

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

# SENATE BILL 1286

AN ACT

AMENDING SECTIONS 12-253, 13-810, 13-812, 13-902, 13-3602, 13-4409, 13-4411, 13-4430, 13-4434, 13-4435 AND 39-127, ARIZONA REVISED STATUTES; REPEALING LAWS 2005, CHAPTER 260, SECTION 15; RELATING TO 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 12-253, Arizona Revised Statutes, is amended to  
3 read:

4 12-253. Powers and duties

5 The adult probation officer shall:

6 1. Make and file a complete record of persons placed under suspended  
7 sentence by the court, and of all reports made to the officer in writing or  
8 in person, in accordance with the conditions imposed by the court.

9 2. Exercise general supervision and observation over persons under  
10 suspended sentence, subject to control and direction by the court.

11 3. Serve warrants, make arrests and bring persons before the court who  
12 are under suspended sentences. The officer has the authority of a peace  
13 officer in the performance of the officer's duties.

14 4. Investigate cases referred to the officer for investigation by the  
15 court in which the officer is serving and report to the court. In an  
16 investigation for a presentence report, the adult probation officer shall  
17 promptly inquire into the circumstances of the offense, the convicted  
18 person's history of delinquency or criminality, social history, employment  
19 history, family situation, economic status, including the ability to  
20 contribute to reimbursement for the costs of the person's legal defense  
21 pursuant to section 11-584, education and personal habits. The presentence  
22 report shall contain a recommendation by the officer regarding contribution  
23 by the convicted person toward the costs of legal defense pursuant to section  
24 11-584. The officer shall also promptly inquire into the physical, emotional  
25 and financial impact of the offense on the victim and the emotional and  
26 financial impact of the offense on the immediate family of the victim and  
27 shall notify the victim or the immediate family of the victim of the right to  
28 appear personally or by counsel at any aggravation or mitigation proceeding.

29 5. Secure and keep a complete identification record of every person  
30 released under a suspended sentence and a written statement of the conditions  
31 of the suspension.

32 6. Obtain and assemble information concerning the conduct of persons  
33 placed under suspended sentence and report the information to the court.

34 7. Bring defaulting probationers into court when in ~~his~~ **THE PROBATION**  
35 **OFFICER'S** judgment the conduct of the probationer justifies the court to  
36 revoke suspension of the sentence.

37 **8. MONITOR THE PAYMENT OF RESTITUTION.**

38 Sec. 2. Section 13-810, Arizona Revised Statutes, is amended to read:

39 13-810. Consequences of nonpayment of fines, fees, restitution  
40 or incarceration costs

41 **A. IN ADDITION TO ANY OTHER REMEDY PROVIDED BY LAW, INCLUDING A WRIT**  
42 **OF EXECUTION OR OTHER CIVIL ENFORCEMENT,** if a defendant **WHO IS** sentenced to  
43 pay a fine, **A fee,** ~~restitution~~ or incarceration costs defaults in the payment  
44 of ~~such~~ **THE** fine, fee, ~~restitution~~ or incarceration costs or of any  
45 installment **AS ORDERED,** the clerk of the court imposing the fine, fee,

1 ~~restitution~~ or incarceration costs shall notify the prosecutor, ~~AND~~ the  
2 sentencing court ~~and any person entitled to restitution pursuant to a court~~  
3 ~~order~~. The court, on motion of the prosecuting attorney, ~~on petition of any~~  
4 ~~person entitled to restitution pursuant to a court order~~ or on its own  
5 motion, shall require the defendant to show cause why the defendant's default  
6 should not be treated as contempt and may issue a summons or a warrant of  
7 arrest for the defendant's appearance.

8 B. IN ADDITION TO ANY OTHER REMEDY PROVIDED BY LAW, INCLUDING A WRIT  
9 OF EXECUTION OR OTHER CIVIL ENFORCEMENT, IF A DEFENDANT WHO IS ORDERED TO PAY  
10 RESTITUTION DEFAULTS IN THE PAYMENT OF THE RESTITUTION OR OF ANY INSTALLMENT  
11 AS ORDERED, THE CLERK OF THE COURT THAT IMPOSED THE RESTITUTION SHALL NOTIFY  
12 THE PROSECUTOR AND THE SENTENCING COURT ON A MONTHLY BASIS. THE COURT, ON  
13 MOTION OF THE PROSECUTING ATTORNEY, ON PETITION OF ANY PERSON ENTITLED TO  
14 RESTITUTION PURSUANT TO A COURT ORDER OR ON ITS OWN MOTION, SHALL REQUIRE THE  
15 DEFENDANT TO SHOW CAUSE WHY THE DEFENDANT'S DEFAULT SHOULD NOT BE TREATED AS  
16 CONTEMPT AND MAY ISSUE A SUMMONS OR A WARRANT OF ARREST FOR THE DEFENDANT'S  
17 APPEARANCE.

