  - 3. Telephone numbers for emergency services in the local community.
  - 4. Websites for local resources related to domestic violence.
- K. A peace officer is not civilly liable for noncompliance with subsection J of this section.

- L. If a person is convicted of an offense involving domestic violence and the victim was pregnant at the time of the commission of the offense, at the time of sentencing the court shall take into consideration the fact that the victim was pregnant and may increase the sentence.
- M. An offense that is included in domestic violence carries the classification prescribed in the section of this title in which the offense is classified. If the defendant committed a felony offense listed in subsection A of this section against a pregnant victim and knew that the victim was pregnant or if the defendant committed a felony offense causing physical injury to a pregnant victim and knew that the victim was pregnant, the maximum sentence otherwise authorized for that violation shall be increased by up to two years.
- N. When a peace officer responds to a call alleging that domestic violence has been or may be committed, the officer shall determine if a minor is present. If a minor is present, the peace officer shall conduct a child welfare check to determine if the child is safe and if the child might be a victim of domestic violence or child abuse.

**13-4033. *Appeal by defendant***

- A. An appeal may be taken by the defendant only from:
  - 1. A final judgment of conviction or verdict of guilty except insane.
  - 2. An order denying a motion for a new trial.
  - 3. An order made after judgment affecting the substantial rights of the party.
  - 4. A sentence on the grounds that it is illegal or excessive.
  - 5. An order that denied the defendant's eligibility to petition the court to seal the defendant's case records pursuant to section 13-911 if the sole basis for the appeal is the defendant's eligibility to petition the court.
- B. In noncapital cases a defendant may not appeal from a judgment or sentence that is entered pursuant to a plea agreement or an admission to a probation violation.
- C. A defendant may not appeal under subsection A, paragraph 1 or 2 of this section if the defendant's absence prevents sentencing from occurring within ninety days after conviction and the defendant fails to prove by clear and convincing evidence at the time of sentencing that the absence was involuntary.

**13-4042. *Appellate proceedings; request for extension; victim notification***

- A. In any appellate proceeding in a capital case in which an extension of the time to file a brief is requested, the victim, after filing a notice of appearance, has a right to respond to the request for extension within ten days after the filing of the request.
- B. On the filing of a notice of appearance, the victim shall serve a copy on the state and the defendant.

- C. The victim may exercise the right to respond through the state.
- D. The party that requests the extension shall provide notice of the request to the victim in a manner prescribed by the court.
- E. This section does not provide any party or the victim with a right to oral argument.

**13-4071. Subpoena; issuance; duty of clerk**

- A. The process by which attendance of a witness before a court or magistrate is required is a subpoena.
- B. The subpoena may be signed and issued:
  - 1. By a magistrate before whom a complaint is laid for witnesses, either on behalf of the state or the defendant.
  - 2. By the county attorney, attorney general, municipal prosecutor or city prosecutor for witnesses to appear before the grand jury, or for witnesses on a complaint, indictment or information to appear before the court in which the complaint, indictment or information is to be heard or tried or by the county attorney, attorney general, municipal prosecutor or city prosecutor for witnesses requested by a grand jury.
  - 3. By the clerk of the court in which an indictment or information is to be tried, or by the clerk as authorized in subsection C.
- C. The clerk of the court or the clerk's designee, on request of the county attorney or attorney general, shall issue a subpoena for witnesses to appear before the grand jury, without prior authorization by a grand jury, if all of the following occur:
  - 1. A duly impaneled grand jury is sworn and is in existence at the time of the issuance of the subpoena.
  - 2. The county attorney or attorney general designates the subpoena with the standard identifying grand jury number.
  - 3. The county attorney or attorney general reports to the foreman of the grand jury, or in the foreman's absence the acting foreman, the fact of the issuance of the subpoena within ten days following its issuance or, if the grand jury is in recess, at the first succeeding session of the grand jury after the expiration of the ten-day period.
  - 4. The county attorney or attorney general reports to the presiding judge of the superior court the fact of the issuance of the subpoena within ten days following its issuance.
- D. The clerk, at any time, on application of the defendant, and without charge, shall issue as many blank subpoenas, subscribed by the clerk as clerk, for witnesses as the defendant requires. Blank subpoenas shall not be used to procure discovery in a criminal case,

including to access the records of a victim. Records relating to recovered memories or disassociated memories may be subject to subpoena only if the state seeks to introduce evidence of the victim's recovered or disassociated memory, the records are not otherwise privileged, and the court approves the subpoena after a hearing. The victim shall be given notice of and the right to be heard at any proceeding involving a subpoena for records of the victim from a third party.

**13-4234.01. *Post-conviction relief proceedings; request for extension; victim notification***

- A. In any post-conviction relief proceeding in a capital case in which an extension of the time to file a brief is requested, the victim, after filing a notice of appearance, has a right to respond to the request for extension within ten days after the filing of the request.
- B. On the filing of a notice of appearance, the victim shall serve a copy on the state and the defendant.
- C. The victim may exercise the right to respond through the state.
- D. The party that requests the extension shall provide notice of the request to the victim in a manner prescribed by the court.
- E. This section does not provide any party or the victim with a right to oral argument.

**13-4254. *Pro se defendant; prohibited questioning of minor victim***

Notwithstanding section 13-4253 and on motion of the prosecution, the court may order that a pro se defendant in any case that includes charges against the child under chapters 14 and 35.1 of this title and section 13-3206, 13-3212 or 13-3623 is prohibited from directly questioning the minor victim if the court determines that direct questioning by the pro se defendant would prevent the minor victim from being able to reasonably communicate.

**31-403. *Commutation; restrictions on consideration***

- A. A person who is otherwise eligible for commutation and who is denied a commutation of sentence recommendation shall not petition or be considered by the board for commutation of that sentence for a period of five years following the date of the board's denial of the commutation recommendation if the offense for which the commutation recommendation was denied involved any of the following:
  - 1. Death in violation of section 13-1104 or 13-1105.
  - 2. Serious physical injury if the person was sentenced pursuant to section 13-704.
  - 3. A dangerous crime against children as defined in section 13-705.
  - 4. A felony offense in violation of title 13, chapter 14 or 35.1.
- B. Notwithstanding subsection A, paragraph 2 of this section, if, in its sole discretion, the board determines that the person committed an offense that involved serious physical

injury as defined in section 13-105 and that the person was not sentenced pursuant to section 13-704, the board may order that the person shall not petition or be considered by the board for commutation of that sentence for a period of five years following the date of the board's denial of the commutation recommendation.

- C. Notwithstanding subsection A or B of this section, the board, at the time of denial, may lengthen the five year period of time prescribed in subsection A or B of this section to a period of up to ten years, except that if the offense for which commutation was denied involved a violation of an offense listed in subsection A, paragraph 1 of this section, the board may lengthen the period of time to a period of time that is greater than ten years and that is specified by the board by one of the following votes:
  - 1. A majority affirmative vote if four or more members consider the action.
  - 2. A unanimous affirmative vote if three members consider the action.
  - 3. A unanimous affirmative vote if two members consider the action pursuant to section 31-401, subsection I and the chairman concurs after reviewing the information considered by the two members. If the chairman is one of the two members constituting a two member quorum under section 31-401, subsection I, and both the chairman and the other member vote to lengthen the five year period to a period of time greater than ten years, no further action shall be taken and the decision on whether to lengthen the five year period shall be considered by the board at a meeting at which at least three members are present and voting.
- D. The board may waive the provisions of subsections A, B and C of this section if any of the following applies:
  - 1. The person is in imminent danger of death due to a medical condition, as determined by the board.
  - 2. The person is the subject of a warrant of execution.
  - 3. The sentence for which commutation is sought is the subject of a special order issued by the court pursuant to section 13-603, subsection L.
  - 4. This section applies only to offenses that are committed on or after January 1, 2006.

