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Serving Arizona's Crime Victims

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Arizona Crime Victims' Rights Laws

Arizona Constitution:
Article II, Section 2.1 – Victims' Bill of Rights

Arizona Revised Statutes:
Title 13, Chapter 40 – Victims' Rgghts for Absjr Apg k g l _j Mddc l qcq
Title 8, Chapter 3, Article 7 – Victims' Rights for Juvenile Offenses

Restitution Statutes - Adult and Juvenile

Other Victim-Related Statutes

September 2017 Edition

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Message from the Arizona Attorney General's Office

In 1990, Arizona voters approved the Victims' Rights Amendment to the Arizona Constitution. This was a landmark achievement that affords all victims of crime with the opportunity to have a participatory role in the criminal justice system and also extends certain protections of law to victims during their involvement with those processes.

Arizona victims' rights law provides that victims have the right to receive timely notice of criminal proceedings in their cases. Victims have the right to be present in the courtroom during all proceedings involving the defendant. The Victim's Bill of Rights and related statutes ensure that victims are provided the opportunity to be heard at release, plea, and sentencing proceedings. These laws also provide for the safety of victims throughout the criminal justice process as well as their interest in avoiding unreasonable delays, their claims for restitution, and to be treated with dignity and respect.

It is important for our office to provide the necessary resources for anyone who has been victimized by a criminal. This booklet offers you information on victims' rights laws and also other important related resources.

If you would like to learn more about victims' rights, please contact the Office of the Victims Services at (602) 542-4911 or visit the Victim Services website at: http://www.azag.gov.

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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, has 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

Victims' Rights for Adult Criminal Offenses

13-4401. Definitions

In this chapter, unless the context otherwise requires:

1. **"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.
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 of a person or the person's submission to custody.
4. **"Court"** means all state, county and municipal courts in this state.
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. **"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.
7. **"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.
8. **"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.
9. **"Defendant"** means a person or entity that is formally charged by complaint, indictment or information of committing a criminal offense.
10. **"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.
11. **"Immediate family"** means a victim's spouse, parent, child, sibling, grandparent or lawful guardian.
12. **"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.
13. **"Post-arrest release"** means the discharge of the accused from confinement on recognizance, bond or other condition.
14. **"Post-conviction release"** means parole, work furlough, community supervision, and 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.
15. **"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.
16. **"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.
17. **"Release"** means no longer in the custody of a custodial agency and includes transfer from one custodial agency to another custodial agency.

18. **"Rights"** means any right that is granted to the victim by the laws of this state.

19. **"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.

***Validity**

Pursuant to State v. Nichols, 224 Ariz. 569, 571, ¶ 8, 233 P.3d 1148 , 1150 (App. 2010), the Arizona Court of Appeals held that, when there is any ambiguity between the constitution and the statutory definition of "victim," the definition of "Victim" from the Victims' Bill of Rights ultimately controls. Interpreting the VBR's definition of "Victim," the Court held "the VBR denies victim status and rights only to persons who are themselves 'the accused' or who are already in custody when the criminal offense is committed against them." Nichols, 224 Ariz. at 574, ¶ 22, 233 P.3d at 1153.

13-4401.01. 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 13-4404 and 13-4405, 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 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:

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, a statement that 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 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.

(h) If the victim chooses to exercise the right to be heard through a written statement, how that statement may be submitted to the court.

(i) 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 pre-conviction 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 pre-conviction 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 pre-conviction 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 pre-conviction 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 pre-conviction 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 his 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 the provisions of 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 shall, before the decision not to proceed is final, notify the victim and provide the victim with the reasons for declining to proceed with the case. The notice shall inform the victim of his right on request to confer with the prosecutor before the decision not to proceed is final. Such 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 shall, on request, 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 file a restitution lien pursuant to section 13-806.

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 post-conviction 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 member’s 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 post-conviction 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 re-arrest 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 post-conviction release; right to be heard; hearing; final decision

A. The victim has the right to be present and be heard at any proceeding in which post-conviction release from confinement is being considered pursuant to section 31-233, 31-236 or 31-411.

B. If the victim has made a request for post-conviction 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 post-conviction 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 post-conviction 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 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 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 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. 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; pre-sentence 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 pre-sentence 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 court 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 is actually notified at least five days in advance and the minor is informed that the prosecutor may be present at the interview.

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.

C. Subsection B 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 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 victim has standing to seek an order, to bring a special action or to file a notice of appearance in an appellate proceeding seeking to enforce any right or to challenge an order denying any right guaranteed to victims under the victims' bill of rights, article II, section 2.1, Constitution of Arizona, any implementing legislation or court rules. In asserting any right, the victim has the right to be represented by personal counsel at the victim's expense.

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

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 post-conviction notice, the attorney for the state shall provide notice to the victim at least five days before the hearing.

13-4442. Use of 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.

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, and 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.

***Validity**

Pursuant to State v. Nichols, 224 Ariz. 569, 571, ¶ 8, 233 P.3d 1148 , 1150 (App. 2010), the Arizona Court of Appeals held that, when there is any ambiguity between the constitution and the statutory definition of "victim," the definition of "Victim" from the Victims' Bill of Rights ultimately controls. Interpreting the VBR's definition of "Victim," the Court held "the VBR denies victim status and rights only to persons who are themselves 'the accused' or who are already in custody when the criminal offense is committed against them." Nichols, 224 Ariz. at 574, ¶ 22, 233 P.3d at 1153.

8-383. Implementation of rights and duties

A. Except as provided in sections 8-385 and 8-386, 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. 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.

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 upon 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 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 court 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 court 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 member’s 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 re-arrest 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 individualized 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 court 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 court 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 court 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 court 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 court 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 court 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. 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 court 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

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 is actually notified at least five days in advance and the minor is informed that the prosecutor may be present at the interview.

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 interest 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 postadjudication release is a ground for the victim to seek to set aside the postadjudication release until the victim is afforded the opportunity to be present or be heard. A reexamination proceeding conducted pursuant to this section or any other proceeding that is based on the failure to perform a duty or to provide a right shall begin not more than thirty days after the appropriate parties have been given notice that the victim is exercising the victim's 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.