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

23 ~~C.~~ D. If the court finds that the defendant has wilfully failed to  
24 pay a fine, A fee, restitution or incarceration costs or finds that the  
25 defendant has intentionally refused to make a good faith effort to obtain the  
26 monies required for the payment, the court shall find that the default  
27 constitutes contempt and may do one of the following:

28 1. Order the defendant incarcerated in the county jail until the fine,  
29 fee, restitution or incarceration costs, or a specified part of the fine,  
30 fee, restitution or incarceration costs, is paid.

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

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

38 ~~D.~~ E. If the court finds that the default is not wilful and that the  
39 defendant cannot pay despite sufficient good faith efforts to obtain the  
40 monies, the court may take any lawful action including:

41 1. Modify the manner in which the restitution, fine, fee or  
42 incarceration costs are to be paid.

43 2. Enter any reasonable order ~~which~~ THAT would assure compliance with  
44 the order to pay.



1 B. Notwithstanding subsection A of this section, unless terminated  
2 sooner, probation may continue for the following periods:

- 3 1. For a violation of section 28-1381 or 28-1382, five years.  
4 2. For a violation of section 28-1383, ten years.

5 C. When the court has required, as a condition of probation, that the  
6 defendant make restitution for any economic loss related to the defendant's  
7 offense and that condition has not been satisfied, the court at any time  
8 before the termination or expiration of probation may extend the period  
9 within the following limits:

- 10 1. For a felony, not more than ~~three~~ FIVE years.  
11 2. For a misdemeanor, not more than ~~one-year~~ TWO YEARS.

12 D. Notwithstanding any other provision of law, justice courts and  
13 municipal courts may impose the probation periods specified in subsection A,  
14 paragraphs 5, 6 and 7 and subsection B, paragraph 1 of this section.

15 E. After conviction of a felony offense or an attempt to commit any  
16 offense that is included in chapter 14 or 35.1 of this title or section  
17 13-2308.01, 13-2923 or 13-3623, if probation is available, probation may  
18 continue for a term of not less than the term that is specified in subsection  
19 A of this section up to and including life and that the court believes is  
20 appropriate for the ends of justice.

21 F. After conviction of a violation of section 13-3824, subsection A,  
22 if a term of probation is imposed and the offense for which the person was  
23 required to register was a felony, probation may continue for a term of not  
24 less than the term that is specified in subsection A of this section up to  
25 and including life and that the court believes is appropriate for the ends of  
26 justice.

27 G. Beginning November 1, 2006, after conviction of a dangerous crime  
28 against children as defined in section 13-604.01, if a term of probation is  
29 imposed, the court shall require global position system monitoring for the  
30 duration of the term of probation.

31 Sec. 5. Section 13-3602, Arizona Revised Statutes, is amended to read:  
32 13-3602. Order of protection; procedure; contents; arrest for  
33 violation; penalty; protection order from another  
34 jurisdiction

35 A. A person may file a verified petition, as in civil actions, with a  
36 magistrate, justice of the peace or superior court judge for an order of  
37 protection for the purpose of restraining a person from committing an act  
38 included in domestic violence. If the person is a minor, the parent, legal  
39 guardian or person who has legal custody of the minor shall file the petition  
40 unless the court determines otherwise. The petition shall name the parent,  
41 guardian or custodian as the plaintiff and the minor is a specifically  
42 designated person for the purposes of subsection G of this section. If a  
43 person is either temporarily or permanently unable to request an order, a  
44 third party may request an order of protection on behalf of the plaintiff.  
45 After the request, the judicial officer shall determine if the third party is

1 an appropriate requesting party for the plaintiff. For the purposes of this  
2 section, notwithstanding the location of the plaintiff or defendant, any  
3 court in this state may issue or enforce an order of protection.

4 B. An order of protection shall not be granted:

5 1. Unless the party who requests the order files a written verified  
6 petition for an order.

7 2. Against a person who is less than twelve years of age unless the  
8 order is granted by the juvenile division of the superior court.

9 3. Against more than one defendant.

