

REFERENCE TITLE: juvenile crime victims' rights

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HB 2563

Introduced by
Representative Pierce J

AN ACT

AMENDING TITLE 8, CHAPTER 3, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-350.02; AMENDING SECTIONS 8-383, 8-384, 8-386, 8-388, 8-391, 8-392, 8-397, 8-409, 8-413 AND 8-414, ARIZONA REVISED STATUTES; REPEALING SECTION 8-415, ARIZONA REVISED STATUTES; AMENDING TITLE 8, CHAPTER 3, ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 8-415; AMENDING SECTIONS 8-420, 8-421 AND 39-127, ARIZONA REVISED STATUTES; RELATING TO JUVENILE 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. Title 8, chapter 3, article 3, Arizona Revised Statutes, is
3 amended by adding section 8-350.02, to read:

4 8-350.02. Civil actions by victim or other persons

5 A JUVENILE WHO IS ADJUDICATED IN A DELINQUENCY PROCEEDING IS PRECLUDED
6 FROM SUBSEQUENTLY DENYING IN ANY CIVIL PROCEEDING BROUGHT BY THE VICTIM OR
7 THIS STATE AGAINST THE ADJUDICATED DELINQUENT THE ESSENTIAL ALLEGATIONS OF
8 THE DELINQUENT ACT OF WHICH HE WAS ADJUDICATED DELINQUENT, INCLUDING
9 ADJUDICATIONS RESULTING FROM NO CONTEST PLEAS. AN ORDER OF RESTITUTION IN
10 FAVOR OF A PERSON DOES NOT PRECLUDE THAT PERSON FROM BRINGING A SEPARATE
11 CIVIL ACTION AND PROVING IN THAT ACTION DAMAGES IN EXCESS OF THE AMOUNT OF
12 THE RESTITUTION ORDER THAT IS ACTUALLY PAID.

13 Sec. 2. Section 8-383, Arizona Revised Statutes, is amended to read:

14 8-383. Implementation of rights and duties

15 A. Except as provided in sections 8-385 and 8-386, the rights and
16 duties that are established by this article arise on the arrest or formal
17 charging of a juvenile who is alleged to be responsible for a delinquent act
18 against a victim. The rights and duties continue to be enforceable pursuant
19 to this article until the final disposition of the charges, including
20 acquittal or dismissal of the charges, all postadjudication release, review
21 and appellate proceedings and the discharge of all proceedings related to
22 restitution. If a delinquent is ordered to pay restitution to a victim, the
23 rights and duties continue to be enforceable until restitution is paid or a
24 judgment is entered in favor of the victim pursuant to section 8-344.

25 B. IF A JUVENILE'S ADJUDICATION IS REVERSED AND THE CASE IS RETURNED
26 TO THE JUVENILE COURT FOR FURTHER PROCEEDINGS, THE VICTIM HAS THE SAME RIGHTS
27 THAT WERE APPLICABLE TO THE DELINQUENCY PROCEEDINGS THAT LED TO THE APPEAL OR
28 OTHER POSTADJUDICATION RELIEF PROCEEDING.

29 ~~B-~~ C. After the final termination of a delinquency proceeding by
30 dismissal or acquittal, a person who has received notice and has the right to
31 be present and be heard pursuant to the victims' bill of rights, article II,
32 section 2.1, Constitution of Arizona, this article or any court rule is no
33 longer entitled to those rights.

34 Sec. 3. Section 8-384, Arizona Revised Statutes, is amended to read:

35 8-384. Inability to exercise rights; designation of others;
36 notice; representative for a minor or vulnerable
37 adult; definition

38 A. If a victim is physically or emotionally unable to exercise any
39 right but is able to designate a lawful representative who is not a bona fide
40 witness, the designated person may exercise the same rights that the victim
41 is entitled to exercise. The victim may revoke this designation at any time
42 and exercise the victim's rights.

43 B. If a victim is incompetent, deceased or otherwise incapable of
44 designating another person to act in the victim's place, the court may
45 appoint a lawful representative who is not a witness. If at any time the

1 victim is no longer incompetent, incapacitated or otherwise incapable of
2 acting, the victim may personally exercise the victim's rights.