D. If the victim seeks to have a postadjudication 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 victim has standing to seek an order, to bring a special action or to file a notice of appearance in an appellate proceeding seeking to enforce any right or to challenge an order denying any right guaranteed to victims under the victims' bill of rights, article II, section 2.1, Constitution of Arizona, this article or court rules. In asserting any right, the victim has the right to be represented by personal counsel at the victim's expense.

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; 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 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 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 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.

ARIZONA REVISED STATUTES

Restitution Statutes

Adult Statutes:

12-1721. Monetary judgement awarded to prisoners; outstanding restitution and incarceration costs

A. In any civil action, a monetary judgement may not be paid to a person who is or was previously incarcerated in the state department of corrections before all restitution and incarceration costs owed by the person are paid if the monetary judgement is against this state, a political subdivision of this state, any prison, jail or correctional facility or any officer or agent of a prison, jail or correctional facility. If the monetary judgement is not sufficient to pay both restitution and incarceration costs that are owed, the monetary judgment must be first used to pay any outstanding restitution and a portion of any remaining balance may be set off and used to pay outstanding incarceration costs pursuant to section 31-238.

B. If the victim was ordered by the court to receive restitution through the clerk of the superior court, this state, the political subdivision of this state or the prison, jail or correctional facility that was ordered to satisfy the monetary judgement shall transfer enough of the monetary judgement to pay the remaining balance of the restitution order to the clerk of the superior court for distribution to the victim.

C. If the money is transferred to a clerk of the superior court pursuant to subsection B of this section, this state, the political subdivision of this state or the prison, jail or correctional facility must also provide the clerk with the following information at the time of the transfer:

1. A copy of the monetary judgement.
2. The defendant's name and the case number of each case where restitution is owed.
3. The name and address of the transferring entity.

13-804. Restitution for offense causing economic loss; fine for reimbursement of public monies

A. On a defendant's conviction for an offense causing economic loss to any person, the court, in its sole discretion, may order that all or any portion of the fine imposed be allocated as restitution to be paid by the defendant to any person who suffered an economic loss caused by the defendant's conduct.

B. In ordering restitution for economic loss pursuant to section 13-603, subsection C or subsection A of this section, the court shall consider all losses caused by the criminal offense or offenses for which the defendant has been convicted.

C. The court shall not consider the economic circumstances of the defendant in determining the amount of restitution.

D. Restitution payments that are ordered pursuant to section 13-603 and this section shall not be stayed if the defendant files a notice of appeal, and the payments may be held by the court pending the outcome of an appeal.

E. After the court determines the amount of restitution, the court or a staff member designated by the court, including a probation officer, shall specify the manner in which the restitution is to be paid. In deciding the manner in which the restitution is to be paid, the court or a staff member designated by the court, including a probation officer, shall make reasonable efforts to contact any victim who has requested notice pursuant to sections 13-4415 and 13-4417, shall take into account the views of the victim and shall consider the economic circumstances of the defendant. In considering the economic circumstances of the defendant, the court shall consider all of the defendant's assets and income, including workers' compensation and social security benefits. The court shall make all reasonable efforts to ensure that all persons entitled to restitution pursuant to a court order promptly receive full restitution. The court may enter any reasonable order necessary to accomplish this. If a victim has received reimbursement for the victim's economic loss from an insurance company, a crime victim compensation program funded pursuant to section 41-2407 or any other entity, the court shall order the defendant to pay the restitution to that entity. If a victim has received only partial reimbursement for the victim's economic loss, the court shall order the defendant to pay restitution first to the victim and then to the entity that partially reimbursed the victim. If a probation, parole or community supervision officer has reason to believe that court ordered restitution is not being made, the officer shall report to the court supervising the probationer or the board of executive clemency that the defendant has failed to make restitution in a timely manner and the court or the board of executive clemency may revoke the defendant's probation, parole or community supervision.

F. If more than one defendant is convicted of the offense that caused the loss, the defendants are jointly and severally liable for the restitution.

G. If the court does not have sufficient evidence to support a finding of the amount of restitution or the manner in which the restitution should be paid, it may conduct a hearing on the issue according to procedures established by court rule. The court may call the defendant to testify and to produce information or evidence. The state does not represent persons who have suffered economic loss at the hearing but may present evidence or information relevant to the issue of restitution.

H. After making the determinations in subsection B of this section the trial court shall enter a restitution order for each defendant that sets forth all of the following:
   1. The total amount of restitution the defendant owes all persons.
   2. The total amount of restitution owed to each person.
   3. The manner in which the restitution is to be paid.

I. The restitution order under subsection H of this section may be supported by evidence or information introduced or submitted to the court before sentencing or any evidence previously heard by the judge during the proceedings.

J. A restitution lien shall be created in favor of the state for the total amount of the restitution.

K. A restitution lien shall be created in favor of the state for the total amount of the fine, surcharges, assessments, costs, incarceration costs and fees ordered, if any, except that a lien may not be perfected against a titled motor vehicle.

L. Notwithstanding any other law, a restitution lien is created in favor of a victim of the defendant ordered to make restitution. Monies received monthly from the defendant shall be applied first to satisfy the restitution order entered by the court and the payment of any restitution in arrears. Any monies that are owed by this state to a person who is under a restitution order shall be assigned first to discharge the restitution order, including any tax refund that is owed to the defendant.

M. If the defendant, the state or persons entitled to restitution pursuant to a court order disagree with the manner of payment established in subsection E of this section, the defendant, court or person entitled to restitution may petition the court at any time to change the manner in which the restitution is paid. Before modifying the order pertaining to the manner in which the restitution is paid, the court shall give notice and an opportunity to be heard to the defendant, the state and, on request, persons entitled to restitution pursuant to a court order.

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 superior 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 who is entitled to restitution or by the state includes the collection of interest that accrues at a rate of ten per cent per annum. A criminal restitution order does not expire until paid in full. A filing fee, 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.

13-806. Restitution lien

A. The state or any person entitled to restitution pursuant to a court order may file in accordance with this section a restitution lien. A filing fee, recording fee or any other charge is not required for filing a restitution lien.

