

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

CHAPTER 269
HOUSE BILL 2563

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, 8-391, 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 THE JUVENILE WAS ADJUDICATED DELINQUENT,
9 INCLUDING ADJUDICATIONS RESULTING FROM NO CONTEST PLEAS. AN ORDER OF
10 RESTITUTION IN FAVOR OF A PERSON DOES NOT PRECLUDE THAT PERSON FROM BRINGING
11 A SEPARATE CIVIL ACTION AND PROVING IN THAT ACTION DAMAGES IN EXCESS OF THE
12 AMOUNT OF 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
46 victim is no longer incompetent, incapacitated or otherwise incapable of
47 acting, the victim may personally exercise the victim's rights.

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

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

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

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

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

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

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

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

28 4. The likelihood of the representative being called as a witness in
29 the case.

30 E. The ~~minor's~~ MINOR OR VULNERABLE ADULT VICTIM'S representative shall
31 accompany the minor OR VULNERABLE ADULT victim through all proceedings,
32 including delinquency, criminal, dependency and civil proceedings, and,
33 before the minor's OR VULNERABLE ADULT'S courtroom appearance, shall explain
34 to the minor OR VULNERABLE ADULT the nature of the proceedings and what the
35 minor OR VULNERABLE ADULT will be asked to do, including telling the minor OR
36 VULNERABLE ADULT that the minor OR VULNERABLE ADULT is expected to tell the
37 truth. The representative shall be available to observe the minor OR
38 VULNERABLE ADULT in all aspects of the case in order to consult with the
39 court as to any special needs of the minor OR VULNERABLE ADULT. Those
40 consultations shall take place before the minor OR VULNERABLE ADULT
41 testifies. The court may recognize the ~~minor's~~ MINOR OR VULNERABLE ADULT
42 VICTIM'S representative when the representative indicates a need to address
43 the court. A ~~minor's~~ MINOR OR VULNERABLE ADULT VICTIM'S representative shall
44 not discuss the facts and circumstances of the case with the minor OR
45 VULNERABLE ADULT witness, unless the court orders otherwise on a showing that
46 it is in the best interests of the minor OR VULNERABLE ADULT.

1 F. Any notices that are to be provided to a victim pursuant to this
2 article shall be sent only to the victim or the victim's lawful
3 representative.

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

6 Sec. 4. Section 8-386, Arizona Revised Statutes, is amended to read:
7 8-386. Information provided to victim by law enforcement
8 agencies

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

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

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

18 3. That provides notice to the victim of all of the following
19 information:

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

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

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

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

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

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

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

41 (g) If the suspect is a juvenile and the officer requests that the
42 accused be detained, a statement of the victim's right, on request, to be
43 informed if the juvenile will be released or will be detained pending the
44 detention hearing and of the victim's right to be present and heard at the
45 detention hearing and that, to exercise these rights, the victim must contact
46 the detention screening section of the juvenile probation department
47 immediately to request notice of all of the following:

1 (i) The juvenile's release.

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

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

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

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

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

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

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

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

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

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

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

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

4 Sec. 5. Section 8-391, Arizona Revised Statutes, is amended to read:
5 8-391. Notice of adjudication; impact statement

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

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

14 1. The function of the predisposition report.

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

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

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

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

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

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

26 8. **THE RIGHT OF THE DEFENSE TO VIEW THE PREDISPOSITION REPORT.**

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

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

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

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

34 4. Whether the victim has applied for or received any compensation for
35 the loss or damage.

36 D. Notice provided pursuant to this section does not remove the
37 probation department's responsibility to initiate the contact between the
38 victim and the probation department concerning the victim's economic,
39 physical, psychological or emotional harm. At the time of contact, the
40 probation department shall advise the victim of the date, time and place of
41 the disposition proceeding and of the victim's right, if present, to be heard
42 at that proceeding.

1 Sec. 6. Section 8-392, Arizona Revised Statutes, is amended to read:
2 8-392. Notice of postadjudication review and appellate
3 proceedings

4 A. Within fifteen days after the disposition proceeding the
5 prosecutor's office, on request, shall notify the victim of the disposition
6 imposed on the juvenile defendant.

7 B. The prosecutor's office shall provide the victim with a form that
8 allows the victim to request postadjudication notice of all postadjudication
9 review and appellate proceedings, all postadjudication release proceedings,
10 all probation modification proceedings that impact the victim, all probation
11 revocation or termination proceedings, all conditional liberty revocation
12 proceedings or modifications to conditional liberty, any decisions that arise
13 out of these proceedings, all releases and all escapes.

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

17 D. On request of the victim, the prosecutor's office that is
18 responsible for handling any postadjudication or appellate proceedings shall
19 notify the victim of the proceedings and any decisions that arise out of the
20 proceedings.

21 E. THE SUPREME COURT OR COURT OF APPEALS SHALL SEND A VICTIM WHO
22 REQUESTS NOTICE PURSUANT TO THIS SECTION A COPY OF THE MEMORANDUM DECISION OR
23 OPINION FROM THE ISSUING COURT CONCURRENTLY WITH THE PARTIES. IF THE VICTIM
24 IS REPRESENTED BY COUNSEL, THE NOTICE SHALL BE PROVIDED TO THE VICTIM'S
25 COUNSEL.