3 C. If the victim is a minor OR VULNERABLE ADULT the victim's parent or
4 other immediate family member may exercise all of the victim's rights on
5 behalf of the victim. If the delinquent act is alleged against a member of
6 the minor's OR VULNERABLE ADULT'S immediate family, these rights may not be
7 exercised by that person but may be exercised by another member of the
8 immediate family unless the court, after considering the guidelines in
9 subsection D OF THIS SECTION, finds that another person would better
10 represent the interests of the minor OR VULNERABLE ADULT FOR PURPOSES OF THIS
11 CHAPTER.

12 D. The court shall consider the following guidelines in appointing a
13 representative for a minor OR VULNERABLE ADULT VICTIM:

14 1. ~~IF~~ WHETHER the minor OR VULNERABLE ADULT has a relative who would
15 not be so substantially affected or adversely impacted by the conflict
16 resulting from the allegation of a delinquent act against a member of the
17 immediate family of the minor OR VULNERABLE ADULT that the representative
18 could not represent the victim.

19 2. The representative's willingness and ability to do all of the
20 following:

21 (a) Undertake working with and accompanying the minor victim OR
22 VULNERABLE ADULT through all proceedings, including delinquency, civil and
23 dependency proceedings.

24 (b) Communicate with the minor OR VULNERABLE ADULT victim.

25 (c) Express the concerns of the minor OR VULNERABLE ADULT to those
26 authorized to come in contact with the minor OR VULNERABLE ADULT as a result
27 of the proceedings.

28 3. The representative's training, if any, to serve as a ~~minor's~~ MINOR
29 OR VULNERABLE ADULT VICTIM'S representative.

30 4. The likelihood of the representative being called as a witness in
31 the case.

32 E. The ~~minor's~~ MINOR OR VULNERABLE ADULT VICTIM'S representative shall
33 accompany the minor OR VULNERABLE ADULT victim through all proceedings,
34 including delinquency, criminal, dependency and civil proceedings, and,
35 before the minor's OR VULNERABLE ADULT'S courtroom appearance, shall explain
36 to the minor OR VULNERABLE ADULT the nature of the proceedings and what the
37 minor OR VULNERABLE ADULT will be asked to do, including telling the minor OR
38 VULNERABLE ADULT that the minor OR VULNERABLE ADULT is expected to tell the
39 truth. The representative shall be available to observe the minor OR
40 VULNERABLE ADULT in all aspects of the case in order to consult with the
41 court as to any special needs of the minor OR VULNERABLE ADULT. Those
42 consultations shall take place before the minor OR VULNERABLE ADULT
43 testifies. The court may recognize the ~~minor's~~ MINOR OR VULNERABLE ADULT
44 VICTIM'S representative when the representative indicates a need to address
45 the court. A ~~minor's~~ MINOR OR VULNERABLE ADULT VICTIM'S representative shall

1 not discuss the facts and circumstances of the case with the minor OR
2 VULNERABLE ADULT witness, unless the court orders otherwise on a showing that
3 it is in the best interests of the minor OR VULNERABLE ADULT.

4 F. Any notices that are to be provided to a victim pursuant to this
5 article shall be sent only to the victim or the victim's lawful
6 representative.

7 G. FOR THE PURPOSES OF THIS SECTION, "VULNERABLE ADULT" HAS THE SAME
8 MEANING PRESCRIBED IN SECTION 13-3623.

9 Sec. 4. Section 8-386, Arizona Revised Statutes, is amended to read:

10 8-386. Information provided to victim by law enforcement
11 agencies

12 A. As soon after the detection of an offense as the victim may be
13 contacted without interfering with an investigation or arrest, the law
14 enforcement agency responsible for investigating the offense shall provide
15 the victim with a multicopy form:

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

18 2. That provides the victim a method to designate a lawful
19 representative if the victim so chooses pursuant to section 8-384, subsection
20 A or section 8-385.