B. A restitution lien shall be signed by the attorney representing the state in the criminal action or by a magistrate and shall set forth all of the following information:
   1. The name and date of birth of the defendant whose property or other interests are subject to the lien.
   2. The present residence or principal place of business of the person named in the lien, if known.
   3. The criminal proceeding pursuant to which the lien is filed, including the name of the court, the title of the action and the court's file number.
   4. The name and address of the attorney representing the state in the proceeding pursuant to which the lien is filed or the name and address of the person entitled to restitution pursuant to a court order filing the lien.
   5. A statement that the notice is being filed pursuant to this section.
   6. The amount of restitution the defendant in the proceeding has been ordered to pay or an estimated amount of economic loss caused by the offense alleged in the proceeding if no restitution order has been entered yet.
   7. A statement that the total amount of restitution owed will change and that the clerk of the court in which the proceeding was or is pending shall maintain a record of the outstanding balance.

C. A prosecutor or a victim in a criminal proceeding in which there was an economic loss may file a request with the court for a preconviction restitution lien after the filing of a misdemeanor complaint or felony information or indictment

D. A victim in a criminal proceeding may file a restitution lien after restitution is determined and ordered by the trial court following pronouncement of the judgment and sentence.

E. A restitution lien is perfected against interests in personal property by filing the lien with the secretary of state, except that in the case of titled motor vehicles it shall be filed with the department of transportation motor vehicle division. A restitution lien is perfected against interests in real property by filing the lien with the county recorder of the county in which the real property is located. The state or a victim may give the additional notice of the lien as either deems appropriate.

F. The filing of a restitution lien in accordance with this section creates a lien in favor of the state or the victim in all of the following:
   1. Any interest of the defendant in real property situated in the county in which the lien is filed then maintained or thereafter acquired in the name of the defendant identified in the lien.
   2. Any interest of the defendant in personal property situated in this state then maintained or thereafter acquired in the name of the defendant identified in the lien.
   3. Any property identified in the lien to the extent of the defendant's interest in the property.

G. The filing of a restitution lien under this section is notice to all persons dealing with the person or property identified in the lien of the state's or victim's claim. The lien created in favor of the state or the victim in accordance with this section is superior and prior to the claims or interests of any other person, except a person possessing any of the following:
   1. A valid lien perfected before the filing of the restitution lien.
   2. In the case of real property, an interest acquired and recorded before the filing of the restitution lien.
   3. In the case of personal property, an interest acquired before the filing of the restitution lien.

H. This section does not limit the right of the state or any other person entitled to restitution to obtain any order or injunction, receivership, writ, attachment, garnishment or other remedy authorized by law.

I. Following the entry of the judgment and sentence in the criminal case, if the trial court sentences the defendant to pay a fine or awards costs of investigation or prosecution, the state may file a restitution lien pursuant to this section for the amount of the fine or costs, except that a lien may not be perfected against a titled motor vehicle.

J. A criminal restitution lien is a criminal penalty for the purposes of any federal bankruptcy involving the defendant.

K. The court shall order the release of any preconviction restitution lien that has been filed or perfected if the defendant is acquitted or the state does not proceed with the prosecution.

L. A self-service storage facility that forecloses its lien pursuant to section 33-1704 may sell personal property that is subject to a restitution lien. The proceeds from the sale, less the reasonable costs of sale, shall be paid to the restitution lienholder to satisfy the restitution lien as prescribed in section 33-1704. A person who is a good faith purchaser pursuant to section 33-1704 and who purchases personal property that is subject to a restitution lien takes the property free and clear of the rights of the restitution lienholder.

13-807. Civil actions by victims or other persons

A defendant who is convicted in a criminal proceeding is precluded from subsequently denying in any civil proceeding brought by the victim or this state against the criminal defendant the essential allegations of the criminal offense of which he was adjudged guilty, including judgments of guilt resulting from no contest pleas. An order of restitution in favor of a person does not preclude that person from bringing a separate civil action and proving in that action damages in excess of the amount of the restitution order that is actually paid.

13-809. Priority of payments; application to traffic offenses; orders to reimburse public monies

A. If a defendant is sentenced to pay a fine or incarceration costs, payment and enforcement of restitution take priority over payment to the state.

B. Section 13-804 does not apply to traffic offenses, except for a violation of section 28-661, 28-662, 28-693, 28-1381, 28-1382 or 28-1383 or any local ordinance relating to the same subject matter of such sections.

C. The court may impose an additional fine on sentencing for any offense to require that the defendant reimburse the law enforcement agency for any public monies paid to any person.

13-810. Consequences of nonpayment of fines, fees, restitution or incarceration costs

A. In addition to any other remedy provided by law, including a writ of execution or other civil enforcement, if a defendant who is sentenced to pay a fine, a fee or incarceration costs defaults in the payment of the fine, fee or incarceration costs or of any installment as ordered, the clerk of the court imposing the fine, fee or incarceration costs shall notify the prosecutor and the sentencing court. The court, on motion of the prosecuting attorney or on its own motion, shall require the defendant to show cause why the defendant's default should not be treated as contempt and may issue a summons or a warrant of arrest for the defendant's appearance.

B. In addition to any other remedy provided by law, including a writ of execution or other civil enforcement, if a defendant who is ordered to pay restitution defaults in the payment of the restitution or of any installment as ordered, the clerk of the court that imposed the restitution shall notify the prosecutor and the sentencing court on a monthly basis. The court, on motion of the prosecuting attorney, on petition of any person entitled to restitution pursuant to a court order or on its own motion, shall require the defendant to show cause why the defendant's default should not be treated as contempt and may issue a summons or a warrant of arrest for the defendant's appearance.

C. In addition to any other remedy provided by law, including a writ of execution or other civil enforcement, the court, on receipt of a petition and issuance of an order to show cause, has jurisdiction to preserve rights over all restitution liens entered pursuant to section 13-806, subsection B, and perfected pursuant to section 13-806, subsection E.

D. At any hearing on the order to show cause the court, the prosecuting attorney or a person entitled to restitution may examine the defendant under oath concerning the defendant's financial condition, employment and assets or on any other matter relating to the defendant's ability to pay restitution.

E. If the court finds that the defendant has wilfully failed to pay a fine, a fee, restitution or incarceration costs or finds that the defendant has intentionally refused to make a good faith effort to obtain the monies required for the payment, the court shall find that the default constitutes contempt and may do one of the following:
   1. Order the defendant incarcerated in the county jail until the fine, fee, restitution or incarceration costs, or a specified part of the fine, fee, restitution or incarceration costs, is paid.