10 C. The petition shall state the:

11 1. Name of the plaintiff. The plaintiff's address shall be disclosed  
12 to the court for purposes of service. If the address of the plaintiff is  
13 unknown to the defendant, the plaintiff may request that the address be  
14 protected. On the plaintiff's request, the address shall not be listed on  
15 the petition. Whether the court issues an order of protection, the protected  
16 address shall be maintained in a separate document or automated database and  
17 is not subject to release or disclosure by the court or any form of public  
18 access except as ordered by the court.

19 2. Name and address, if known, of the defendant.

20 3. Specific statement, including dates, of the domestic violence  
21 alleged.

22 4. Relationship between the parties pursuant to section 13-3601,  
23 subsection A and whether there is pending between the parties an action for  
24 maternity or paternity, annulment, legal separation or dissolution of  
25 marriage.

26 5. Name of the court in which any prior or pending proceeding or order  
27 was sought or issued concerning the conduct that is sought to be restrained.

28 6. Desired relief.

29 D. A fee shall not be charged for filing a petition under this section  
30 or for service of process. On request of the plaintiff, each order of  
31 protection that is issued by a municipal court shall be served by the police  
32 agency for that city if the defendant can be served within the city. If the  
33 defendant cannot be served within the city, the police agency in the city in  
34 which the defendant can be served shall serve the order. If the order cannot  
35 be served within a city, the sheriff shall serve the order. On request of  
36 the plaintiff, each order of protection that is issued by a justice of the  
37 peace shall be served by the constable or sheriff for that jurisdiction if  
38 the defendant can be served within the jurisdiction. If the defendant cannot  
39 be served within that jurisdiction, the constable or sheriff in the  
40 jurisdiction in which the defendant can be served shall serve the order. On  
41 request of the plaintiff, each order of protection that is issued by a  
42 superior court judge or commissioner shall be served by the sheriff of the  
43 county. If the defendant cannot be served within that jurisdiction, the  
44 sheriff in the jurisdiction in which the defendant can be served shall serve  
45 the order. Each court shall provide, without charge, forms for purposes of

1 this section for assisting parties without counsel. The court shall make  
2 reasonable efforts to provide to both parties an appropriate information  
3 sheet on emergency and counseling services that are available in the local  
4 area.

5 E. The court shall review the petition, any other pleadings on file  
6 and any evidence offered by the plaintiff to determine whether the orders  
7 requested should issue without further hearing. The court shall issue an  
8 order of protection under subsection G of this section if the court  
9 determines that there is reasonable cause to believe any of the following:

10 1. The defendant may commit an act of domestic violence.

11 2. The defendant has committed an act of domestic violence within the  
12 past year or within a longer period of time if the court finds that good  
13 cause exists to consider a longer period.

14 F. For purposes of determining the period of time under subsection E,  
15 paragraph 2 of this section, any time that the defendant has been  
16 incarcerated or out of this state shall not be counted. If the court denies  
17 the requested relief, it may schedule a further hearing within ten days, with  
18 reasonable notice to the defendant.

19 G. If a court issues an order of protection, the court may do any of  
20 the following:

21 1. Enjoin the defendant from committing a violation of one or more of  
22 the offenses included in domestic violence.

23 2. Grant one party the use and exclusive possession of the parties'  
24 residence on a showing that there is reasonable cause to believe that  
25 physical harm may otherwise result. If the other party is accompanied by a  
26 law enforcement officer, the other party may return to the residence on one  
27 occasion to retrieve belongings. A law enforcement officer is not liable for  
28 any act or omission in the good faith exercise of the officer's duties under  
29 this paragraph.

30 3. Restrain the defendant from contacting the plaintiff or other  
31 specifically designated persons and from coming near the residence, place of  
32 employment or school of the plaintiff or other specifically designated  
33 locations or persons on a showing that there is reasonable cause to believe  
34 that physical harm may otherwise result.

35 4. If the court finds that the defendant is a credible threat to the  
36 physical safety of the plaintiff or other specifically designated persons,  
37 prohibit the defendant from possessing or purchasing a firearm for the  
38 duration of the order. If the court prohibits the defendant from possessing  
39 a firearm, the court shall also order the defendant to transfer any firearm  
40 owned or possessed by the defendant immediately after service of the order to  
41 the appropriate law enforcement agency for the duration of the order. If the  
42 defendant does not immediately transfer the firearm, the defendant shall  
43 transfer the firearm within twenty-four hours after service of the order.

44 5. If the order was issued after notice and a hearing at which the  
45 defendant had an opportunity to participate, require the defendant to

1 complete a domestic violence offender treatment program that is provided by a  
2 facility approved by the department of health services or a probation  
3 department or any other program deemed appropriate by the court.