***31-411.01. Parole or community supervision for persons previously convicted of possession or use of marijuana, a dangerous drug or a narcotic drug; treatment; prevention; education; termination of parole or community supervision***

- A. Notwithstanding any law to the contrary, every prisoner who is eligible for parole or community supervision pursuant to section 41-1604.16 shall be released on parole or community supervision if in its sole discretion the board of executive clemency determines that there is a substantial probability that the prisoner will remain at liberty without violating the law and the release is in the best interests of the people of this state. If a

prisoner is denied release on parole or community supervision, the prisoner is not entitled to a rehearing under this section.

- B. If a prisoner is released on parole or community supervision pursuant to this section, the board of executive clemency shall order that as a condition of parole or community supervision the person:
  - 1. Be required to participate in an appropriate drug treatment or education program that is administered by a qualified agency, organization or individual approved by the department of health services and that provides the treatment or education to persons who abuse controlled substances. Each person who is enrolled in a drug treatment or education program shall pay for the costs of participation in the program to the extent of the person's financial ability.
  - 2. On the request of the victim, be prohibited from contacting the victim. The board of executive clemency may inform the victim of the victim's ability to petition the court for an injunction against harassment pursuant to section 12-1809 prohibiting the person from contacting the victim.
- C. A prisoner who is released on parole or community supervision pursuant to this section shall remain on parole or community supervision until the prisoner reaches the earned release credit date pursuant to section 41-1604.10 or the community supervision expiration date pursuant to section 41-1604.07. A prisoner who is on earned release credit release pursuant to section 41-1604.10 is not under the control of the state department of corrections and the department is not required to provide parole services or to otherwise supervise any prisoner released except that the department may revoke the release of the prisoner until the final expiration of the prisoner's sentence if the department believes that the released prisoner has engaged in criminal conduct during the term of the prisoner's release.
- D. The board of executive clemency may revoke the prisoner's release if the prisoner violates the conditions of supervision that are imposed by the board or the state department of corrections.

**39-127. Free copies of police reports and transcripts for crime victims; definition**

- A. A victim of a criminal offense that is a part I crime under the statewide uniform crime reporting program, the victim's attorney on behalf of the victim or an immediate family member of the victim if the victim is killed or incapacitated has the right to receive one copy of the police report from the investigating law enforcement agency at no charge and, on request of the victim, the court or the clerk of the court shall provide, at no charge, the minute entry or portion of the record of any proceeding in the case that arises out of the offense committed against the victim and that is reasonably necessary for the purpose of

pursuing a claimed victim's right. For the purposes of this subsection, "criminal offense", "immediate family" and "victim" have the same meanings prescribed in section 13-4401.

- B. A victim of a delinquent act that is a part I crime under the statewide uniform crime reporting program, the victim's attorney on behalf of the victim or an immediate family member of the victim if the victim is killed or incapacitated has the right to receive one copy of the police report from the investigating law enforcement agency at no charge and, on request of the victim, the court or the clerk of the court shall provide, at no charge, the minute entry or portion of the record of any proceeding in the case that arises out of the offense committed against the victim and that is reasonably necessary for the purpose of pursuing a claimed victim's right. For the purposes of this subsection, "delinquent act", "immediate family" and "victim" have the same meanings prescribed in section 8-382.
- C. For the purposes of this section, "attorney" means any person who is a member in good standing of the bar of the highest court of any state, possession, territory, commonwealth or district of the United States and who is not under any order of any court suspending, enjoining, restraining, disbaring or otherwise restricting the person in the practice of law.

**41-2407. Victim compensation and assistance fund; subrogation; prohibited debt collection activity; definition**

- A. The victim compensation and assistance fund is established. The Arizona criminal justice commission shall administer the fund. The victim compensation and assistance fund shall consist of monies collected pursuant to section 31-411, subsection E and sections 12-116.08, 13-4311, 31-418, 31-467.06 and 41-1674, unclaimed victim restitution monies pursuant to sections 22-116 and 44-313 and monies available from any other source.
- B. Subject to legislative appropriation, the Arizona criminal justice commission shall allocate monies in the victim compensation and assistance fund to public and private agencies for the purpose of establishing, maintaining and supporting programs that compensate and assist victims of crime.
- C. The allocation of monies pursuant to this section shall be made in accordance with rules adopted by the Arizona criminal justice commission pursuant to section 41-2405, subsection A, paragraph 8. The rules shall provide that persons who suffered personal injury or death that resulted from an attempt to aid a public safety officer in the prevention of a crime or the apprehension of a criminal may be eligible for compensation.
- D. This state and the applicable operational unit or qualified program, as defined in the victim compensation program rules, are subrogated to the rights of an individual who receives monies from the victim compensation and assistance fund to recover or receive monies or benefits from a third party, to the extent of the amount of monies the individual receives from the fund.

- E. A licensed health care provider who agrees to the victim compensation program rules may receive program monies for providing health and medical services to a victim or claimant. A licensed health care provider who accepts the full allowable payment for those services from a victim compensation program funded pursuant to this section is deemed to have accepted the payment as the full payment for those services. The licensed health care provider may not collect or attempt to collect any payment for the same health and medical services from the victim or claimant, except that if a victim compensation program funded pursuant to this section is unable to pay the full allowable payment to a licensed health care provider because of a lack of available monies or for any other reason, the licensed health care provider may collect the unpaid balance for the services from the victim or claimant or from a third-party payor, and the total amount billed or requested by the licensed health care provider may not exceed the full allowable payment that the licensed health care provider agreed to accept from the victim compensation program for the services.
- F. If a licensed health care provider receives notice that a person has filed a claim with a victim compensation program funded by this section, the licensed health care provider is prohibited from any debt collection activity for any monies owed by the person that are included in the filed claim until an award is made on the claim or until a determination is made that the claim is noncompensable. For the purposes of this subsection, "debt collection activity" includes repeatedly telephoning or writing to the claimant and threatening to either turn the matter over to a debt collection agency or to an attorney for collection, enforcement or filing of any other debt collection process. Debt collection activity does not include routine billing or inquiries about the status of the claim.
- G. For the purposes of this section, "licensed health care provider" means a person or institution that is licensed or certified by this state to provide health care services, medical services, nursing services, emergency medical services and ambulance services that are regulated pursuant to title 36, chapter 21.1, article 2 or other health-related services.

**ARIZONA REVISED STATUTES, Title 8, Chapter 3, Article 7**

**Victims' Rights for Juvenile Offenses**

**8-381. Applicability**

This article applies to acts that are committed by a juvenile and that if committed by an adult would be either:

1. A misdemeanor offense.
2. A felony offense.
3. A petty offense.
4. A violation of a local criminal ordinance.

**8-382. Definitions**

In this article, unless the context otherwise requires:

1. "**Accused**" means a juvenile who is referred to juvenile court for committing a delinquent act.
2. "**Appellate proceeding**" means any contested matter before the state court of appeals, the state supreme court, a federal court of appeals or the United States supreme court.
3. "**Arrest**" means the actual custodial restraint or temporary custody of a person.
4. "**Court**" means the juvenile division of the superior court when exercising its jurisdiction over children in any proceeding relating to delinquency.
5. "**Crime victim advocate**" means a person who is employed or authorized by a public or private entity to provide counseling, treatment or other supportive assistance to crime victims.
6. "**Custodial agency**" means any law enforcement officer or agency, a sheriff, a county juvenile detention center, the department of juvenile corrections or a secure mental health facility that has custody of a person who is arrested or in custody for a delinquent or incorrigible offense.
7. "**Delinquency proceeding**" means any hearing, argument or other matter that is scheduled or held by a juvenile court judge, commissioner or hearing officer and that relates to an alleged or adjudicated delinquent offense.
8. "**Delinquent**" means a child who is adjudicated to have committed a delinquent act.
9. "**Delinquent act**" means an act to which this article applies pursuant to section 8-381.
10. "**Detention hearing**" means the accused's initial appearance before the court to determine release before adjudication.