   2. Revoke the defendant's probation, parole or community supervision and sentence the defendant to prison pursuant to law.

   3. Enter an order pursuant to section 13-812. The levy or execution for the collection of a fine, a fee, restitution or incarceration costs does not discharge a defendant who is incarcerated for nonpayment of the fine, fee, restitution or incarceration costs until the amount of the fine, fee, restitution or incarceration costs is collected.

   4. Order the defendant to perform community restitution.

F. If the court finds that the default is not wilful and that the defendant cannot pay despite sufficient good faith efforts to obtain the monies, the court may take any lawful action including:
   1. Modify the manner in which the restitution, fine, fee or incarceration costs are to be paid.

   2. Enter any reasonable order that would assure compliance with the order to pay.

   3. Enter an order pursuant to section 13-812. The levy or execution for the collection of a fine, a fee, restitution or incarceration costs does not discharge a defendant incarcerated for nonpayment of the fine, fee, restitution or incarceration costs until the amount of the fine, fee, restitution or incarceration costs is collected.

G. If a fine, a fee, restitution or incarceration costs are imposed on an enterprise it is the duty of the person or persons authorized to make disbursement from the assets of the enterprise to pay them from those assets, and their failure to do so shall be held a contempt unless they make the showing required in subsection A or B of this section.

13-812. Garnishment for nonpayment of fines, fees, restitution or incarceration costs

A. After a hearing on an order to show cause pursuant to section 13-810, subsection A or B or after a hearing on a petition to revoke probation pursuant to section 13-804, subsection E or the rules of criminal procedure, the court may issue a writ of criminal garnishment for any fine, fee, restitution or incarceration costs.

B. The court may order garnishment for monies that are owed to a victim or the court, the clerk of the court or the prosecuting attorney pursuant to a court order to pay any fine, fee, restitution or incarceration costs. A writ of criminal garnishment applies to any of the following:
   1. The defendant's earnings as defined in section 12-1598.

   2. Indebtedness that is owed to a defendant by a garnishee for amounts that are not earnings.

   3. Monies that are held by a garnishee on behalf of a defendant.

   4. The defendant's personal property that is in the possession of a garnishee.

   5. If the garnishee is a corporation, shares or securities of a corporation or a proprietary interest in a corporation that belongs to a defendant.

   6. The defendant's earnings or monies that are held by the state department of corrections while the defendant is in the custody of the department.

13-814. Restitution to pawnbrokers and dealers; definitions

A. If the lawful owner of stolen property recovers the property from a pawnbroker or dealer and the person who sold or pledged the property to the pawnbroker or dealer is convicted of a violation of law that is related to the stolen or pledged property, the court shall order the defendant to make restitution to the pawnbroker pursuant to this chapter.

B. For the purposes of this section:
   1. “Dealer” has the same meaning prescribed in section 44-1601
   2. “Precious Item” has the same meaning prescribed in section 44-1601
   3. “Property” includes a numismatic or bullion gold coin and a precious item.

13-3708. Sale or transfer of motor vehicle; lien disclosure; classification

A. A person shall not knowingly sell or transfer the person's ownership in a motor vehicle without disclosing to the purchaser or transferee that the motor vehicle is subject to a restitution lien pursuant to section 13-806.

B. A person who violates this section is guilty of a class 1 misdemeanor.

28-2137. Restitution lien; removal

A. Notwithstanding section 28-2132, after a hearing, the director may remove a restitution lien filed pursuant to section 13-805 or section 13-806 from a vehicle record if the director finds both of the following:
   1. A person purchased the vehicle without any knowledge that the vehicle was subject to a filed restitution lien.
   2. The person who sold the vehicle is an obligor under a filed restitution lien and sold the vehicle without disclosing to the purchaser that the vehicle was subject to a filed restitution lien.

B. If a restitution lien is removed as prescribed in subsection A of this section, the department shall place a code on the obligor’s record that automatically restores the restitution lien on any vehicle that is subsequently titled or registered, or both, by the obligor.

C. If the lien, or any portion of the lien, was the result of an order to pay restitution, the party for whom restitution was ordered shall be provided with notice of any hearing held pursuant to this section and an opportunity to appear. The department shall provide notice of the hearing to the governmental agency that requested the lien be placed on the obligor’s record. The governmental agency that requested the lien shall promptly provide notice to any party for whom restitution was ordered.

31-230. Prisoner spendable accounts

A. The director shall establish a prisoner spendable account for each prisoner. All monies that are received by a prisoner and that are not required to be deposited in another account shall be deposited in the prisoner's spendable account.

B. The director shall adopt rules for the disbursement of monies from prisoner spendable accounts.

C. If the court has ordered the prisoner to pay restitution pursuant to section 13-603, the director shall withdraw a minimum of twenty per cent, or the balance owing on the restitution amount, up to a maximum of fifty per cent of the monies available in the prisoner's spendable account each month to pay the court ordered restitution.

D. The director may establish by rule a fee for any deposits made to a prisoner spendable account. The director shall deposit, pursuant to sections 35-146 and 35-147, any monies collected pursuant to this subsection in the department of corrections building renewal fund established by section 41-797.

Juvenile Statutes:

8-344. Restitution payments

A. If a juvenile is adjudicated delinquent, the court, after considering the nature of the offense and the age, physical and mental condition and earning capacity of the juvenile, shall order the juvenile to make full or partial restitution to the victim of the offense for which the juvenile was adjudicated delinquent or to the estate of the victim if the victim has died. The juvenile shall make restitution payments to the clerk of the court for disbursement to the victim or estate of the victim.

B. The court shall notify the victim or estate of the victim of the dispositional hearing. The court may consider a verified statement from the victim or estate of the victim concerning damages for lost wages, reasonable damages for injury to or loss of property and actual expenses of medical treatment for personal injury, excluding pain and suffering.