4 6. Grant relief that is necessary for the protection of the alleged  
5 victim and other specifically designated persons and that is proper under the  
6 circumstances.

7 H. The court shall not grant a mutual order of protection. If  
8 opposing parties separately file verified petitions for an order of  
9 protection, the courts after consultation between the judges involved may  
10 consolidate the petitions of the opposing parties for hearing. This does not  
11 prohibit a court from issuing cross orders of protection.

12 I. At any time during the period during which the order is in effect,  
13 a party WHO IS under an order of protection or WHO IS restrained from  
14 contacting the other party is entitled to one hearing on written request. No  
15 fee may be charged for requesting a hearing. A hearing that is requested by  
16 a party who is under an order of protection or who is restrained from  
17 contacting the other party shall be held within ten days from the date  
18 requested unless the court finds good cause to continue the hearing. If  
19 exclusive use of the home is awarded, the hearing shall be held within five  
20 days from the date requested. The hearing shall be held at the earliest  
21 possible time. An ex parte order that is issued under this section shall  
22 state on its face that the defendant is entitled to a hearing on written  
23 request and shall include the name and address of the judicial office where  
24 the request may be filed. After the hearing, the court may modify, quash or  
25 continue the order.

26 J. THROUGH DECEMBER 31, 2007, the order shall include the following  
27 statement:

28 Warning

29 This is an official court order. If you disobey this  
30 order, you may be arrested and prosecuted for the crime of  
31 interfering with judicial proceedings and any other crime you  
32 may have committed in disobeying this order.

33 K. BEGINNING JANUARY 1, 2008, THE ORDER SHALL INCLUDE THE FOLLOWING  
34 STATEMENT:

35 WARNING

36 THIS IS AN OFFICIAL COURT ORDER. IF YOU DISOBEY THIS ORDER, YOU  
37 WILL BE SUBJECT TO ARREST AND PROSECUTION FOR THE CRIME OF  
38 INTERFERING WITH JUDICIAL PROCEEDINGS AND ANY OTHER CRIME YOU  
39 MAY HAVE COMMITTED IN DISOBEYING THIS ORDER.

40 ~~K.~~ L. A copy of the petition and the order shall be served on the  
41 defendant within one year from the date the order is signed. An order of  
42 protection that is not served on the defendant within one year expires. An  
43 order is effective on the defendant on service of a copy of the order and  
44 petition. An order expires one year after service on the defendant. A

1 modified order is effective ~~upon~~ ON service and expires one year after  
2 service of the initial order and petition.

3 ~~L~~ M. Each affidavit, acceptance or return of service shall be  
4 promptly filed with the clerk of the issuing court. This filing shall be  
5 completed in person, shall be made by fax or shall be postmarked, if sent by  
6 mail, no later than the end of the seventh court business day after the date  
7 of service. If the filing is made by fax, the original affidavit, acceptance  
8 or return of service shall be promptly filed with the court. Within  
9 twenty-four hours after the affidavit, acceptance or return of service has  
10 been filed, excluding weekends and holidays, the court from which the order  
11 or any modified order was issued shall forward to the sheriff of the county  
12 in which the court is located a copy of the order of protection and a copy of  
13 the affidavit or certificate of service of process or acceptance of service.  
14 On receiving these copies, the sheriff shall register the order.  
15 Registration of an order means that a copy of the order of protection and a  
16 copy of the affidavit or acceptance of service have been received by the  
17 sheriff's office. The sheriff shall maintain a central repository for orders  
18 of protection so that the existence and validity of the orders can be easily  
19 verified. The effectiveness of an order does not depend on its registration,  
20 and for enforcement purposes pursuant to section 13-2810, a copy of an order  
21 of the court, whether or not registered, is presumed to be a valid existing  
22 order of the court for a period of one year from the date of service of the  
23 order on the defendant.

24 ~~M~~ N. A peace officer, with or without a warrant, may arrest a person  
25 if the peace officer has probable cause to believe that the person has  
26 violated section 13-2810 by disobeying or resisting an order that is issued  
27 in any jurisdiction in this state pursuant to this section, whether or not  
28 such violation occurred in the presence of the officer. Criminal violations  
29 of an order issued pursuant to this section shall be referred to an  
30 appropriate law enforcement agency. The law enforcement agency shall request  
31 that a prosecutorial agency file the appropriate charges. A violation of an  
32 order of protection shall not be adjudicated by a municipal or justice court  
33 unless a complaint has been filed or other legal process has been requested  
34 by the prosecuting agency. The provisions for release under section 13-3883,  
35 subsection A, paragraph 4 and section 13-3903 do not apply to an arrest made  
36 pursuant to this section. For THE purposes of this section, any court in  
37 this state has jurisdiction to enforce a valid order of protection that is  
38 issued in this state and that has been violated in any jurisdiction in this  
39 state.