11. "**Final disposition**" means the ultimate termination of the delinquency proceeding by a court, including dismissal, acquittal, transfer to adult court or imposition of a disposition after an adjudication for a delinquent offense.
12. "**Immediate family**" means a victim's spouse, parent, child, sibling, grandparent or lawful guardian.
13. "**Juvenile defendant**" means a juvenile against whom a petition is filed seeking to have the juvenile adjudicated delinquent.
14. "**Lawful representative**" means a person who is designated by the victim or appointed by the court and who will act in the best interests of the victim.
15. "**Post adjudication release**" means release on probation, intensive probation, work furlough, community supervision or home detention, release on conditional liberty pursuant to section 41-2818 by the department of juvenile corrections or any other permanent, conditional or temporary release from confinement, discharge or completion of commitment by the department of juvenile corrections, a sheriff, a municipal jail, a juvenile detention center, a residential treatment facility or a secure mental health facility.
16. "**Post adjudication review hearing**" means a hearing that is held in open court and that involves a request by the juvenile for review of a disposition.
17. "**Post arrest release**" means the discharge of the accused from confinement.
18. "**Release**" means no longer in the custody of the custodial agency and includes transfer from one custodial agency to another custodial agency.
19. "**Rights**" means any right granted to the victim by the laws of this state.
20. "**Victim**" means a person against whom the delinquent act was committed, or if the person is killed or incapacitated, the person's spouse, parent, child, grandparent or sibling, any other person related to the person by consanguinity or affinity to the second degree or any other lawful representative of the person, except if the person or the person's spouse, parent, child, grandparent, sibling, other person related to the person by consanguinity or affinity to the second degree or other lawful representative is in custody for an offense or is the accused.

**8-383. Implementation of rights and duties**

- A. Except as provided in sections 8-386 and 8-412 and section 8-389, subsection B, the rights and duties that are established by this article arise on the arrest or formal charging of a juvenile who is alleged to be responsible for a delinquent act against a victim. The rights and duties continue to be enforceable pursuant to this article until the final disposition of the charges, including acquittal or dismissal of the charges, all post adjudication release, review and appellate proceedings and the discharge of all proceedings related to restitution. If a delinquent is ordered to pay restitution to a victim, the rights and duties continue to be

enforceable until restitution is paid, or a judgment is entered in favor of the victim pursuant to section 8-344.

- B. If a juvenile's adjudication is reversed and the case is returned to the juvenile court for further proceedings, the victim has the same rights that were applicable to the delinquency proceedings that led to the appeal or other post adjudication relief proceeding.
- C. After the final termination of a delinquency proceeding by dismissal or acquittal, a person who has received notice and has the right to be present and be heard pursuant to the victims' bill of rights, article II, section 2.1, Constitution of Arizona, this article or any court rule is no longer entitled to those rights.

**8-383.01. *Victims' rights; dismissed counts***

- A. If a criminal offense against a victim has been charged but the prosecution on the count or counts involving the victim has been or is being dismissed as the result of a plea agreement in which the defendant is pleading to or pled to other charges, the victim of the offenses involved in the dismissed counts, on request, may exercise all the applicable rights of a crime victim throughout the criminal justice process as though the count or counts involving the person had not been dismissed.
- B. As to each count that is dismissed, the prosecutor shall notify the probation department if the victim requested the victim's rights pursuant to this article.
- C. For each victim who is involved in the dismissed counts and who requested the victim's rights, the prosecutor shall forward to the probation department information within the prosecutor's possession that would enable the probation department to carry out its duties as prescribed by this article.

**8-384. *Inability to exercise rights; designation of others; notice; representative for a minor or vulnerable adult; definition***

- A. If a victim is physically or emotionally unable to exercise any right but is able to designate a lawful representative who is not a bona fide witness, the designated person may exercise the same rights that the victim is entitled to exercise. The victim may revoke this designation at any time and exercise the victim's rights.
- B. If a victim is incompetent, deceased or otherwise incapable of designating another person to act in the victim's place, the court may appoint a lawful representative who is not a witness. If at any time the victim is no longer incompetent, incapacitated or otherwise incapable of acting, the victim may personally exercise the victim's rights.
- C. If the victim is a minor or vulnerable adult the victim's parent or other immediate family member may exercise all of the victim's rights on behalf of the victim. If the delinquent act is alleged against a member of the minor's or vulnerable adult's immediate family, these

rights may not be exercised by that person but may be exercised by another member of the immediate family unless the court, after considering the guidelines in subsection D of this section, finds that another person would better represent the interests of the minor or vulnerable adult for purposes of this chapter.

- D. The court shall consider the following guidelines in appointing a representative for a minor or vulnerable adult victim:
1. Whether the minor or vulnerable adult has a relative who would not be so substantially affected or adversely impacted by the conflict resulting from the allegation of a delinquent act against a member of the immediate family of the minor or vulnerable adult that the representative could not represent the victim.
  2. The representative's willingness and ability to do all of the following:
    - (a) Undertake working with and accompanying the minor or vulnerable adult victim through all proceedings, including delinquency, civil and dependency proceedings.
    - (b) Communicate with the minor or vulnerable adult victim.
    - (c) Express the concerns of the minor or vulnerable adult to those authorized to come in contact with the minor or vulnerable adult as a result of the proceedings.
  3. The representative's training, if any, to serve as a minor or vulnerable adult victim's representative.
  4. The likelihood of the representative being called as a witness in the case.
- E. The minor or vulnerable adult victim's representative shall accompany the minor or vulnerable adult victim through all proceedings, including delinquency, criminal, dependency and civil proceedings, and, before the minor's or vulnerable adult's courtroom appearance, shall explain to the minor or vulnerable adult the nature of the proceedings and what the minor or vulnerable adult will be asked to do, including telling the minor or vulnerable adult that the minor or vulnerable adult is expected to tell the truth. The representative shall be available to observe the minor or vulnerable adult in all aspects of the case in order to consult with the court as to any special needs of the minor or vulnerable adult. Those consultations shall take place before the minor or vulnerable adult testifies. The court may recognize the minor or vulnerable adult victim's representative when the representative indicates a need to address the court. A minor or vulnerable adult victim's representative shall not discuss the facts and circumstances of the case with the minor or vulnerable adult witness, unless the court orders otherwise on a showing that it is in the best interests of the minor or vulnerable adult.
- F. Any notices that are to be provided to a victim pursuant to this article shall be sent only to the victim or the victim's lawful representative.

- G. For the purposes of this section, "vulnerable adult" has the same meaning prescribed in section 13-3623.

**8-385. Limited rights of a legal entity**

Any corporation, partnership, association or other legal entity that, except for its status as an artificial entity, would be included in the definition of victim in section 8-382 shall be afforded the following rights:

1. Within a reasonable time after arrest, the prosecutor shall notify the legal entity of the right to appear and be heard at any proceeding relating to restitution or disposition of the delinquent.
2. The prosecutor shall notify the legal entity of the right to submit to the court a written statement containing information and opinions on restitution and disposition in its case.
3. On request, the prosecutor shall notify the legal entity in a timely manner of the date, time and place of any proceeding relating to restitution or disposition of the delinquent.
4. A lawful representative of the legal entity has the right, if present, to be heard at any proceeding relating to restitution or disposition of the delinquent.