C. In ordering restitution pursuant to subsection A of this section, the court may order one or both of the juvenile's custodial parents to make restitution to the victim of the offense for which the juvenile was adjudicated delinquent or to the estate of the victim if the victim has died. The court shall determine the amount of restitution ordered pursuant to this subsection, except that the amount shall not exceed the liability limit established pursuant to section 12-661. The court may order a parent or juvenile who is ordered to pay restitution to satisfy the order in a lump sum or installment payments to the clerk of the court for disbursement to the victim or estate of the victim. If the court orders the juvenile's parents to make restitution pursuant to this subsection, the court shall order the juvenile to make either full or partial restitution, regardless of the juvenile's insufficient earning capacity. The court shall not consider the ability of the juvenile's parents to pay restitution before making a restitution order.

D. The juvenile court shall retain jurisdiction of the case after the juvenile attains eighteen years of age for the purpose of modifying the manner in which court ordered payments are to be made. After a juvenile attains eighteen years of age, the juvenile court shall enter the following:
   1. A juvenile restitution order in favor of the state for the unpaid balance, if any, of any costs, fees, surcharges or monetary assessments imposed.

   2. A juvenile restitution order in favor of each person entitled to restitution for the unpaid balance of any restitution ordered pursuant to this section.

E. The clerk of the court shall send a copy of the juvenile restitution order to each person who is entitled to restitution.

F. A juvenile restitution order may be recorded and enforced as any civil judgment, except that a juvenile restitution order does not require renewal pursuant to section 12-1611 or 12-1612. A juvenile restitution order does not expire until paid in full. Enforcement of a juvenile restitution order by any person who is entitled to restitution or by the state includes the collection of interest, which accrues at a rate of ten per cent per annum.

G. A juvenile restitution order is a criminal penalty for the purposes of a federal bankruptcy involving the juvenile.

8-345. Restitution lien; definition

A. A person who is entitled to restitution pursuant to section 8-323, subsection F, paragraph 9 or section 8-344 may file a restitution lien. No filing fee or other charge is required for filing a restitution lien.

B. A judge, commissioner or juvenile hearing officer shall sign the restitution lien and shall set forth all of the following:
   1. The name and date of birth of the juvenile or the parent of the juvenile whose property or other interests are subject to the lien.

   2. The present residence or principal place of business of the juvenile or the parent of the juvenile named in the lien, if known.

   3. The delinquency proceeding pursuant to which the lien is filed, including the name of the court, the title of the action and the court's file number.

   4. The name and address of the attorney representing the state in the delinquency proceeding pursuant to which the lien is filed or the name and address of the person who is entitled to restitution pursuant to section 8-323, subsection F, paragraph 9 or section 8-344 and who is filing the lien.

   5. A statement that the notice is being filed pursuant to this section.

   6. The amount of restitution that the juvenile or the parent of the juvenile has been ordered to pay.

   7. A statement that the total amount of restitution owed will change and that the clerk of the superior court shall maintain a record of the outstanding balance.

C. A restitution lien is perfected against interests in personal property by filing the lien with the secretary of state, except that for motor vehicles, the lien shall be filed with the department of transportation. A restitution lien is perfected against interests in real property by filing the lien with the county recorder of the county in which the real property is located. The person entitled to restitution may give the additional notice of the lien as the person deems appropriate.

D. The filing of a restitution lien creates a lien in favor of the person in all of the following:
   1. Any interest of the juvenile or the parent of the juvenile in real property that is situated in the county in which the lien is filed and that is currently maintained or thereafter acquired in the name of the juvenile or the parent of the juvenile identified in the lien.

   2. Any interest of the juvenile or the parent of the juvenile in personal property that is situated in this state and that is currently maintained or thereafter acquired in the name of the juvenile or the parent of the juvenile identified in the lien.

   3. Any property identified in the lien to the extent of the juvenile's or the parent's interest in the property.

E. The filing of a restitution lien is notice to all persons dealing with the juvenile or the parent of the juvenile or with property identified in the lien of the claim of the person entitled to restitution pursuant to section 8-323, subsection F, paragraph 9 or section 8-344. The lien created in favor of the person pursuant to this section is superior and prior to the claims or interests of any other person, except a person possessing any of the following:
   1. A valid lien that is perfected before the filing of the restitution lien.

   2. In the case of real property, an interest that is acquired and recorded before the filing of the restitution lien.

   3. In the case of personal property, an interest that is acquired before the filing of the restitution lien.

F. This section does not limit the right of the state or any other person entitled to restitution to obtain any order or injunction, receivership, writ, attachment, garnishment or other remedy authorized by law.

G. For the purposes of this section, "parent" means a parent who is ordered to make restitution pursuant to section 8-323, subsection F, paragraph 9 or section 8-344.

8-346. Restitution fund; restitution contracts

A. The county board of supervisors shall establish a separate fund for the payment of restitution in juvenile delinquency proceedings by juveniles who are ordered to pay restitution and who are financially unable to pay or who are otherwise unable to be employed to earn money to pay restitution. The fund consists of state and local appropriations and grants, gifts, devises and donations from any public or private source.

B. The county board of supervisors may apply to the internal revenue service for a ruling that donations to the fund are tax deductible.

C. The county attorney or the court may direct the payment of monies from the fund to the victim for unpaid charitable work done by the juvenile to pay restitution that was ordered by the juvenile court or that the juvenile agreed to pay as part of a diversion program administered by the county attorney or the juvenile court. If a juvenile performs unpaid charitable work pursuant to this section, the agency providing the work shall supervise the juvenile's work. The juvenile shall be credited for each hour worked at an hourly rate set by the county attorney or the juvenile court.

D. If monies are available, the victim shall be paid from monies that are credited to the juvenile for work performed.

E. The county attorney or the juvenile court shall not retain more than twenty per cent of the money credited to the fund for the payment of administrative costs and expenses.

F. The county attorney or the juvenile court may enter into contracts with this state, any political subdivision of this state or private entities to provide appropriate services by juveniles who are ordered to pay restitution by the juvenile court or who have agreed to pay restitution as part of a diversion program that is administered by the county attorney or the juvenile court.

8-350.02. Civil actions by victim or other persons

A juvenile who is adjudicated in a delinquency proceeding is precluded from subsequently denying in any civil proceeding brought by the victim or this state against the adjudicated delinquent the essential allegations of the delinquent act of which the juvenile was adjudicated delinquent, including adjudications resulting from no contest pleas. An order of

restitution in favor of a person does not preclude that person from bringing a separate civil action and proving in that action damages in excess of the amount of the restitution order that is actually paid.

