

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SENATE BILL 1183

AN ACT

AMENDING SECTIONS 13-4405 AND 13-4439, ARIZONA REVISED STATUTES; RELATING TO
CRIME VICTIMS' RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-4405, Arizona Revised Statutes, is amended to
3 read:

4 13-4405. Information provided to victim by law enforcement
5 agencies

6 A. As soon after the detection of a criminal offense as the victim may
7 be contacted without interfering with an investigation or arrest, the law
8 enforcement agency that has responsibility for investigating the criminal
9 offense shall provide the victim with a multicopy form:

10 1. That allows the victim to request or waive applicable rights to
11 which the victim is entitled, on request, under this article.

12 2. That provides the victim a method to designate a lawful
13 representative if the victim chooses pursuant to section 13-4403, subsection
14 A or section 13-4404.

15 3. That provides notice to the victim of all of the following
16 information:

17 (a) The victim's right under the victims' bill of rights, article II,
18 section 2.1, Constitution of Arizona, to be treated with fairness, respect
19 and dignity and to be free of intimidation, harassment or abuse throughout
20 the criminal or juvenile justice process.

21 (b) The availability, if any, of crisis intervention services and
22 emergency and medical services and, where applicable, that medical expenses
23 arising out of the need to secure evidence may be reimbursed pursuant to
24 section 13-1414.

25 (c) In cases of domestic violence, the procedures and resources
26 available for the protection of the victim pursuant to section 13-3601.

27 (d) The names and telephone numbers of public and private victim
28 assistance programs, including the county victim compensation program and
29 programs that provide counseling, treatment and other support services.

30 (e) The police report number, if available, other identifying case
31 information and the following statement:

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

35 (f) Whether the suspect is an adult or juvenile, a statement that the
36 victim will be notified by the law enforcement agency at the earliest
37 opportunity after the arrest of a suspect.

38 (g) If the suspect is an adult and has been arrested, the victim's
39 right, on request, to be informed of the suspect's release, of the next
40 regularly scheduled time, place and date for initial appearances in the
41 jurisdiction and of the victim's right to be heard at the initial appearance
42 and that, to exercise these rights, the victim is advised to contact the
43 custodial agency regarding the suspect's release and to contact the court
44 regarding any changes to the initial appearance schedule.

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

3 (i) THAT THE VICTIM OR THE IMMEDIATE FAMILY MEMBER OF A VICTIM IF THE
4 VICTIM IS KILLED OR INCAPACITATED HAS THE RIGHT TO RECEIVE ONE COPY OF THE
5 POLICE REPORT FROM THE INVESTIGATING LAW ENFORCEMENT AGENCY AT NO CHARGE
6 PURSUANT TO SECTION 39-127.

7 B. If at the time of contact with a law enforcement agency the victim
8 is physically or emotionally unable to request or waive applicable rights,
9 the law enforcement agency shall designate this on the multicopy form and the
10 entities that may be subsequently affected shall presume that the victim
11 invoked the victim's right to request applicable rights to which the victim
12 is entitled, on request, unless the victim later waives those rights.

13 C. The law enforcement agency shall submit a copy of the victim's
14 request or waiver of preconviction rights form to the custodial agency and a
15 copy to the prosecutor if a suspect is arrested, at the time the suspect is
16 taken into custody. If there is no arrest, the form copies shall be
17 submitted to the prosecutor at the time the case is otherwise presented to
18 the prosecutor for review. The prosecutor shall submit a copy of the
19 victim's request or waiver of preconviction rights form to the departments or
20 sections of the prosecutor's office, if applicable, that are mandated by this
21 article to provide victims' rights services on request.

22 D. If the suspected offender is cited and released, the law
23 enforcement agency responsible for investigating the offense shall inform the
24 victim of the court date and how to obtain additional information about the
25 subsequent criminal proceedings.

26 E. Law enforcement agencies within a county may establish different
27 procedures designed to efficiently and effectively provide notice of the
28 victim's rights pursuant to this section and notice to affected entities of
29 the victim request or waiver information. If different procedures are
30 established, the procedures shall:

31 1. Be reported to the entities within a county affected by the
32 procedures and reported to the attorney general.

33 2. Be designed so that custodial agencies and prosecutors within a
34 county receive notice of the victim's request or waiver of the victim's
35 preconviction rights at the same time that an adult suspect is arrested.