21 3. That provides notice to the victim of all of the following
22 information:

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

27 (b) The availability, if any, of crisis intervention services and
28 emergency and medical services and, if applicable, that medical expenses
29 arising out of the need to secure evidence may be reimbursed pursuant to
30 section 13-1414.

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

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

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

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

41 (f) Whether the suspect is an adult or juvenile, the victim will be
42 notified by the law enforcement agency at the earliest opportunity after the
43 arrest of a suspect.

44 (g) If the suspect is a juvenile and the officer requests that the
45 accused be detained, a statement of the victim's right, on request, to be

1 informed if the juvenile will be released or will be detained pending the
2 detention hearing and of the victim's right to be present and heard at the
3 detention hearing and that, to exercise these rights, the victim must contact
4 the detention screening section of the juvenile probation department
5 immediately to request notice of all of the following:

6 (i) The juvenile's release.

7 (ii) The date, time and place of the detention hearing and any changes
8 to that schedule.

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

11 (h) THAT THE VICTIM OR THE IMMEDIATE FAMILY MEMBER OF THE VICTIM, IF
12 THE VICTIM IS KILLED OR INCAPACITATED, HAS THE RIGHT TO RECEIVE ONE COPY OF
13 THE POLICE REPORT, INCLUDING ANY SUPPLEMENTS TO THE REPORT, FROM THE
14 INVESTIGATING LAW ENFORCEMENT AGENCY AT NO CHARGE PURSUANT TO SECTION 39-127.

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

21 C. The law enforcement agency shall submit one copy of the victim's
22 request or waiver of predisposition rights form to the detention center, if
23 the arresting officer is requesting that the accused be detained, at the time
24 the juvenile is taken to detention. If detention is not requested, the form
25 copies shall be submitted to the juvenile probation intake section at the
26 time the case is otherwise referred to court. The probation intake section
27 shall submit a copy of the victim's request or waiver of predisposition
28 rights form to the prosecutor and the departments or governmental agencies,
29 as applicable, that are mandated by this article to provide victims' rights
30 services ~~upon~~ ON request.

31 D. If the accused juvenile is cited and released by an Arizona traffic
32 ticket and complaint form pursuant to section 8-323, the law enforcement
33 agency shall inform the victim how to obtain additional information about
34 subsequent proceedings.

35 E. Law enforcement agencies within a county may establish different
36 procedures designed to efficiently and effectively provide notice of the
37 victim's rights pursuant to this article and notice to affected entities of
38 victim request or waiver information. If different procedures are
39 established, the procedures shall:

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

42 2. Be designed so that detention centers within a county receive
43 notice of the victim's request or waiver of the victim's predisposition
44 rights at the same time that an accused juvenile is detained.

1 3. Be designed so that the juvenile probation intake section of the
2 county receives notice of the victim's request or waiver of the victim's
3 predisposition rights at the same time that the case is referred to court.

4 4. Provide that the notice to affected entities of a victim's request
5 or waiver of the victim's predisposition rights includes information that
6 allows the affected entity to contact the victim.

7 5. Be supported by the use of brochures, forms or other written
8 materials developed by the law enforcement agencies within a county and
9 reviewed by the attorney general pursuant to section 8-398, subsection B.

10 Sec. 5. Section 8-388, Arizona Revised Statutes, is amended to read:

11 8-388. Notice of diversion

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

19 B. **THE COURT ADMINISTERING THE DIVERSION PROGRAM SHALL PROVIDE NOTICE**
20 **TO THE VICTIM OF THE JUVENILE'S COMPLETION OR TERMINATION FROM THE DIVERSION**
21 **PROGRAM.**

22 Sec. 6. Section 8-391, Arizona Revised Statutes, is amended to read:

23 8-391. Notice of adjudication; impact statement

24 A. On request the prosecutor's office, within fifteen days after the
25 adjudication, transfer, acquittal or dismissal of the charges against the
26 accused, shall give notice to the victim of the offense or offenses for which
27 the accused was adjudicated delinquent, transferred for adult prosecution or
28 acquitted or of the charges dismissed against the juvenile defendant.