41-2826. Department of juvenile corrections restitution fund

A. The department of juvenile corrections restitution fund is established for the payment of restitution and monetary assessments by youths who are ordered to pay restitution or monetary assessments and who are financially unable to pay or who are otherwise unable to be employed to earn money to pay restitution or monetary assessments and who are working in the committed youth work program prescribed by section 41-2822 or the community work program established by section 41-2825. The fund consists of federal, state and local appropriations, monies distributed to the fund pursuant to section 41-2828 and grants, gifts, devises and donations from any public or private source. The fund shall be used to pay a youth for the youth's work in the committed youth work program prescribed by section 41-2822 and to provide monies for the community work program established by section 41-2825.

B. The director may direct the payment of monies from the fund to the victim or the court for community restitution activities the youth does to pay restitution or monetary assessments that were ordered by the juvenile court or that the youth agreed to pay as part of a community work program administered by the department. If a youth performs community restitution pursuant to this subsection, the entity providing the work shall supervise the youth's work. The youth shall be credited for each hour worked at an hourly rate set by the director.

C. As monies are available, the department shall pay from the fund youths who perform work or community restitution activities for restitution and monetary assessments purposes.

D. The department may expend, for the payment of administrative costs and expenses, an amount not greater than ten per cent of the fund balance as of the end of the preceding fiscal year.

E. Monies in the fund are continuously appropriated and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

Other Victim-Related Statutes

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.

13-106. Death of convicted defendant; dismissal of appellate and post-conviction proceedings

A. On a convicted defendant's death, the court shall dismiss any pending appeal or post-conviction proceeding.

B. A convicted defendant's death does not abate the defendant's criminal conviction or sentence of imprisonment or any restitution, fine or assessment imposed by the sentencing court.

13-716. Juvenile offenders sentenced to life imprisonment; parole eligibility

Notwithstanding any other law, a person who is sentenced to life imprisonment with the possibility of release after serving a minimum number of calendar years for an offense that was committed before the person attained eighteen years of age is eligible for parole on completion of service of the minimum sentence, regardless of whether the offense was committed on or after January 1, 1994. If granted parole, the person shall remain on parole for the remainder of the person's life except that the person's parole may be revoked pursuant to section 31-415.

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.

13-1415. Human immunodeficiency virus and sexually transmitted disease testing; victim's rights; petition; definitions

A. A defendant, including a defendant who is a minor, who is alleged to have committed a sexual offense or another offense involving significant exposure is subject to a court order that requires the defendant to submit to testing for the human immunodeficiency virus and other sexually transmitted diseases and to consent to the release of the test results to the victim.

B. Pursuant to subsection A of this section, the prosecuting attorney, if requested by the victim, or, if the victim is a minor, by the parent or guardian of the minor, shall petition the court for an order requiring that the person submit a specimen, to be determined by the submitting entity, for laboratory testing by the department of health services or another licensed laboratory for the presence of the human immunodeficiency virus and other sexually transmitted diseases. The court, within ten days, shall determine if sufficient evidence exists to indicate that significant exposure occurred. If the court makes this finding or the act committed against the victim is a sexual offense it shall order that the testing be performed in compliance with rules adopted by the department of health services. The prosecuting attorney shall provide the victim's name and last known address of record to the department of health services for notification purposes. The victim's name and address are confidential, except that the department of health services may disclose the information to a local health department for victim notification purposes.

C. After a specimen has been tested pursuant to subsection B of this section, the laboratory that performed the test shall report the results to the submitting entity.

D. The submitting entity shall provide the results to the department of health services or a local health department. The department of health services or a local health department shall notify the victim of the results of the test conducted pursuant to subsection B of this section and shall counsel the victim regarding the health implications of the results.

E. The submitting entity or the department of health services shall notify the person tested of the results of the test conducted pursuant to subsection B of this section and shall counsel the person regarding the health implications of the results. If the submitting entity does not notify the person tested of the test results, the submitting entity shall provide both the name and last known address of record of the person tested and the test results to the department of health services or a local health department for notification purposes.

F. Notwithstanding any other law, copies of the test results shall be provided only to the victim of the crime, the person tested the submitting entity and the department of health services.

G. For the purposes of this section:
   1. "Sexual offense" means oral sexual contact, sexual contact or sexual intercourse as defined in section 13-1401.
   2. "Sexually transmitted diseases" means:
      (a) Chlamydia.
      (b) Genital herpes.
      (c) Gonorrhea.
      (d) Syphilis.
      (e) Trichomonas.
   3. "Significant exposure" means contact of the victim's ruptured or broken skin or mucous membranes with a person's blood or body fluids, other than tears, saliva or perspiration, of a magnitude that the centers for disease control have epidemiologically demonstrated can result in transmission of the human immunodeficiency virus.
   4. "Submitting entity" means one of the following:
      (a) A local health department.
      (b) A health unit of the state department of corrections.
      (c) A health unit of any detention facility.
      (d) A physician licensed pursuant to title 32, chapter 13, 17 or 29.

13-2314.01. Anti-racketeering revolving fund; use of fund; reports

A. The anti-racketeering revolving fund is established. The attorney general shall administer the fund under the conditions and for the purposes provided by this section. Monies in the fund are exempt from the lapsing provisions of section 35-190.

B. Any prosecution and investigation costs, including attorney fees, recovered for the state by the attorney general as a result of enforcement of civil and criminal statutes pertaining to any offense included in the definition of racketeering in section 13-2301, subsection D, paragraph 4 or section 13-2312, whether by final judgment, settlement or otherwise, shall be deposited in the fund established by this section.

C. Any monies received by any department or agency of this state or any political subdivision of this state from any department or agency of the United States or another state as a result of participation in any investigation or prosecution, whether by final judgment, settlement or otherwise, shall be deposited in the fund established by this section or, if the recipient is a political subdivision of this state, may be deposited in the fund established by section 13-2314.03.