36 3. Be designed so that prosecutors within a county receive notice of
37 the victim's request or waiver of the victim's preconviction rights, if there
38 is no arrest, at the same time that the case is otherwise presented to the
39 prosecutor for review.

40 4. Provide that the notice to affected entities of a victim's request
41 or waiver of the victim's preconviction rights includes information that
42 affords the affected entity the ability to contact the victim.

43 5. Be supported by use of brochures, forms or other written materials
44 that are developed by the law enforcement agencies within a county and
45 reviewed by the attorney general pursuant to section 13-4417, subsection B.

1 F. If a suspect has not been arrested at the time of contact with the
2 victim pursuant to subsection A of this section, the law enforcement agency
3 that is responsible for investigating the offense shall notify the victim of
4 the arrest of a suspect at the earliest opportunity after the arrest and of
5 the time, place and date for the initial appearance.

6 Sec. 2. Section 13-4439, Arizona Revised Statutes, is amended to read:
7 13-4439. Right to leave work; scheduled proceedings;
8 counseling; employment rights; nondiscrimination;
9 confidentiality; definition

10 A. An employer who has fifty or more employees for each working day in
11 each of twenty or more calendar weeks in the current or preceding calendar
12 year, and any agent of that employer, shall allow an employee who is a victim
13 of a crime to leave work to:

14 1. Exercise the employee's right to be present at a proceeding
15 pursuant to sections 13-4414, 13-4420, 13-4421, 13-4422, 13-4423, 13-4426,
16 13-4427 and 13-4436.

17 2. OBTAIN OR ATTEMPT TO OBTAIN AN ORDER OF PROTECTION, AN INJUNCTION
18 AGAINST HARASSMENT OR ANY OTHER INJUNCTIVE RELIEF TO HELP ENSURE THE HEALTH,
19 SAFETY OR WELFARE OF THE VICTIM OR THE VICTIM'S CHILD.

20 B. An employer may not dismiss an employee who is a victim of a crime
21 because the employee exercises the right to leave work pursuant to subsection
22 A of this section.

23 C. An employer is not required to compensate an employee who is a
24 victim of a crime when the employee leaves work pursuant to subsection A of
25 this section.

26 D. If an employee leaves work pursuant to subsection A of this
27 section, the employee may elect to use or an employer may require the
28 employee to use the employee's accrued paid vacation, personal leave or sick
29 leave.

30 E. An employee who is a victim of a crime shall not lose seniority or
31 precedence while absent from employment pursuant to subsection A of this
32 section.

33 F. Before an employee may leave work pursuant to subsection A of this
34 section, the employee shall do all of the following:

35 1. Provide the employer with a copy of the form provided to the
36 employee by the law enforcement agency pursuant to section 13-4405,
37 subsection A, ~~or a copy of~~ the information the law enforcement agency
38 provides to the employee pursuant to section 13-4405, subsection E, A COURT
39 ORDER THE EMPLOYEE IS SUBJECT TO OR ANY OTHER PROPER DOCUMENTATION.

40 2. If applicable, give the employer a copy of the notice of each
41 scheduled proceeding that is provided to the victim by the agency that is
42 responsible for providing notice to the victim.

43 G. It is unlawful for an employer or an employer's agent to refuse to
44 hire or employ, to bar or to discharge from employment or to discriminate
45 against an individual in compensation or other terms, conditions or

1 privileges of employment because the individual ~~leaves~~ EXERCISES THE RIGHT TO
2 LEAVE work pursuant to subsection A of this section.
3 H. Employers shall keep confidential records regarding the employee's
4 leave pursuant to this section.
5 I. An employer may limit the leave provided under this section if the
6 employee's leave creates an undue hardship to the employer's business.
7 J. The prosecutor shall inform the victim of the victim's rights
8 pursuant to this section. A victim may notify the prosecutor if exercising
9 the victim's right to leave under this section would create an undue hardship
10 for the victim's employer. The prosecutor shall communicate the notice to
11 the court during the scheduling of proceedings where the victim has the right
12 to be present. The court shall continue to take the victim's schedule into
13 consideration when scheduling a proceeding pursuant to subsection A of this
14 section.
15 K. For THE purposes of this section, "undue hardship" means a
16 significant difficulty and expense to a business and includes the
17 consideration of the size of the employer's business and the employer's
18 critical need of the employee.