29 B. If the juvenile is adjudicated delinquent and the victim has
30 requested notice, the prosecutor's office shall notify the victim, if
31 applicable, of:

32 1. The function of the predisposition report.

33 2. The name and telephone number of the probation department that is
34 preparing the predisposition report.

35 3. The right to make a victim impact statement under section 8-404.

36 4. The right to receive portions of the predisposition report pursuant
37 to section 8-404, subsection C.

38 5. The right to be present and be heard at any predisposition or
39 disposition proceeding pursuant to section 8-405.

40 6. The time, place and date of the disposition proceeding.

41 7. If the court orders restitution, the right to have a judgment
42 entered for any unpaid amount and to file a restitution lien pursuant to
43 section 8-345.

44 8. **THE JUVENILE'S RIGHT TO VIEW THE PREDISPOSITION REPORT.**

1 C. The victim shall be informed that the victim's impact statement may
2 include the following:

3 1. An explanation of the nature and extent of any physical,
4 psychological or emotional harm or trauma suffered by the victim.

5 2. An explanation of the extent of any economic loss or property
6 damage suffered by the victim.

7 3. An opinion of the need for and extent of restitution.

8 4. Whether the victim has applied for or received any compensation for
9 the loss or damage.

10 D. Notice provided pursuant to this section does not remove the
11 probation department's responsibility to initiate the contact between the
12 victim and the probation department concerning the victim's economic,
13 physical, psychological or emotional harm. At the time of contact, the
14 probation department shall advise the victim of the date, time and place of
15 the disposition proceeding and of the victim's right, if present, to be heard
16 at that proceeding.

17 Sec. 7. Section 8-392, Arizona Revised Statutes, is amended to read:
18 8-392. Notice of postadjudication review and appellate
19 proceedings

20 A. Within fifteen days after the disposition proceeding the
21 prosecutor's office, on request, shall notify the victim of the disposition
22 imposed on the juvenile defendant.

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

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

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

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

1 Sec. 8. Section 8-397, Arizona Revised Statutes, is amended to read:
2 8-397. Notice of release, discharge or escape from a mental
3 health treatment agency or residential treatment

4 A. If the victim has made a request for notice, the court or the
5 department of juvenile corrections, whichever has supervision of the accused
6 or delinquent, shall provide the victim, at least ten days before the release
7 or discharge of the accused or delinquent, with notice of the release or
8 discharge of the accused or delinquent who is placed by court order in a
9 mental health treatment agency or a residential treatment agency. The mental
10 health treatment agency or residential treatment agency that has custody of
11 the accused or delinquent shall notify the court or department of juvenile
12 corrections, whichever has supervision of the accused or delinquent, at least
13 thirty days before the release or discharge of the accused or delinquent.

14 B. The court or the department of juvenile corrections, whichever has
15 supervision of the accused or delinquent, shall ~~mail~~ PROVIDE NOTICE to the
16 victim immediately after the escape or subsequent readmission of the accused
17 or the delinquent notice of the escape or subsequent readmission of the
18 accused or the delinquent who is placed by court order in a mental health
19 treatment agency or a residential treatment agency. The mental health
20 treatment agency or residential treatment agency that has custody of the
21 accused or delinquent shall immediately notify the court or the department of
22 juvenile corrections, whichever has supervision of the accused or delinquent,
23 of the escape, runaway or subsequent readmission of the accused or
24 delinquent.

25 Sec. 9. Section 8-409, Arizona Revised Statutes, is amended to read:
26 8-409. Consultation between crime victim advocate and victim:
27 privileged information; exception

28 A. A crime victim advocate shall not disclose as a witness or
29 otherwise any communication made by or with the victim, including any
30 communication made to or in the presence of others, unless the victim
31 consents in writing to the disclosure.

32 B. Unless the victim consents in writing to the disclosure, a crime
33 victim advocate shall not disclose records, notes, documents, correspondence,
34 reports or memoranda that contain opinions, theories or other information
35 made while advising, counseling or assisting the victim or that are based on
36 communications made by or with the victim, including communications made to
37 or in the presence of others.