40 ~~N~~ O. A person who is arrested pursuant to subsection ~~M~~ N of this  
41 section may be released from custody in accordance with the Arizona rules of  
42 criminal procedure or any other applicable statute. An order for release,  
43 with or without an appearance bond, shall include pretrial release conditions  
44 that are necessary to provide for the protection of the alleged victim and  
45 other specifically designated persons and may provide for any other

1 additional conditions that the court deems appropriate, including  
2 participation in any counseling programs available to the defendant. THE  
3 AGENCY WITH CUSTODY OF THE DEFENDANT SHALL MAKE REASONABLE EFFORTS TO CONTACT  
4 THE VICTIM AND OTHER SPECIFICALLY DESIGNATED PERSONS IN THE ORDER OF  
5 PROTECTION, IF KNOWN TO THE CUSTODIAL AGENCY, WHO REQUESTED NOTIFICATION  
6 IMMEDIATELY ON RELEASE OF THE ARRESTED PERSON FROM CUSTODY.

7 ~~θ~~ P. The remedies provided in this section for enforcement of the  
8 orders of the court are in addition to any other civil and criminal remedies  
9 available. The superior court shall have exclusive jurisdiction to issue  
10 orders of protection in all cases if it appears from the petition that an  
11 action for maternity or paternity, annulment, legal separation or dissolution  
12 of marriage is pending between the parties. A municipal court or justice  
13 court shall not issue an order of protection if it appears from the petition  
14 that an action for maternity or paternity, annulment, legal separation or  
15 dissolution of marriage is pending between the parties. After issuance of an  
16 order of protection, if the municipal court or justice court determines that  
17 an action for maternity or paternity, annulment, legal separation or  
18 dissolution of marriage is pending between the parties, the municipal court  
19 or justice court shall stop further proceedings in the action and forward all  
20 papers, together with a certified copy of docket entries or any other record  
21 in the action, to the superior court where they shall be docketed in the  
22 pending superior court action and shall proceed as though the petition for an  
23 order of protection had been originally brought in the superior court.  
24 Notwithstanding any other law and unless prohibited by an order of the  
25 superior court, a municipal court or justice court may hold a hearing on all  
26 matters relating to its ex parte order of protection if the hearing was  
27 requested before receiving written notice of the pending superior court  
28 action. No order of protection shall be invalid or determined to be  
29 ineffective merely because it was issued by a lower court at a time when an  
30 action for maternity or paternity, annulment, legal separation or dissolution  
31 of marriage was pending in a higher court. After a hearing with notice to  
32 the affected party, the court may enter an order requiring any party to pay  
33 the costs of the action, including reasonable attorney fees, if any. An  
34 order that is entered by a justice court or municipal court after a hearing  
35 pursuant to this section may be appealed to the superior court as provided in  
36 title 22, chapter 2, article 4, section 22-425, subsection B and the superior  
37 court rules of civil appellate procedure without regard to an amount in  
38 controversy. No fee may be charged to either party for filing an appeal.  
39 For the purposes of this subsection, "pending" means, with respect to an  
40 action for annulment, legal separation or dissolution of marriage or for  
41 maternity or paternity, either that:

- 42 1. An action has been commenced but a final judgment, decree or order  
43 has not been entered.
- 44 2. A post-decree proceeding has been commenced but a judgment, decree  
45 or order finally determining the proceeding has not been entered.

1           ~~P.~~ Q. A peace officer who makes an arrest pursuant to this section or  
2 section 13-3601 is not civilly or criminally liable for the arrest if the  
3 officer acts on probable cause and without malice.

4           ~~Q.~~ R. In addition to persons authorized to serve process pursuant to  
5 rule 4(d) of the Arizona rules of civil procedure, a peace officer or a  
6 correctional officer as defined in section 41-1661 who is acting in the  
7 officer's official capacity may serve an order of protection that is issued  
8 pursuant to this section. Service of the order of protection has priority  
9 over other service of process that does not involve an immediate threat to  
10 the safety of a person.