**8-385.01. Victims' rights for neighborhood associations**

- A. A neighborhood association may register with the city, town or county in which the neighborhood association is located to invoke the rights that are afforded pursuant to this article. The city, town or county shall establish procedures for the registration of neighborhood associations pursuant to this section. The procedures shall require the neighborhood association to provide to the city, town or county the name and telephone number of one person who shall act on behalf of the neighborhood association and who may receive notice or invoke rights pursuant to this section. The neighborhood association shall notify the city, town or county of any changes to this information. If the neighborhood association fails to keep this information current, the neighborhood association is deemed to have waived its rights under this section.
- B. Notwithstanding any law to the contrary, if a juvenile commits an act that if committed by an adult would be a crime under section 13-1602, subsection A, paragraph 5, section 13-3102, subsection A, paragraph 9, section 13-3201 or 13-3204, section 13-3208, subsection B or section 13-3209, 13-3405, 13-3407, 13-3408, 13-3421 or 13-4702, a neighborhood association that is registered with a city, town or county pursuant to subsection A of this section may receive notice or may invoke rights pursuant to the following sections:
1. Section 8-390.
  2. Section 8-400.
  3. Section 8-405.

- C. Sections 8-407, 8-413 and 8-415 apply to all matters in which a neighborhood association invokes rights under this section.
- D. If the neighborhood association wishes to invoke victims' rights for a crime as prescribed in subsection B of this section that resulted in an arrest, the person who is registered with the city, town or county pursuant to subsection A of this section shall contact the law enforcement agency responsible for the arrest. The law enforcement agency shall fill out the form prescribed by section 8-386. Thereafter the neighborhood association, through the contact person, shall be afforded all of the rights listed under subsection B of this section.

**8-386. Information provided to victim by law enforcement agencies**

- A. As soon after the detection of an offense as the victim may be contacted without interfering with an investigation or arrest, the law enforcement agency responsible for investigating the offense shall provide electronic forms, pamphlets, information cards or other materials to the victim:
  - 1. That allows the victim to request or waive applicable rights to which the victim is entitled, on request, under this article.
  - 2. That provides the victim a method to designate a lawful representative if the victim so chooses pursuant to section 8-384, subsection A or section 8-385.
  - 3. That provides notice to the victim of all of the following information:
    - (a) The victim's right under the victims' bill of rights, article II, section 2.1, Constitution of Arizona, to be treated with fairness, respect and dignity and to be free of intimidation, harassment or abuse throughout the criminal or juvenile justice process.
    - (b) The availability, if any, of crisis intervention services and emergency and medical services and, if applicable, that medical expenses arising out of the need to secure evidence may be reimbursed pursuant to section 13-1414.
    - (c) In cases involving domestic violence, the procedures and resources available for the protection of the victim pursuant to section 13-3601.
    - (d) The names and telephone numbers of public and private victim assistance programs, including the county victim compensation program and programs that provide counseling, treatment and other support services.
    - (e) The police report number, if available, other identifying case information and the following statement:

If within thirty days you are not notified of an arrest in your case, you may call (the law enforcement agency's telephone number) for the status of the case.

- (f) Whether the suspect is an adult or juvenile, the victim will be notified by the law enforcement agency at the earliest opportunity after the arrest of a suspect.
  - (g) If the suspect is a juvenile and the officer requests that the accused be detained, a statement of the victim's right, on request, to be informed if the juvenile will be released or will be detained pending the detention hearing and of the victim's right to be present and heard at the detention hearing and that, to exercise these rights, the victim must contact the detention screening section of the juvenile probation department immediately to request notice of all of the following:
    - (i) The juvenile's release.
    - (ii) The date, time and place of the detention hearing and any changes to that schedule.
    - (iii) If the victim chooses to exercise the right to be heard through a written statement, how that statement may be submitted to the court.
  - (h) That the victim or the immediate family member of the victim, if the victim is killed or incapacitated, has the right to receive one copy of the police report, including any supplements to the report, from the investigating law enforcement agency at no charge pursuant to section 39-127.
- B. If at the time of contact with a law enforcement agency the victim is physically or emotionally unable to request or waive applicable rights, the law enforcement agency shall designate this in a format that is authorized by subsection A of this section and the entities that may be subsequently affected shall presume that the victim invoked the victim's right to request applicable rights to which the victim is entitled, on request, unless the victim later waives those rights.
- C. The law enforcement agency shall submit one copy of the victim's request or waiver of predisposition rights form to the detention center, if the arresting officer is requesting that the accused be detained, at the time the juvenile is taken to detention. If detention is not requested, the form copies shall be submitted to the juvenile probation intake section at the time the case is otherwise referred to court. The probation intake section shall submit a copy of the victim's request or waiver of predisposition rights form to the prosecutor and the departments or governmental agencies, as applicable, that are mandated by this article to provide victims' rights services on request.
- D. If the accused juvenile is cited and released by an Arizona traffic ticket and complaint form pursuant to section 8-323, the law enforcement agency shall inform the victim how to obtain additional information about subsequent proceedings.

- E. Law enforcement agencies within a county may establish different procedures designed to efficiently and effectively provide notice of the victim's rights pursuant to this article and notice to affected entities of victim request or waiver information. If different procedures are established, the procedures shall:
1. Be reported to the entities within a county affected by the procedures and reported to the attorney general.
  2. Be designed so that detention centers within a county receive notice of the victim's request or waiver of the victim's predisposition rights at the same time that an accused juvenile is detained.
  3. Be designed so that the juvenile probation intake section of the county receives notice of the victim's request or waiver of the victim's predisposition rights at the same time that the case is referred to court.
  4. Provide that the notice to affected entities of a victim's request or waiver of the victim's predisposition rights includes information that allows the affected entity to contact the victim.
  5. Be supported by the use of electronic forms, brochures or other written materials developed by the law enforcement agencies within a county and reviewed by the attorney general pursuant to section 8-398, subsection B.

**8-386.01. Issuance and execution of arrest warrants**

- A. On the issuance of an arrest warrant, the court issuing the warrant shall state in the warrant whether the person named in the warrant is to be arrested for or is to be charged with committing an offense to which this article applies or that is materially related to an offense to which this article applies.
- B. On receipt of notice of an arrest or an impending arrest of a juvenile and if applicable pursuant to subsection A of this section, the agency that is responsible for holding the original warrant shall notify the law enforcement agency that was responsible for the original investigation of the offense of the impending detainment of the juvenile who is arrested on the law enforcement agency's warrant.
- C. On receiving notice that the warrant was executed pursuant to subsection B of this section, the law enforcement agency that was responsible for the original investigation of the offense shall do all of the following if the victim has requested notice pursuant to section 8-386:
1. Notify the victim of the arrest and advise the victim that to exercise the right to be informed if the juvenile is released the victim must contact the detention center of the juvenile probation department immediately.

2. Inform the victim of the telephone number of the detention center in which the juvenile is detained.
  3. Provide the detention center with the victim information pursuant to section 8-386 so that the detention center may notify the victim of the release or escape of the juvenile pursuant to section 8-393, if applicable.
- D. A law enforcement agency is not required to provide victim information pursuant to section 8-386, subsections C and E to the custodial agency at the time a juvenile is detained unless the law enforcement agency that performs the warrant arrest is also the law enforcement agency that was responsible for the original investigation of the offense.
- E. The victim's right to be informed of an arrest or a release pursuant to an executed warrant applies to warrants that are issued on or after September 1, 1996.
- F. Law enforcement, courts and juvenile custodial agencies are not liable pursuant to section 8-393 for the failure to inform a victim of the arrest or release of a juvenile on warrants that were issued before September 1, 1996.

**8-387. Notice of terms and conditions of release**

On the request of the victim, the juvenile probation department or the department of juvenile corrections shall provide a copy of the terms and conditions of release. The copy of the terms and conditions of release may be provided to the victim in an electronic form, pamphlet, information card or other material.

**8-388. Notice of diversion**

If an accused is accepted into a diversion program pursuant to section 8-321, the probation department administering the program shall give the victim notice of the conditions that the accused must comply with in order for the complaint or citation to be adjusted or dismissed. The notice shall state whether restitution was required and that, on request of the victim, the victim has the right to be notified of the accused's completion of or termination from the program.