38 C. The communication is not privileged if the crime victim advocate
39 knows that the victim will give or has given perjured testimony or if the
40 communication contains exculpatory material.

41 D. An accused may make a motion for disclosure of privileged
42 information. If the court finds there is reasonable cause to believe the
43 material is exculpatory, the court shall hold a hearing in camera. Material
44 that the court finds is exculpatory shall be disclosed to the accused.

1 E. If, with the written or verbal consent of the victim, the crime
2 victim advocate discloses to the prosecutor or a law enforcement agency any
3 communication between the victim and the crime victim advocate or any
4 records, notes, documents, correspondence, reports or memoranda, the
5 prosecutor or law enforcement agent shall disclose the material to the
6 accused's attorney only if the information is otherwise exculpatory.

7 F. Notwithstanding subsections A and B ~~OF THIS SECTION~~, if a crime
8 victim ~~advocate is employed or authorized by a prosecutor's office, the~~
9 ~~CONSENTS EITHER VERBALLY OR IN WRITING, A CRIME VICTIM~~ advocate may disclose
10 information to ~~the prosecutor with the oral consent of the victim~~ OTHER
11 PROFESSIONALS AND ADMINISTRATIVE SUPPORT PERSONS THAT THE ADVOCATE WORKS WITH
12 FOR THE PURPOSE OF ASSISTING THE ADVOCATE IN PROVIDING SERVICES TO THE VICTIM
13 AND TO THE COURT IN FURTHERANCE OF ANY VICTIMS' RIGHT PURSUANT TO THIS
14 CHAPTER.

15 Sec. 10. Section 8-413, Arizona Revised Statutes, is amended to read:

16 8-413. Victim's right to privacy

17 A. The victim has the right at any court proceeding not to testify
18 regarding the victim's addresses, telephone numbers, place of employment or
19 other locating information unless the victim consents or the court orders
20 disclosure on finding that a compelling need for the information exists. A
21 court proceeding on the motion shall be in camera.

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

26 C. SUBSECTION B OF THIS SECTION DOES NOT APPLY TO:

- 27 1. THE VICTIM'S NAME.
- 28 2. ANY RECORDS THAT ARE TRANSMITTED BETWEEN LAW ENFORCEMENT AND
29 PROSECUTION AGENCIES OR A COURT.
- 30 3. ANY RECORDS IF THE VICTIM HAS CONSENTED TO THE RELEASE OF THE
31 INFORMATION.

32 Sec. 11. Section 8-414, Arizona Revised Statutes, is amended to read:

33 8-414. Speedy adjudication; continuance; notice

34 A. In any delinquency proceeding, the court, prosecutor and law
35 enforcement officials shall take appropriate action to ensure a speedy
36 adjudication for the victim.

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

42 ~~B-~~ C. In any delinquency proceeding in which a continuance is
43 requested, the court shall consider the victim's views and the victim's right
44 to a speedy adjudication. If a continuance is granted, the court shall state
45 on the record the reason for the continuance.

1 Sec. 12. Repeal

2 Section 8-415, Arizona Revised Statutes, is repealed.

3 Sec. 13. Title 8, chapter 3, article 7, Arizona Revised Statutes, is
4 amended by adding a new section 8-415, to read:

5 8-415. Effect of failure to comply

6 A. THE FAILURE TO COMPLY WITH A VICTIM'S CONSTITUTIONAL OR STATUTORY
7 RIGHT IS A GROUND FOR THE VICTIM TO REQUEST A REEXAMINATION PROCEEDING WITHIN
8 TEN DAYS AFTER THE PROCEEDING AT WHICH THE VICTIM'S RIGHT WAS DENIED OR WITH
9 LEAVE OF THE COURT FOR GOOD CAUSE SHOWN. AFTER THE VICTIM REQUESTS A
10 REEXAMINATION PROCEEDING AND AFTER THE COURT GIVES REASONABLE NOTICE, THE
11 COURT SHALL AFFORD THE VICTIM A REEXAMINATION PROCEEDING TO CONSIDER THE
12 ISSUES RAISED BY THE DENIAL OF THE VICTIM'S RIGHT. EXCEPT AS PROVIDED IN
13 SUBSECTION B OF THIS SECTION, THE COURT SHALL RECONSIDER ANY DECISION THAT
14 ARISES FROM A PROCEEDING IN WHICH THE VICTIM'S RIGHT WAS NOT PROTECTED AND
15 SHALL ENSURE THAT THE VICTIM'S RIGHTS ARE THEREAFTER PROTECTED.