11           ~~R.~~ S. A valid protection order that is related to domestic or family  
12 violence and that is issued by a court in another state, a court of a United  
13 States territory or a tribal court shall be accorded full faith and credit  
14 and shall be enforced as if it were issued in this state for as long as the  
15 order is effective in the issuing jurisdiction. For the purposes of this  
16 subsection:

17           1. A protection order includes any injunction or other order that is  
18 issued for the purpose of preventing violent or threatening acts or  
19 harassment against, contact or communication with or physical proximity to  
20 another person. A protection order includes temporary and final orders other  
21 than support or child custody orders that are issued by civil and criminal  
22 courts if the order is obtained by the filing of an independent action or is  
23 a pendente lite order in another proceeding. The civil order shall be issued  
24 in response to a complaint, petition or motion that was filed by or on behalf  
25 of a person seeking protection.

26           2. A protection order is valid if the issuing court had jurisdiction  
27 over the parties and the matter under the laws of the issuing state, a United  
28 States territory or an Indian tribe and the person against whom the order was  
29 issued had reasonable notice and an opportunity to be heard. If the order is  
30 issued ex parte, the notice and opportunity to be heard shall be provided  
31 within the time required by the laws of the issuing state, a United States  
32 territory or an Indian tribe and within a reasonable time after the order was  
33 issued.

34           3. A mutual protection order that is issued against both the party who  
35 filed a petition or a complaint or otherwise filed a written pleading for  
36 protection against abuse and the person against whom the filing was made is  
37 not entitled to full faith and credit if either:

38           (a) The person against whom an initial order was sought has not filed  
39 a cross or counter petition or other written pleading seeking a protection  
40 order.

41           (b) The issuing court failed to make specific findings supporting the  
42 entitlement of both parties to be granted a protection order.

43           4. A peace officer may presume the validity of and rely on a copy of a  
44 protection order that is issued by another state, a United States territory  
45 or an Indian tribe if the order was given to the officer by any source. A

1 peace officer may also rely on the statement of any person who is protected  
2 by the order that the order remains in effect. A peace officer who acts in  
3 good faith reliance on a protection order is not civilly or criminally liable  
4 for enforcing the protection order pursuant to this section.

5 Sec. 6. Section 13-4409, Arizona Revised Statutes, is amended to read:  
6 13-4409. Notice of criminal proceedings

7 A. Except as provided in subsection B, the court shall provide notice  
8 of criminal proceedings, for criminal offenses filed by information,  
9 complaint or indictment, except initial appearances and arraignments, to the  
10 prosecutor's office at least five days before a scheduled proceeding to allow  
11 the prosecutor's office to provide notice to the victim.

12 B. If the court finds that it is not reasonable to provide the five  
13 days' notice to the prosecutor's office under subsection A, the court shall  
14 state in the record why it was not reasonable to provide five days' notice.

15 C. On receiving the notice from the court, the prosecutor's office  
16 shall, on request, give notice to the victim in a timely manner of scheduled  
17 proceedings and any changes in that schedule, INCLUDING ANY CONTINUANCES.

18 Sec. 7. Section 13-4411, Arizona Revised Statutes, is amended to read:  
19 13-4411. Notice of post-conviction review and appellate  
20 proceedings

21 A. Within fifteen days after sentencing the prosecutor's office shall,  
22 on request, notify the victim of the sentence imposed on the defendant.

23 B. The prosecutor's office shall provide the victim with a form that  
24 allows the victim to request post-conviction notice of all post-conviction  
25 review and appellate proceedings, all post-conviction release proceedings,  
26 all probation modification proceedings that impact the victim, all probation  
27 revocation or termination proceedings, any decisions that arise out of these  
28 proceedings, all releases and all escapes.

29 C. The prosecutor's office shall advise the victim on how the  
30 completed request form may be filed with the appropriate agencies and  
31 departments.

32 D. On request of the victim, the prosecutor's office that is  
33 responsible for handling any post-conviction or appellate proceedings  
34 IMMEDIATELY shall notify the victim of the proceedings and any decisions that  
35 arise out of the proceedings.

36 E. BEGINNING DECEMBER 1, 2007, THE SUPREME COURT OR COURT OF APPEALS  
37 SHALL SEND A VICTIM WHO REQUESTS NOTICE PURSUANT TO THIS SECTION A COPY OF  
38 THE MEMORANDUM DECISION OR OPINION FROM THE ISSUING COURT CONCURRENTLY WITH  
39 THE PARTIES. IF THE VICTIM IS REPRESENTED BY COUNSEL, THE NOTICE SHALL BE  
40 PROVIDED TO THE VICTIM'S COUNSEL.