D. Any monies obtained as a result of a forfeiture by any department or agency of this state under this title or under federal law shall be deposited in the fund established by this section. Any monies or other property obtained as a result of a forfeiture by any political subdivision of this state or the federal government may be deposited in the fund established by this section. Monies deposited in the fund pursuant to this section or section 13-4315 shall accrue interest and shall be held for the benefit of the agency or agencies responsible for the seizure or forfeiture to the extent of their contribution. Except as provided in subsections F and G of this section, the monies and interest shall be distributed within thirty days of application to the agency or agencies responsible for the seizure or forfeiture. Monies

in the fund used by the attorney general for capital projects in excess of one million dollars are subject to review by the joint committee on capital review.

E. Monies in the fund may be used for the following:
   1. The funding of gang prevention programs, substance abuse prevention programs, substance abuse education programs, programs that provide assistance to victims of a criminal offense that is listed in section 13-2301 and witness protection pursuant to section 41-196 or for any purpose permitted by federal law relating to the disposition of any property that is transferred to a law enforcement agency.

   2. The investigation and prosecution of any offense included in the definition of racketeering in section 13-2301, subsection D, paragraph 4 or section 13-2312, including civil enforcement.

   3. The payment of the relocation expenses of any law enforcement officer and the officer's immediate family if the law enforcement officer is the victim of a bona fide threat that occurred because of the law enforcement officer's duties.

F. On or before January 15, April 15, July 15 and October 15 of each year, each department or agency of this state receiving monies pursuant to this section or section 13-2314.03 or 13-4315 or from any department or agency of the United States or another state as a result of participation in any investigation or prosecution shall file with the attorney general a report for the previous calendar quarter. The report shall be in a form that is prescribed by the Arizona criminal justice commission and approved by the director of the joint legislative budget committee. The report shall set forth the sources of all monies and all expenditures. The report shall not include any identifying information about specific investigations. If a department or agency of this state fails to file a report within forty-five days after the report is due and there is no good cause as determined by the Arizona criminal justice commission, the attorney general shall make no expenditures from the fund for the benefit of the department or agency until the report is filed. The attorney general is responsible for collecting all reports from departments and agencies of this state and transmitting the reports to the Arizona criminal justice commission at the time that the report required pursuant to subsection G of this section is submitted.

G. On or before January 25, April 25, July 25 and October 25 of each year, the attorney general shall file with the Arizona criminal justice commission a report for the previous calendar quarter. The report shall be in a form that is prescribed by the Arizona criminal justice commission and approved by the director of the joint legislative budget committee. The report shall set forth the sources of all monies and all expenditures. The report shall not include any identifying information about specific investigations. If the attorney general fails to file a report within sixty days after the report is due and there is no good cause as determined by the Arizona criminal justice commission, the attorney general shall make no expenditures from the fund for the benefit of the attorney general until the report is filed. If a political subdivision of this state fails to file a report with the county attorney pursuant to section 13-2314.03 within forty-five days after the report is due and there is no good cause as determined by the Arizona criminal justice commission, the attorney general shall make no expenditures from the fund for the benefit of the political subdivision until the report is filed.

H. On or before September 30 of each year, the Arizona criminal justice commission shall compile the attorney general report and the reports of all departments and agencies of this state into a single comprehensive report and shall submit a copy of the report to the governor, the director of the department of administration, the president of the senate, the speaker of the house of representatives, the director of the joint legislative budget committee and the secretary of state.

13-2813. Unlawful disclosure of an indictment, information or complaint; classification

A. A person commits unlawful disclosure of an indictment, information or complaint if the person knowingly discloses the fact that an indictment, information or complaint has been found or filed before the accused person is in custody or has been served with a summons, except in the proper discharge of official duties, at the discretion of the prosecutor to inform a victim of the status of the case or as authorized by the court in furtherance of justice.

B. This section does not apply to offenses that are created by city or county ordinance.

C. Unlawful disclosure of an indictment, information or complaint is a class 1 misdemeanor.

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

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.

A. On the filing of a notice of appearance, the victim shall serve a copy on the state and the defendant.

B. The victim may exercise the right to respond through the state.

C. The party that requests the extension shall provide notice of the request to the victim in a manner prescribed by the court.

D. This section does not provide any party or the victim with a right to oral argument.

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.

13-4271. Cold case register; law enforcement agencies; definition

A. A law enforcement agency that has a cold case shall establish and maintain a cold case register. The cold case register shall consist of the names of any victim, victim's family member or other lawful representative of a victim of a cold case who requests that the person's name be included in the cold case register.

B. A law enforcement agency that maintains a cold case register shall:

1. Provide notice of the law enforcement agency's cold case register to any victim, victim's family member or other lawful representative of a victim of a cold case.

2. Provide cold case registrants with the following:

   (a) The contact information for the law enforcement agency.

   (b) In a timely manner, information on any new developments or reviews of the cold case.

3. Encourage registrants to contact the law enforcement agency if the registrant is aware of any new information related to the cold case.

C. The name of a victim, a victim's family member or any other lawful representative of a victim shall remain in the register for three years. The law enforcement agency shall make reasonable efforts to provide notice to the registrant of the end of the three year period. On request, the law enforcement agency shall extend the person's registration for an additional three years.

D. A law enforcement agency shall give priority to any cold case that is associated with a name in the cold case register unless there is a compelling reason to give priority to a cold case that is not associated with a name in the cold case register.

E. The cold case register is not a public record and is exempt from title 39, chapter 1.

F. For the purposes of this section, "cold case" means a homicide or a felony sexual offense that remains unsolved for one year or more after being reported to a law enforcement agency and that has no viable and unexplored investigatory leads.

31-502. Psychiatric security review board; powers and duties; definition

A. The psychiatric security review board shall:

1. Maintain jurisdiction over persons who are committed to a secure state mental health facility pursuant to section 13-3994.

2. Hold hearings pursuant to section 13-3994 to determine if a person committed to a secure state mental health facility is eligible for release or conditional release.

3. In conjunction with the secure state mental health facility and other appropriate community agencies or persons, devise a plan for the conditional release of a person pursuant to section 13-3994.

4. Unless otherwise provided by law, confidentially maintain all medical, social and criminal history records of persons who are committed to its jurisdiction.