16 B. THE FAILURE TO USE REASONABLE EFFORTS TO PERFORM A DUTY OR PROVIDE
17 A RIGHT IS NOT CAUSE TO SEEK TO SET ASIDE AN ADJUDICATION OR DISPOSITION
18 AFTER TRIAL. FAILURE TO AFFORD A RIGHT UNDER THIS CHAPTER SHALL NOT PROVIDE
19 GROUNDS FOR A NEW TRIAL. A VICTIM WHO WAS GIVEN NOTICE OF A PLEA OR
20 SENTENCING PROCEEDING MAY MAKE A MOTION TO REOPEN A PLEA OR SENTENCE ONLY IF
21 THE VICTIM WAS NOT VOLUNTARILY ABSENT FROM THE PROCEEDING AND HAS ASSERTED
22 THE RIGHT TO BE HEARD BEFORE OR DURING THE PROCEEDING AT ISSUE AND THE RIGHT
23 TO BE HEARD WAS DENIED AND, IN THE CASE OF A PLEA, THE ACCUSED HAS NOT PLED
24 TO THE HIGHEST OFFENSE CHARGED. THIS SUBSECTION DOES NOT AFFECT THE VICTIM'S
25 RIGHT TO RESTITUTION, WHICH THE VICTIM MAY SEEK TO ENFORCE AT ANY TIME.

26 C. UNLESS THE JUVENILE IS DISCHARGED FROM THE JUVENILE'S SENTENCE, THE
27 FAILURE TO USE REASONABLE EFFORTS TO PROVIDE NOTICE AND A RIGHT TO BE PRESENT
28 OR BE HEARD PURSUANT TO THIS CHAPTER AT A PROCEEDING THAT INVOLVES A
29 POSTCONVICTION RELEASE IS A GROUND FOR THE VICTIM TO SEEK TO SET ASIDE THE
30 POSTCONVICTION RELEASE UNTIL THE VICTIM IS AFFORDED THE OPPORTUNITY TO BE
31 PRESENT OR BE HEARD.

32 D. IF THE VICTIM SEEKS TO HAVE A POSTCONVICTION RELEASE SET ASIDE
33 PURSUANT TO SUBSECTION C OF THIS SECTION , THE COURT, OR DEPARTMENT OF
34 JUVENILE CORRECTIONS SHALL AFFORD THE VICTIM A REEXAMINATION PROCEEDING AFTER
35 THE PARTIES ARE GIVEN NOTICE.

36 E. A REEXAMINATION PROCEEDING CONDUCTED PURSUANT TO THIS SECTION OR
37 ANY OTHER PROCEEDING THAT IS BASED ON THE FAILURE TO PERFORM A DUTY OR
38 PROVIDE A RIGHT SHALL COMMENCE NOT MORE THAN THIRTY DAYS AFTER THE
39 APPROPRIATE PARTIES HAVE BEEN GIVEN NOTICE THAT THE VICTIM IS EXERCISING THE
40 RIGHT TO A REEXAMINATION PROCEEDING PURSUANT TO THIS SECTION OR TO ANOTHER
41 PROCEEDING BASED ON THE FAILURE TO PERFORM A DUTY OR PROVIDE A RIGHT.

1 Sec. 14. Section 8-420, Arizona Revised Statutes, is amended to read:
2 8-420. Right to leave work; scheduled proceedings; employment
3 rights; nondiscrimination; confidentiality; definition

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

8 1. Leave work to exercise the employee's right to be present at a
9 proceeding pursuant to sections 8-395, 8-400, 8-401, 8-402, 8-403, 8-405,
10 8-406 and 8-415.