**8-389. Preliminary notice of rights**

- A. If the victim has requested notice and if the accused is in custody at the time of charging, or seven days after the prosecutor charges a delinquent offense if the accused is not in custody, the prosecutor's office shall give the victim notice of the following:
1. All of the victim's rights through disposition under the victims' bill of rights, article II, section 2.1, Constitution of Arizona, this article and court rules.
  2. The charge or charges against the accused and a clear and concise statement of the procedural steps involved in a delinquency prosecution.

3. The procedures a victim shall follow to invoke the victim's right to confer with the prosecuting attorney pursuant to section 8-399.
  4. The person within the prosecutor's office to contact for more information.
- B. Notwithstanding subsection A of this section, if a prosecutor declines to proceed with a prosecution after the final submission of a case by a law enforcement agency at the end of an investigation, the prosecutor, before the decision not to proceed is final, shall notify the victim and provide the victim with the reasons for declining to proceed with the case. The notice shall inform the victim of the victim's right on request to confer with the prosecutor before the decision not to proceed is final.

**8-390. Notice of proceedings**

- A. The court shall give notice to the prosecutor's office in a timely manner of any changes in scheduled proceedings.
- B. Except for detention hearings the court shall provide notice of all proceedings to the prosecutor's office at least five days before a scheduled proceeding.
- C. If the court finds that it is not reasonable to provide the five days' notice to the prosecutor's office pursuant to subsection B, the court shall state in the record why it was not reasonable to provide five days' notice.
- D. On receiving the notice from the court, the prosecutor's office shall, on request, provide notice to the victim in a timely manner of scheduled proceedings, any changes in the schedule and that a predisposition or disposition proceeding may occur immediately following adjudication.

**8-391. Notice of adjudication; impact statement**

- A. On request the prosecutor's office, within fifteen days after the adjudication, transfer, acquittal or dismissal of the charges against the accused, shall give notice to the victim of the offense or offenses for which the accused was adjudicated delinquent, transferred for adult prosecution or acquitted or of the charges dismissed against the juvenile defendant.
- B. If the juvenile is adjudicated delinquent and the victim has requested notice, the prosecutor's office shall notify the victim, if applicable, of:
  1. The function of the predisposition report.
  2. The name and telephone number of the probation department that is preparing the predisposition report.
  3. The right to make a victim impact statement under section 8-404.
  4. The right to receive portions of the predisposition report pursuant to section 8-404, subsection C.

5. The right to be present and be heard at any predisposition or disposition proceeding pursuant to section 8-405.
  6. The time, place and date of the disposition proceeding.
  7. If the court orders restitution, the right to have a judgment entered for any unpaid amount and to file a restitution lien pursuant to section 8-345.
  8. The right of the defense to view the predisposition report.
- C. The victim shall be informed that the victim's impact statement may include the following:
1. An explanation of the nature and extent of any physical, psychological or emotional harm or trauma suffered by the victim.
  2. An explanation of the extent of any economic loss or property damage suffered by the victim.
  3. An opinion of the need for and extent of restitution.
  4. Whether the victim has applied for or received any compensation for the loss or damage.
- D. Notice provided pursuant to this section does not remove the probation department's responsibility to initiate the contact between the victim and the probation department concerning the victim's economic, physical, psychological or emotional harm. At the time of contact, the probation department shall advise the victim of the date, time and place of the disposition proceeding and of the victim's right, if present, to be heard at that proceeding.

**8-392. Notice of post adjudication review and appellate proceedings**

- A. Within fifteen days after the disposition proceeding the prosecutor's office, on request, shall notify the victim of the disposition imposed on the juvenile defendant.
- B. The prosecutor's office shall provide the victim with a form that allows the victim to request post adjudication notice of all post adjudication review and appellate proceedings, all post adjudication release proceedings, all probation modification proceedings that impact the victim, all probation revocation or termination proceedings, all conditional liberty revocation proceedings or modifications to conditional liberty, any decisions that arise out of these proceedings, all releases and all escapes.
- C. The prosecutor's office shall advise the victim on how the completed request form may be filed with the appropriate agencies and departments.
- D. On request of the victim, the prosecutor's office that is responsible for handling any post adjudication or appellate proceedings shall notify the victim of the proceedings and any decisions that arise out of the proceedings.
- E. The supreme court or court of appeals shall send a victim who requests notice pursuant to this section a copy of the memorandum decision or opinion from the issuing court

concurrently with the parties. If the victim is represented by counsel, the notice shall be provided to the victim's counsel.

**8-392.01. Notice of right to request not to receive committed youth mail**

- A. Within fifteen days after a juvenile defendant is committed to the department of juvenile corrections, the prosecutor's office shall notify the victim of the right of the victim, any member of the victim's family or any member of the victim's household, to request not to receive mail from the committed youth who was adjudicated delinquent for an offense committed against the victim. The notice shall:
  1. Be made on the post adjudication form provided by the prosecutor to the victim pursuant to section 8-392.
  2. Inform the victim of the right of the victim, any member of the victim's family or any member of the victim's household who is denoted by the victim on the form, to request not to receive mail from the committed youth.
  3. Instruct the victim how to file the completed request form with the department of juvenile corrections.
  4. Include the following statement:

"If the juvenile defendant is incarcerated in the department of juvenile corrections, you have the right to request that the juvenile defendant not send you, members of your family or members of your household mail. If the juvenile defendant sends you or your family members mail after you have made this request, you or the members of your family have the right to report the incident to the department of juvenile corrections for sanctions against the juvenile defendant."
- B. On receipt of a post adjudication notification request form in which a request not to receive mail is indicated, the department of juvenile corrections shall notify the committed youth of the request and that sending mail to the victim, or the family or household members who are denoted by the victim, shall result in appropriate sanctions.
- C. The department of juvenile corrections shall not knowingly forward mail addressed to any person who requests not to receive mail pursuant to this section.

**8-393. Notice of release or escape**

- A. The custodial agency shall immediately notify the victim of the post arrest release or escape of the accused.
- B. The department of juvenile corrections shall immediately give notice to a victim and the prosecutor's office of an escape by, and again upon the subsequent rearrest of, the accused or delinquent who was detained or committed to the department and confined in a secure

care facility and who committed a delinquent act against the victim. The department shall give notice by any reasonable means.

**8-394. Notice of delinquent's status**

- A. If the victim has made a request for post adjudication notice, the director of the department of juvenile corrections shall mail to the victim the following information about a delinquent in the custody of the department of juvenile corrections:
  - 1. Within thirty days after the request, notice of the earliest release date of the delinquent.
  - 2. At least fifteen days before the delinquent's release, notice of the release.
  - 3. Within fifteen days after the delinquent's death, notice of the death.
- B. If the victim has made a request for post adjudication notice, the custodial agency having custody of the delinquent shall mail to the victim notice of release at least fifteen days before the delinquent's release or notice of death within fifteen days after the delinquent's death.

**8-395. Notice of post adjudication release; right to be heard; hearing; final decision; free electronic recording**

- A. The victim has the right to be present and be heard at any proceeding in which post adjudication release from confinement is being considered and the right to submit a statement to the department of juvenile corrections when a request for discharge on successful completion of the individual treatment plan is considered pursuant to section 41-2820.
- B. If the victim has made a request for post adjudication notice, at least fifteen days before the hearing or before the juvenile's discharge is considered pursuant to section 41-2820, the department of juvenile corrections shall give to the victim written notice of the hearing and of the victim's right to be present and be heard at the hearing or to submit a statement to the department regarding the request for discharge.
- C. If the victim has made a request for post adjudication notice, the department of juvenile corrections shall give notice to the victim of the decision reached by the department. The department shall mail the notice within fifteen days after the department reaches its decision.
- D. Any electronic recordings that are made during a post adjudication release hearing shall be provided, on request, to the victim free of charge.