41 Sec. 8. Section 13-4430, Arizona Revised Statutes, is amended to read:  
42 13-4430. Consultation between crime victim advocate and victim;  
43 privileged information; exception

44 A. A crime victim advocate shall not disclose as a witness or  
45 otherwise any communication except compensation or restitution information

1 between himself and the victim unless the victim consents in writing to the  
2 disclosure.

3 B. Unless the victim consents in writing to the disclosure, a crime  
4 victim advocate shall not disclose records, notes, documents, correspondence,  
5 reports or memoranda, except compensation or restitution information, that  
6 contain opinions, theories or other information made while advising,  
7 counseling or assisting the victim or that are based on the communication  
8 between the victim and the advocate.

9 C. The communication is not privileged if the crime victim advocate  
10 knows that the victim will give or has given perjured testimony or if the  
11 communication contains exculpatory ~~material~~ EVIDENCE.

12 D. A defendant may make a motion for disclosure of privileged  
13 information. If the court finds there is reasonable cause to believe the  
14 material is exculpatory, the court shall hold a hearing in camera. Material  
15 that the court finds is exculpatory shall be disclosed to the defendant.

16 E. If, with the consent of the victim, the crime victim advocate  
17 discloses to the prosecutor or a law enforcement agency any communication  
18 between the victim and the crime victim advocate or any records, notes,  
19 documents, correspondence, reports or memoranda, the prosecutor or law  
20 enforcement agent shall disclose such material to the defendant's attorney  
21 only if such information is otherwise discoverable.

22 F. Notwithstanding ~~the provisions of~~ subsections A and B, ~~if a crime~~  
23 ~~victim advocate is employed or authorized by a prosecutor's office, the~~  
24 ~~advocate may disclose information to the prosecutor with the oral consent of~~  
25 ~~the victim~~ IF A CRIME VICTIM CONSENTS EITHER VERBALLY OR IN WRITING, A CRIME  
26 VICTIM ADVOCATE MAY DISCLOSE INFORMATION TO OTHER PROFESSIONALS AND  
27 ADMINISTRATIVE SUPPORT PERSONS THAT THE ADVOCATE WORKS WITH FOR THE PURPOSE  
28 OF ASSISTING THE ADVOCATE IN PROVIDING SERVICES TO THE VICTIM.

29 Sec. 9. Section 13-4434, Arizona Revised Statutes, is amended to read:  
30 13-4434. Victim's right to privacy; exception

31 A. ~~Beginning January 1, 1992~~ The victim has the right at any court  
32 proceeding not to testify regarding the victim's addresses, telephone  
33 numbers, ~~place~~ PLACES of employment or other locating information unless the  
34 victim consents or the court orders disclosure on finding that a compelling  
35 need for the information exists. A court proceeding on the motion shall be  
36 in camera.

37 B. A VICTIM'S CONTACT AND IDENTIFYING INFORMATION THAT IS OBTAINED,  
38 COMPILED OR REPORTED BY A LAW ENFORCEMENT AGENCY SHALL BE REDACTED BY THE  
39 ORIGINATING AGENCY IN PUBLICLY ACCESSIBLE RECORDS PERTAINING TO THE CRIMINAL  
40 CASE INVOLVING THE VICTIM.

41 C. SUBSECTION B DOES NOT APPLY TO:

42 1. THE VICTIM'S NAME.

43 2. ANY RECORDS THAT ARE TRANSMITTED BETWEEN LAW ENFORCEMENT AND  
44 PROSECUTION AGENCIES OR A COURT.

1           3. ANY RECORDS IF THE VICTIM HAS CONSENTED TO THE RELEASE OF THE  
2 INFORMATION.

3           4. THE ADDRESS OR LOCATION AT WHICH THE REPORTED CRIME OCCURRED.

4           Sec. 10. Section 13-4435, Arizona Revised Statutes, is amended to  
5 read:

6           13-4435. Speedy trial; continuance; notice

7           A. In any criminal proceeding, the court, prosecutor and law  
8 enforcement officials shall take appropriate action to ensure a speedy trial  
9 for the victim.

10          B. THE PROSECUTOR SHALL MAKE REASONABLE EFFORTS TO NOTIFY A VICTIM OF  
11 ANY REQUEST FOR A CONTINUANCE, EXCEPT THAT IF THE VICTIM IS REPRESENTED BY  
12 COUNSEL WHO HAS FILED A NOTICE OF APPEARANCE, THE COURT, IF THE REQUEST FOR A  
13 CONTINUANCE IS IN WRITING, SHALL MAKE REASONABLE EFFORTS TO NOTIFY THE  
14 VICTIM'S COUNSEL IN THE SAME MANNER IN WHICH A PARTY IS NOTIFIED.