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

14 B. An employer may not dismiss an employee who is a victim of a
15 juvenile offense because the employee exercises the right to leave work
16 pursuant to subsection A of this section.

17 C. An employer is not required to compensate an employee who is a
18 victim of a juvenile offense when the employee leaves work pursuant to
19 subsection A of this section.

20 D. If an employee leaves work pursuant to subsection A of this
21 section, the employee may elect to use or an employer may require the
22 employee to use the employee's accrued paid vacation, personal leave or sick
23 leave.

24 E. An employee who is a victim of a juvenile offense shall not lose
25 seniority or precedence while absent from employment pursuant to subsection A
26 of this section.

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

29 1. Provide the employer with a copy of the form provided to the
30 employee by the law enforcement agency pursuant to section 8-386, subsection
31 A or a copy of the information the law enforcement agency provides to the
32 employee pursuant to section 8-386, subsection E.

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

36 G. It is unlawful for an employer or an employer's agent to refuse to
37 hire or employ, to bar or to discharge from employment or to discriminate
38 against an individual in compensation or other terms, conditions or
39 privileges of employment because the individual leaves work pursuant to
40 subsection A of this section.

41 H. Employers shall keep confidential records regarding the employee's
42 leave pursuant to this section.

43 I. An employer may limit the leave provided under this section if the
44 employee's leave creates an undue hardship to the employer's business.

1 J. The prosecutor shall inform the victim of the victim's rights
2 pursuant to this section. A victim may notify the prosecutor if exercising
3 the victim's right to leave under this section would create an undue hardship
4 for the victim's employer. The prosecutor shall communicate the notice to
5 the court during the scheduling of proceedings where the victim has the right
6 to be present. The court shall continue to take the victim's schedule into
7 consideration when scheduling a proceeding pursuant to subsection A of this
8 section.

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

13 Sec. 15. Section 8-421, Arizona Revised Statutes, is amended to read:

14 8-421. Statement of rights

15 In order to assure that any victim who comes before the juvenile court
16 has been advised of the victim's constitutional rights, THE FOLLOWING
17 STATEMENT SHALL BE PROMINENTLY POSTED IN EACH JUVENILE COURT IN THIS STATE
18 AND SHALL BE READ OUT LOUD BY a judge of the juvenile court ~~shall make the~~
19 ~~following statement~~ at the time each victim first appears in that court:

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

33 Sec. 16. Section 39-127, Arizona Revised Statutes, is amended to read:

34 39-127. Free copies of police reports and transcripts for crime
35 victims

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

1 ~~B.~~ For the purposes of this ~~section~~ SUBSECTION, "criminal offense",
2 "immediate family" and "victim" have the same meanings prescribed in section
3 13-4401.

4 B. A VICTIM OF A DELINQUENT ACT THAT IS A PART I CRIME UNDER THE
5 STATEWIDE UNIFORM CRIME REPORTING PROGRAM OR AN IMMEDIATE FAMILY MEMBER OF
6 THE VICTIM IF THE VICTIM IS KILLED OR INCAPACITATED HAS THE RIGHT TO RECEIVE
7 ONE COPY OF THE POLICE REPORT FROM THE INVESTIGATING LAW ENFORCEMENT AGENCY
8 AT NO CHARGE AND, ON REQUEST OF THE VICTIM, THE COURT OR THE CLERK OF THE
9 COURT SHALL PROVIDE, AT NO CHARGE, THE MINUTE ENTRY OR PORTION OF THE RECORD
10 OF ANY PROCEEDING IN THE CASE THAT ARISES OUT OF THE OFFENSE COMMITTED
11 AGAINST THE VICTIM AND THAT IS REASONABLY NECESSARY FOR THE PURPOSE OF
12 PURSUING A CLAIMED VICTIM'S RIGHT. FOR THE PURPOSES OF THIS SUBSECTION,
13 "DELINQUENT ACT", "IMMEDIATE FAMILY" AND "VICTIM" HAVE THE SAME MEANINGS
14 PRESCRIBED IN SECTION 8-382.