**8-396. Notice of probation modification, termination or revocation disposition matters; notice of arrest**

- A. On request of a victim who has provided an address or other contact information, the probation department shall notify the victim of any of the following:
  - 1. A probation revocation disposition proceeding or any proceeding in which the court is asked to terminate the probation or intensive probation of the delinquent who committed the delinquent act against the victim.
  - 2. Any hearing on a proposed modification of the terms of probation or intensive probation.
  - 3. The arrest of a delinquent pursuant to a warrant issued for a probation violation.
- B. On request of a victim who has provided a current address or other current contact information, the probation department shall notify the victim of the following:
  - 1. Any proposed modification to any term of probation if the modification affects restitution or incarceration status or the delinquent's contact with or the safety of the victim.
  - 2. The victim's right to be heard at a hearing that is set to consider any modification to be made to any term of probation.
  - 3. Any violation of any term of probation that results in the filing with the court of a petition to revoke probation.
  - 4. That a petition to revoke probation alleging that the juvenile absconded from probation has been filed with the court.
  - 5. Any conduct by the juvenile that raises a substantial concern for the victim's safety.
- C. If a victim has requested post adjudication notice and probation is revoked and the juvenile is committed to the department of juvenile corrections, the probation department shall notify the department of juvenile corrections of the victim's request.
- D. On request of the victim, the department of juvenile corrections shall notify the victim of any of the following:
  - 1. Any proceeding in which the department may revoke the conditional liberty of the delinquent who committed the delinquent act against the victim.
  - 2. A modification of the terms of conditional liberty only if the modification will substantially affect the delinquent's contact with the victim or the safety of the victim or if the modification affects restitution or secure care status.
  - 3. The arrest of a delinquent pursuant to a warrant issued for a conditional liberty violation.

**8-397. Notice of release, discharge or escape from a mental health treatment agency or residential treatment**

- A. If the victim has made a request for notice, the probation department or the department of juvenile corrections, whichever has supervision of the accused or delinquent, shall provide the victim, at least ten days before the release or discharge of the accused or delinquent, with notice of the release or discharge of the accused or delinquent who is placed by court order in a mental health treatment agency or a residential treatment agency. The mental health treatment agency or residential treatment agency that has custody of the accused or delinquent shall notify the probation department or department of juvenile corrections, whichever has supervision of the accused or delinquent, at least thirty days before the release or discharge of the accused or delinquent.
- B. The probation department or the department of juvenile corrections, whichever has supervision of the accused or delinquent, shall provide notice to the victim immediately after the escape or subsequent readmission of the accused or the delinquent notice of the escape or subsequent readmission of the accused or the delinquent who is placed by court order in a mental health treatment agency or a residential treatment agency. The mental health treatment agency or residential treatment agency that has custody of the accused or delinquent shall immediately notify the probation department or the department of juvenile corrections, whichever has supervision of the accused or delinquent, of the escape, runaway or subsequent readmission of the accused or delinquent.

**8-398. Request for notice; forms; notice system**

- A. The victim shall provide to and maintain with the law enforcement agency that is responsible for providing notice to the victim a request for notice on a form that is provided by that agency or the investigating law enforcement agency. The form shall include a telephone number and address. If the victim fails to keep the victim's telephone number and address current, the victim's request for notice is withdrawn. At any time, the victim may request notice of subsequent proceedings by filing on a request form provided by the agency the victim's current telephone number and address.
- B. All notices provided to a victim pursuant to this article shall be on forms developed or reviewed by the attorney general.
- C. The court and all agencies that are responsible for providing notice to the victim shall establish and maintain a system for the receipt of victim requests for notice.

**8-399. Victim conference with prosecuting attorney**

- A. On request of the victim, the prosecuting attorney shall confer with the victim about the disposition of a delinquent offense, including the victim's views about a decision not to

proceed with prosecution, dismissal, withdrawal of a request for transfer, plea or disposition negotiations and, if a petition has been filed, pre-adjudication diversion programs.

- B. On request of the victim, the prosecuting attorney shall confer with the victim before the commencement of an adjudication or transfer hearing.
- C. The right of the victim to confer with the prosecuting attorney does not include the authority to direct the prosecution of the case.

**8-400. Proceedings; right to be present**

The victim has the right to be present throughout all court hearings in which the accused or delinquent has the right to be present.

**8-401. Detention hearing**

The victim has the right to be heard at the detention hearing of the person suspected of committing the delinquent act against the victim.

**8-402. Post arrest detention decisions**

The victim has the right to be heard at any proceeding in which the court considers the post arrest release of the juvenile accused of committing a delinquent act against the victim or the conditions of that release.

**8-403. Plea negotiation**

- A. On request of the victim, the victim has the right to be present and be heard at any proceeding in which a negotiated plea for the juvenile accused of committing the delinquent act against the victim will be presented to the court.
- B. The court shall not accept a plea agreement unless:
  - 1. The prosecuting attorney advises the court that before requesting the negotiated plea reasonable efforts were made to confer with the victim pursuant to section 8-399.
  - 2. Reasonable efforts are made to give the victim notice of the plea proceeding pursuant to section 8-390 and to inform the victim that the victim has the right to be present and, if present, to be heard.
  - 3. The prosecuting attorney advises the court that to the best of the prosecutor's knowledge notice requirements of this chapter have been complied with and the prosecutor informs the court of the victim's position, if known, regarding the negotiated plea.

**8-404. Impact statement; predisposition report**

- A. The victim may submit a written impact statement or make an oral impact statement to the probation officer for the officer's use in preparing a predisposition or transfer report.
- B. In preparing the predisposition or transfer report, the probation officer shall consider the economic, physical and psychological impact that the delinquent act has had on the victim and the victim's immediate family.
- C. On request, the probation department shall provide the victim with the following information from the predisposition report:
  - 1. The referral history.
  - 2. The probation officer's assessment of the case.
  - 3. The disposition and treatment recommendations.
  - 4. The probation officer's recommendations for treatment and disposition.
  - 5. The detention history.

**8-405. Disposition**

- A. The victim may present evidence, information and opinions that concern the delinquent act, the delinquent, the disposition or the need for restitution at any predisposition or disposition proceeding.
- B. At any disposition proceeding the victim has the right to be present and to address the court.

**8-406. Probation modification, revocation disposition or termination proceedings**

- A. The victim has the right to be present and be heard at any probation revocation disposition proceeding or any proceeding in which the court is requested to terminate the probation or intensive probation of a delinquent who committed a delinquent act against the victim.
- B. The victim has the right to be heard at any proceeding in which the court is requested to modify the terms of probation or intensive probation of a delinquent if the modification will substantially affect the delinquent's contact with or safety of the victim or if the modification involves restitution or incarceration status.

**8-407. Victim's discretion; form of statement**

- A. The victim has discretion to exercise the victim's rights under this article to be present and be heard at a court proceeding, and the absence of the victim at the court proceeding does not preclude the court from continuing the proceeding.
- B. Except as provided in subsection C of this section, a victim's right to be heard may be exercised through an oral statement, submission of a written statement or submission of a

statement through audiotape or videotape or any other video or digital media that is available to the court.

- C. If a person against whom a delinquent act has been committed is in custody for an offense, the person may be heard by submitting a written statement to the court.

**8-408. Return of victim's property; release of evidence**

- A. On request of the victim and after consultation with the prosecuting attorney, the law enforcement agency responsible for investigating the delinquent act shall return to the victim any property belonging to the victim that was taken during the course of the investigation or shall inform the victim of the reasons why the property will not be returned. The law enforcement agency shall make reasonable efforts to return the property to the victim as soon as possible.
- B. If the victim's property has been admitted as evidence during a hearing, the court may order its release to the victim if a photograph or photocopy can be substituted. If evidence is released pursuant to this subsection, the accused's attorney or investigator may inspect and independently photograph or photocopy the evidence before it is released.