15          C. A MOTION TO CONTINUE SHALL BE IN WRITING UNLESS THE COURT MAKES A  
16 FINDING ON THE RECORD THAT EXIGENT CIRCUMSTANCES EXIST TO PERMIT AN ORAL  
17 MOTION.

18          D. THE COURT SHALL GRANT A CONTINUANCE ONLY IF EXTRAORDINARY  
19 CIRCUMSTANCES EXIST AND THE DELAY IS INDISPENSABLE TO THE INTERESTS OF  
20 JUSTICE. A CONTINUANCE MAY BE GRANTED ONLY FOR THE TIME NECESSARY TO SERVE  
21 THE INTERESTS OF JUSTICE.

22          E. SUBSECTIONS B, C AND D DO NOT APPLY TO JUSTICE OF THE PEACE AND  
23 MUNICIPAL COURTS.

24          ~~B. F. In any criminal proceeding in which a continuance is requested~~  
25 BEFORE RULING ON A MOTION FOR A CONTINUANCE, the court shall consider the  
26 victim's views and the victim's right to a speedy trial. If a continuance is  
27 granted, the court shall state on the record the SPECIFIC reason for the  
28 continuance.

29          Sec. 11. Section 39-127, Arizona Revised Statutes, is amended to read:

30          39-127. Free copies of police reports and transcripts for crime  
31 victims; definitions

32          A. A victim of a criminal offense that is a part I crime under the  
33 statewide uniform crime reporting program or an immediate family member of  
34 the victim if the victim is killed or incapacitated has the right to receive  
35 one copy of the police report from the investigating law enforcement agency  
36 at no charge AND, ON REQUEST OF THE VICTIM, THE COURT OR THE CLERK OF THE  
37 COURT SHALL PROVIDE, AT NO CHARGE, THE MINUTE ENTRY OR PORTION OF THE RECORD  
38 OF ANY PROCEEDING IN THE CASE THAT ARISES OUT OF THE OFFENSE COMMITTED  
39 AGAINST THE VICTIM AND THAT IS REASONABLY NECESSARY FOR THE PURPOSE OF  
40 PURSUING A CLAIMED VICTIM'S RIGHT.

41          B. For the purposes of this section, "criminal offense", "immediate  
42 family" and "victim" have the same meanings prescribed in section 13-4401.

43          Sec. 12. Repeal

44          Laws 2005, chapter 260, section 15 is repealed.

1           Sec. 13. Purpose

2           A. The people of the state of Arizona overwhelmingly passed the  
3 Arizona victims' bill of rights in 1990.

4           B. Before passage of the victims' bill of rights, victims had no  
5 assertable right to a speedy and prompt resolution or to a prompt and final  
6 conclusion of a case after the conviction and sentence.

7           C. Among the rights guaranteed to crime victims by the Arizona  
8 victims' bill of rights are:

9           1. The right to be treated with fairness, respect and dignity, and to  
10 be free from intimidation, harassment or abuse, throughout the criminal  
11 justice process.

12           2. To receive prompt restitution from the person or persons convicted  
13 of the criminal conduct that caused the victim's loss or injury.

14           3. To be heard at any proceeding when any postconviction release from  
15 confinement is being considered.

16           4. The right to a speedy trial or disposition and prompt and final  
17 conclusion of the case after the conviction and sentence.

18           5. To have all rules governing criminal procedure and the  
19 admissibility of evidence in all criminal proceedings protect victims' rights  
20 and to have these rules be subject to amendment or repeal by the legislature  
21 to ensure the protection of these rights.

22           D. The victims' bill of rights gave the legislature the power to enact  
23 substantive and procedural laws to define, implement, preserve and protect  
24 the rights guaranteed to crime victims by the victims' bill of rights.

25           E. The purpose of the legislature in passing this bill is to protect  
26 and preserve the rights guaranteed to crime victims by the victims' bill of  
27 rights by ensuring that victims are paid restitution, are given due notice  
28 throughout criminal cases and have their privacy protected.

29           Sec. 14. Intent

30           It is the intent of the legislature to give effect to the victims' bill  
31 of rights and, if necessary, enact future legislation addressing the  
32 timelines for filing notice for postconviction relief in noncapital and  
33 capital cases, postconviction relief discovery procedures, speedy trial  
34 requirements and case transfer procedures that are currently being addressed  
35 by both the capital case task force established by the chief justice of the  
36 supreme court on February 12, 2007, and the superior court of Maricopa  
37 County.