5. On application by a person or agency that is responsible pursuant to an order for the supervision or treatment of a person on conditional release, hold a hearing to determine if the conditions of release should be continued, modified or terminated. Each application for a hearing shall be accompanied by a report setting forth the facts supporting the application. Termination of conditional release requires a vote of three of the four board members.

6. Keep a record of all hearings before the board except board deliberations.

7. Give written notice of any hearing before the board to the attorney representing the person, the attorney general or other attorney representing the state, the victim and the court that committed the person to the board's jurisdiction.

8. Determine if the person about whom the hearing is being held is indigent and, if so, request the committing court to appoint an attorney to represent the person. The court of the county of prosecution shall bear the cost of the court appointed attorney.

9. Before a hearing, disclose to the person about whom the hearing is being held, the person's attorney, the attorney general and any attorney representing the state any information, documents or reports that the board will be considering.

10. Within fifteen days after the conclusion of a hearing, give to the person, the attorney representing the person, the victim, the attorney general and any attorney representing the state and the court that committed the person to the board's jurisdiction notice of the board's decision.

B. The psychiatric security review board may:

1. Adopt rules to carry out the purposes of this chapter and title 13, chapter 38, article 14.

2. Monitor all persons under its jurisdiction.

3. As a condition of release, require a person to receive treatment from a board designated licensed or certified state or local mental health facility or agency or person.

4. Modify or terminate the terms of a person's conditional release.

5. Issue subpoenas requiring the attendance and testimony of witnesses at any hearing before the board. Subpoenaed witnesses shall be paid the same fees and mileage allowance paid witnesses in civil actions. If a person fails to comply with a subpoena that is issued pursuant to this paragraph, the board may request a superior court judge to issue a contempt order.

C. For the purposes of this section, "secure state mental health facility" means a secure state mental health facility under the department of health services.

39-121.04 Public access to law enforcement records depicting certain witnesses or crime victims; victim rights

A. In a special action brought pursuant to this article for the release of any record created or received by or in the possession of a law enforcement or prosecution agency that relates to a criminal investigation or prosecution and that visually depicts the image of a witness under eighteen years of age or a victim as defined in section 13-4401, the petitioner shall establish that the public's interest in disclosure outweighs the witness's or victim's right to privacy.

B. A victim whose image is depicted in a record described in subsection A of this section has the right to be present and to be heard in any action brought pursuant to this article for the release of records described in subsection A of this section.

39-123.01 Personal identifying information of crime witnesses; confidentiality; definition

A. The personal identifying information of a witness to a crime contained in a record that is created or received by a law enforcement or prosecution agency and that is related to a criminal investigation or prosecution may not be disclosed by a public body pursuant to this article unless any of the following applies:
   1. The witness consents in writing to the disclosure.
   2. A court of competent jurisdiction orders the disclosure.
   3. The witness's address is the location where the crime occurred.

B. This section does not affect any records that are transmitted between law enforcement and prosecution agencies, a court or clerk of the court or any provision of law that governs the discovery process or the conduct of trials.

C. For the purposes of this section, "personal identifying information" includes a witness's date of birth, social security number, personal telephone number, home address, personal e-mail address and official state or government-issued driver license or identification number.

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, disbarring or otherwise restricting the person in the practice of law.

41-162. Address confidentiality; duties of secretary of state; application assistant; program termination

A. On or before December 31, 2012, the secretary of state shall establish the address confidentiality program to allow persons who have been subjected to domestic violence offenses, sexual offenses or stalking to keep their residence

addresses confidential and not accessible to the general public. Participants in the program shall receive a substitute address that becomes the participant's lawful address of record.

B. The secretary of state shall:
   1. Designate a substitute address for a program participant that is used by state and local government entities as set forth in this section.
   2. Receive mail sent to a program participant at a substitute address and forward the mail to the program participant as set forth in paragraph 3 of this subsection.
   3. Receive first-class, certified or registered mail on behalf of a program participant and forward the mail to the program participant for no charge. The secretary of state may arrange to receive and forward other classes or kinds of mail at the program participant's expense. The secretary of state is not required to track or otherwise maintain records of any mail received on behalf of a program participant unless the mail is certified or registered mail.

C. Notwithstanding any other law and except as provided by court rule, a program participant may be served by registered mail or by certified mail, return receipt requested, addressed to the program participant at the program participant's substitute address with any process, notice or demand required or permitted by law to be served on the program participant. This subsection does not prescribe the only means, or necessarily the required means, of serving a program participant in this state.

D. The secretary of state may designate as an application assistant any person who:
   1. Provides counseling, referral or other services to victims of domestic violence, a sexual offense or stalking.
   2. Completes any training and registration process required by the secretary of state.

E. Any assistance and counseling rendered by the secretary of state or an application assistant to an applicant related to this section is not legal advice.

F. The program established pursuant to this article ends on July 1, 2021 pursuant to section 41-3102.

41-1727. Victims' rights enforcement fund; use; reporting

A. The victims' rights enforcement fund is established consisting of monies collected pursuant to sections 5-568 and 12-116.09 and monies available from any other source. The department shall administer the fund, shall distribute the monies to qualifying organizations and entities and may use up to five per cent of the monies deposited in the fund for its administrative costs. Monies in the fund are continuously appropriated.

B. On application, the department shall annually distribute monies from the fund to nonprofit organizations and entities that can demonstrate a five-year history of providing, without cost to the crime victim, each of the following services to crime victims:
   1. Legal representation to enforce the rights of crime victims as counsel of record in criminal cases.
   2. Social services to assist the crime victim during the course of the legal representation.

C. An organization or entity that applies for monies pursuant to this section may establish its qualifications through an attorney who otherwise meets the requirements of subsection B of this section.

D. An organization that qualifies under the terms of subsection B of this section shall be funded to provide the services included in subsection B of this section without limitation on the types of crimes against victims, including administrative support for the services. Each organization and entity that receives funding pursuant to this section shall submit an annual report to the department that details the organization's or entity's budget for the program and all of the sources and amounts of public monies that are spent on the program that provides the services to crime victims included in subsection B of this section. The report shall include the following:
   1. The expenditures of the public monies.
   2. The level of crime victim satisfaction with the services.

E. This section does not require the reporting of the name or personal identifying information of any crime victim or crime victim advocate, any information protected under the attorney-client privilege or any information the crime victim requests to remain private.

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