**8-409. Consultation between crime victim advocate and victim; privileged information; exception**

- A. A crime victim advocate shall not disclose as a witness or otherwise any communication made by or with the victim, including any communication made to or in the presence of others, unless the victim consents in writing to the disclosure.
- B. Unless the victim consents in writing to the disclosure, a crime victim advocate shall not disclose records, notes, documents, correspondence, reports or memoranda that contain opinions, theories or other information made while advising, counseling or assisting the victim or that are based on communications made by or with the victim, including communications made to or in the presence of others.
- C. The communication is not privileged if the crime victim advocate knows that the victim will give or has given perjured testimony or if the communication contains exculpatory material.
- D. An accused may make a motion for disclosure of privileged information. If the court finds there is reasonable cause to believe the material is exculpatory, the court shall hold a hearing in camera. Material that the court finds is exculpatory shall be disclosed to the accused.
- E. If, with the written or verbal consent of the victim, the crime victim advocate discloses to the prosecutor or a law enforcement agency any communication between the victim and the crime victim advocate or any records, notes, documents, correspondence, reports or

memoranda, the prosecutor or law enforcement agent shall disclose the material to the accused's attorney only if the information is otherwise exculpatory.

- F. Notwithstanding subsections A and B of this section, if a crime victim consents either verbally or in writing, a crime victim advocate may disclose information to other professionals and administrative support persons that the advocate works with for the purpose of assisting the advocate in providing services to the victim and to the court in furtherance of any victims' right pursuant to this chapter.

**8-410. *Minimizing victim's contacts***

Before, during and immediately after any court proceeding, the court shall provide appropriate safeguards to minimize the contact that occurs between the victim, the victim's immediate family and the victim's witnesses and the accused, the accused's immediate family and defense witnesses.

**8-411. *Motion to revoke release***

If the prosecutor decides not to move to revoke the release of the juvenile defendant, the prosecutor shall inform the victim that the victim may petition the court to revoke the release of the juvenile defendant based on the victim's notarized statement asserting that harassment, threats, physical violence or intimidation against the victim or the victim's immediate family by the juvenile defendant or on behalf of the juvenile defendant has occurred.

**8-412. *Victim's right to refuse an interview; applicability***

- A. Unless the victim consents, the victim shall not be compelled to submit to an interview on any matter, including any alleged delinquent act witnessed by the victim and that occurred on the same occasion as the delinquent act against the victim, or filed in the same petition or consolidated for an adjudication hearing, that is conducted by the juvenile defendant, the attorney for the juvenile defendant or an agent of the juvenile defendant.
- B. The juvenile defendant, the attorney for the juvenile defendant or an agent of the juvenile defendant shall only initiate contact with the victim through the prosecutor's office. The prosecutor's office shall inform the victim of the juvenile defendant's request for an interview within ten days after the request and shall advise the victim of the victim's right to refuse the interview.
- C. The prosecutor shall not be required to forward any correspondence from the juvenile defendant, the juvenile defendant's attorney or an agent of the juvenile defendant to the victim or the victim's representative.
- D. If the victim consents to an interview, the prosecutor's office shall inform the juvenile defendant, the attorney for the juvenile defendant or an agent of the juvenile defendant of

the time and place the victim has selected for the interview. If the victim wishes to impose other conditions on the interview, the prosecutor's office shall inform the juvenile defendant, the attorney for the juvenile defendant or an agent of the juvenile defendant of the conditions. The victim has the right to terminate the interview at any time or to refuse to answer any question during the interview. The prosecutor has standing at the request of the victim to protect the victim from harassment, intimidation or abuse and, pursuant to that standing, may seek any appropriate protective court order.

- E. Unless otherwise directed by the victim, the prosecutor may attend all interviews. If a transcript or tape recording of the interview is made and on request of the prosecutor, the prosecutor shall receive a copy of the transcript or tape recording at the prosecutor's expense.
- F. This section applies to the parent or legal guardian of a minor child who exercises victims' rights on behalf of the minor child. Notwithstanding subsection E of this section, the juvenile defendant, the juvenile defendant's attorney or an agent of the juvenile defendant may not interview a minor child who has agreed to an interview, even if the minor child's parent or legal guardian initiates contact with the juvenile defendant, the juvenile defendant's attorney or an agent of the juvenile defendant, unless the prosecutor has actual notice at least five days in advance and the minor child is informed that the prosecutor may be present at the interview.
- G. Except in cases involving a dismissal with prejudice or an acquittal, the right of a victim and a victim's representative to refuse an interview, a deposition or any other discovery request related to the criminal case involving the victim by the juvenile defendant, the juvenile defendant's attorney or any other person acting on behalf of the juvenile defendant remains enforceable beyond a final disposition of the charges. This subsection does not require any other right enumerated in article II, section 2.1, Constitution of Arizona, to remain enforceable beyond a final disposition as prescribed in section 8-383, subsection A.

**8-413. Victim's right to privacy; exception; definitions**

- A. The victim has the right at any court proceeding not to testify regarding any identifying or locating information unless the victim consents or the court orders disclosure on finding that a compelling need for the information exists. A court proceeding on the motion shall be in camera.
- B. A victim's identifying and locating information that is obtained, compiled or reported by a law enforcement agency or prosecution agency shall be redacted by the originating agency and prosecution agencies from records pertaining to the criminal case involving the victim, including discovery disclosed to the defendant.
- C. Subsection B of this section does not apply to:

1. The victim's name except, if the victim is a minor, the victim's name may be redacted from public records pertaining to the crime if the countervailing interests of confidentiality, privacy, the rights of the minor or the best interests of this state outweigh the public interest in disclosure.
  2. Any records that are transmitted between law enforcement and prosecution agencies or a court.
  3. Any records if the victim or, if the victim is a minor, the victim's representative as designated under section 8-384 or 13-4403 has consented to the release of the information.
  4. The general location at which the reported crime occurred.
- D. For the purposes of this section:
1. "Identifying information" includes a victim's date of birth, social security number and official state or government issued driver license or identification number.
  2. "Locating information" includes the victim's address, telephone number, e-mail address and place of employment.

**8-414. *Speedy adjudication; continuance; notice***

- A. In any delinquency proceeding, the court, prosecutor and law enforcement officials shall take appropriate action to ensure a speedy adjudication for the victim.
- B. The prosecutor shall make reasonable efforts to notify a victim of any request for a continuance, except that if the victim is represented by counsel who has filed a notice of appearance, the court, if the request for a continuance is in writing, shall make reasonable efforts to notify the victim's counsel in the same manner in which a party is notified.
- C. In any delinquency proceeding in which a continuance is requested, the court shall consider the victim's views and the victim's right to a speedy adjudication. If a continuance is granted, the court shall state on the record the reason for the continuance.

**8-415. *Effect of failure to comply***

- A. The failure to comply with a victim's constitutional or statutory right is a ground for the victim to request a reexamination proceeding within ten days after the proceeding at which the victim's right was denied or with leave of the court for good cause shown. After the victim requests a reexamination proceeding and after the court gives reasonable notice, the court shall afford the victim a reexamination proceeding to consider the issues raised by the denial of the victim's right. Except as provided in subsection B of this section, the court shall reconsider any decision that arises from a proceeding in which the victim's right was not protected and shall ensure that the victim's rights are thereafter protected.

- B. The failure to use reasonable efforts to perform a duty or provide a right is not cause to seek to set aside an adjudication or disposition after trial. Failure to afford a right under this chapter shall not provide grounds for a new trial. A victim who was given notice of a plea or sentencing proceeding may make a motion to reopen a plea or sentence only if the victim was not voluntarily absent from the proceeding and has asserted the right to be heard before or during the proceeding at issue and the right to be heard was denied and, in the case of a plea, the accused has not pled to the highest offense charged. This subsection does not affect the victim's right to restitution, which the victim may seek to enforce at any time.
- C. Unless the juvenile is discharged from the juvenile's sentence, the failure to use reasonable efforts to provide notice and a right to be present or be heard pursuant to this chapter at a proceeding that involves a post adjudication release is a ground for the victim to seek to set aside the post adjudication release until the victim is afforded the opportunity to be present or be heard.
- D. If the victim seeks to have a post adjudication release set aside pursuant to subsection C of this section, the court or department of juvenile corrections shall afford the victim a reexamination proceeding after the parties are given notice.
- E. A reexamination proceeding conducted pursuant to this section or any other proceeding that is based on the failure to perform a duty or provide a right shall commence not more than thirty days after the appropriate parties have been given notice that the victim is exercising the right to a reexamination proceeding pursuant to this section or to another proceeding based on the failure to perform a duty or provide a right.

**8-416. *Standing to invoke rights; recovery of damages; right to counsel***

- A. The rights enumerated in the victims' bill of rights, article II, section 2.1, Constitution of Arizona, any implementing legislation or court rules belong to the victim. The victim has standing to seek an order, to bring a special action or to file a notice of appearance in a trial court or an appellate proceeding seeking to enforce any right or to challenge an order denying any right guaranteed to victims. A victim may not be charged a filing fee to file a special action or to seek an order pursuant to this subsection. In asserting any right, the victim has the right to be represented by personal counsel at the victim's expense, and the proceedings may be initiated by the victim's counsel or the prosecutor.
- B. A victim has the right to recover damages from a governmental entity responsible for the intentional, knowing or grossly negligent violation of the victim's rights under the victims' bill of rights, article II, section 2.1, Constitution of Arizona, any implementing legislation or court rule. Nothing in this section alters or abrogates any provision for immunity provided for under common law or statute.

- C. At the request of the victim, the prosecutor may assert any right to which the victim is entitled.
- D. On the filing of a notice of appearance, counsel for the victim shall be endorsed on all pleadings and, if present, be included in all bench conferences and in chambers meetings and sessions with the trial court that directly involve a victim's right enumerated in article II, section 2.1, Constitution of Arizona.
- E. Notwithstanding any other law and without limiting any rights and powers of the victim, the victim has the right to present evidence or information and to make an argument to the court, personally or through counsel, at any proceeding to determine the amount of restitution pursuant to section 13-804.

**8-417. Construction of article**

This article shall be liberally construed to preserve and protect the rights to which victims are entitled.

**8-418. Implementation fee; definition**

- A. For all juveniles adjudicated delinquent for offenses involving a victim, including those who are adjusted pursuant to section 8-321, the court or in the case of an adjustment pursuant to section 8-321, a juvenile probation officer shall assess the parent of a delinquent a fee of twenty-five dollars unless the parent or a sibling of the juvenile is the victim or unless, after determining the inability of the parent to pay the fee, the court or juvenile probation officer assesses a lesser amount. Monies assessed pursuant to this section shall be paid to the clerk of the superior court. Within ten working days of the last day of each month the clerk of the superior court shall transmit all monies collected from this assessment to the state treasurer for deposit in the victims' rights fund established by section 41-191.08.
- B. For the purposes of this section, "victim" includes persons, corporations, partnerships, businesses, associations and other legal entities.

**8-419. Victim reconciliation services**

The presiding judge of the juvenile court in each county may establish and provide voluntary victim reconciliation and restitution services to assist victims of juvenile crimes.

**8-420. Right to leave work; scheduled proceedings; employment rights; nondiscrimination; confidentiality; definition**

- A. An employer who has fifty or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of that employer, shall allow an employee who is a victim of a juvenile offense to:

1. Leave work to exercise the employee's right to be present at a proceeding pursuant to sections 8-395, 8-400, 8-401, 8-402, 8-403, 8-405, 8-406 and 8-415.
  2. Obtain or attempt to obtain an order of protection, an injunction against harassment or any other injunctive relief to help ensure the health, safety or welfare of the victim or the victim's child.
- B. An employer may not dismiss an employee who is a victim of a juvenile offense because the employee exercises the right to leave work pursuant to subsection A of this section.
- C. An employer is not required to compensate an employee who is a victim of a juvenile offense when the employee leaves work pursuant to subsection A of this section.
- D. If an employee leaves work pursuant to subsection A of this section, the employee may elect to use or an employer may require the employee to use the employee's accrued paid vacation, personal leave or sick leave.
- E. An employee who is a victim of a juvenile offense shall not lose seniority or precedence while absent from employment pursuant to subsection A of this section.
- F. Before an employee may leave work pursuant to subsection A of this section, the employee shall do all of the following:
1. Provide the employer with a copy of the form provided to the employee by the law enforcement agency pursuant to section 8-386, subsection A or a copy of the information the law enforcement agency provides to the employee pursuant to section 8-386, subsection E.
  2. If applicable, give the employer a copy of the notice of each scheduled proceeding that is provided to the victim by the agency that is responsible for providing notice to the victim.
- G. It is unlawful for an employer or an employer's agent to refuse to hire or employ, to bar or to discharge from employment or to discriminate against an individual in compensation or other terms, conditions or privileges of employment because the individual leaves work pursuant to subsection A of this section.
- H. Employers shall keep confidential records regarding the employee's leave pursuant to this section.
- I. An employer may limit the leave provided under this section if the employee's leave creates an undue hardship to the employer's business.
- J. The prosecutor shall inform the victim of the victim's rights pursuant to this section. A victim may notify the prosecutor if exercising the victim's right to leave under this section would create an undue hardship for the victim's employer. The prosecutor shall communicate the notice to the court during the scheduling of proceedings where the victim has the right to be present. The court shall continue to take the victim's schedule into consideration when scheduling a proceeding pursuant to subsection A of this section.

- K. For the purposes of this section, "undue hardship" means a significant difficulty and expense to a business and includes the consideration of the size of the employer's business and the employer's critical need of the employee.

**8-421. *Statement of rights***

In order to assure that any victim who comes before the juvenile court has been advised of the victim's constitutional rights, the following statement shall be prominently posted in each juvenile court in this state and shall be read out loud by a judge of the juvenile court at the time each victim first appears in that court:

If you are the victim of a delinquent act with a case pending before this court, you are advised that you have rights to justice and due process under Arizona law that, among others, include the right to be treated with fairness, respect and dignity, to a speedy disposition and a prompt and final conclusion of the case, to be present at court proceedings, to choose whether or not to be interviewed by the juvenile's attorney, to be heard before the court makes a decision on release, negotiation of a plea, scheduling and disposition and to seek restitution from a person who is adjudicated as causing your loss. If you have not already been provided with a written statement of all victims' rights, please contact the victim services division of the prosecutor's office.

**8-422. *Use of a facility dog in court proceedings; definition***

- A. The court shall allow a victim who is under eighteen years of age to have a facility dog, if available, accompany the victim while testifying in court. A party seeking the use of a facility dog must file a notice with the court that includes the certification of the facility dog, the name of the person or entity who certified the dog and evidence that the facility dog is insured.
- B. The court may allow a victim who is eighteen years of age or more or a witness to use a facility dog.
- C. To ensure that the presence of a facility dog assisting a victim, or a witness does not influence the jury or is not a reflection on the truthfulness of any testimony that is offered by the victim or witness, the court shall instruct the jury on the role of the facility dog and that the facility dog is a trained animal.
- D. For the purposes of this section, "facility dog" means a dog that is a graduate of an assistance dog organization that is a member of an organization or entity whose main purpose is to improve the areas of training, placement and utilization of assistance dogs, staff and volunteer education and to establish and promote standards of excellence in all areas of assistance dog acquisition, training and partnership.