26 Sec. 7. Section 8-397, Arizona Revised Statutes, is amended to read:
27 8-397. Notice of release, discharge or escape from a mental
28 health treatment agency or residential treatment

29 A. If the victim has made a request for notice, the court or the
30 department of juvenile corrections, whichever has supervision of the accused
31 or delinquent, shall provide the victim, at least ten days before the release
32 or discharge of the accused or delinquent, with notice of the release or
33 discharge of the accused or delinquent who is placed by court order in a
34 mental health treatment agency or a residential treatment agency. The mental
35 health treatment agency or residential treatment agency that has custody of
36 the accused or delinquent shall notify the court or department of juvenile
37 corrections, whichever has supervision of the accused or delinquent, at least
38 thirty days before the release or discharge of the accused or delinquent.

39 B. The court or the department of juvenile corrections, whichever has
40 supervision of the accused or delinquent, shall ~~mail~~ PROVIDE NOTICE to the
41 victim immediately after the escape or subsequent readmission of the accused
42 or the delinquent notice of the escape or subsequent readmission of the
43 accused or the delinquent who is placed by court order in a mental health
44 treatment agency or a residential treatment agency. The mental health
45 treatment agency or residential treatment agency that has custody of the
46 accused or delinquent shall immediately notify the court or the department of
47 juvenile corrections, whichever has supervision of the accused or delinquent,

1 of the escape, runaway or subsequent readmission of the accused or
2 delinquent.

3 Sec. 8. Section 8-409, Arizona Revised Statutes, is amended to read:

4 8-409. Consultation between crime victim advocate and victim;
5 privileged information; exception

6 A. A crime victim advocate shall not disclose as a witness or
7 otherwise any communication made by or with the victim, including any
8 communication made to or in the presence of others, unless the victim
9 consents in writing to the disclosure.

10 B. Unless the victim consents in writing to the disclosure, a crime
11 victim advocate shall not disclose records, notes, documents, correspondence,
12 reports or memoranda that contain opinions, theories or other information
13 made while advising, counseling or assisting the victim or that are based on
14 communications made by or with the victim, including communications made to
15 or in the presence of others.

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

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

23 E. If, with the written or verbal consent of the victim, the crime
24 victim advocate discloses to the prosecutor or a law enforcement agency any
25 communication between the victim and the crime victim advocate or any
26 records, notes, documents, correspondence, reports or memoranda, the
27 prosecutor or law enforcement agent shall disclose the material to the
28 accused's attorney only if the information is otherwise exculpatory.

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

37 Sec. 9. Section 8-413, Arizona Revised Statutes, is amended to read:

38 8-413. Victim's right to privacy; exception; definitions

39 A. The victim has the right at any court proceeding not to testify
40 regarding ~~the victim's addresses, telephone numbers, place of employment or~~
41 ~~other~~ ANY IDENTIFYING OR locating information unless the victim consents or
42 the court orders disclosure on finding that a compelling need for the
43 information exists. A court proceeding on the motion shall be in camera.

44 B. A VICTIM'S IDENTIFYING AND LOCATING INFORMATION THAT IS OBTAINED,
45 COMPILED OR REPORTED BY A LAW ENFORCEMENT AGENCY OR PROSECUTION AGENCY SHALL
46 BE REDACTED BY THE ORIGINATING AGENCY AND PROSECUTION AGENCIES FROM RECORDS

1 PERTAINING TO THE CRIMINAL CASE INVOLVING THE VICTIM, INCLUDING DISCOVERY
2 DISCLOSED TO THE DEFENDANT.

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

4 1. THE VICTIM'S NAME.

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

7 3. ANY RECORDS IF THE VICTIM HAS CONSENTED TO THE RELEASE OF THE
8 INFORMATION.

9 4. THE GENERAL LOCATION AT WHICH THE REPORTED CRIME OCCURRED.

10 D. FOR THE PURPOSES OF THIS SECTION:

11 1. "IDENTIFYING INFORMATION" INCLUDES A VICTIM'S DATE OF BIRTH, SOCIAL
12 SECURITY NUMBER AND OFFICIAL STATE OR GOVERNMENT ISSUED DRIVER LICENSE OR
13 IDENTIFICATION NUMBER.

14 2. "LOCATING INFORMATION" INCLUDES THE VICTIM'S ADDRESS, TELEPHONE
15 NUMBER, E-MAIL ADDRESS AND PLACE OF EMPLOYMENT.

16 Sec. 10. Section 8-414, Arizona Revised Statutes, is amended to read:

17 8-414. Speedy adjudication; continuance; notice

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

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

26 ~~B.~~ C. In any delinquency proceeding in which a continuance is
27 requested, the court shall consider the victim's views and the victim's right
28 to a speedy adjudication. If a continuance is granted, the court shall state
29 on the record the reason for the continuance.

30 Sec. 11. Repeal

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

32 Sec. 12. Title 8, chapter 3, article 7, Arizona Revised Statutes, is
33 amended by adding a new section 8-415, to read:

34 8-415. Effect of failure to comply

35 A. THE FAILURE TO COMPLY WITH A VICTIM'S CONSTITUTIONAL OR STATUTORY
36 RIGHT IS A GROUND FOR THE VICTIM TO REQUEST A REEXAMINATION PROCEEDING WITHIN
37 TEN DAYS AFTER THE PROCEEDING AT WHICH THE VICTIM'S RIGHT WAS DENIED OR WITH
38 LEAVE OF THE COURT FOR GOOD CAUSE SHOWN. AFTER THE VICTIM REQUESTS A
39 REEXAMINATION PROCEEDING AND AFTER THE COURT GIVES REASONABLE NOTICE, THE
40 COURT SHALL AFFORD THE VICTIM A REEXAMINATION PROCEEDING TO CONSIDER THE
41 ISSUES RAISED BY THE DENIAL OF THE VICTIM'S RIGHT. EXCEPT AS PROVIDED IN
42 SUBSECTION B OF THIS SECTION, THE COURT SHALL RECONSIDER ANY DECISION THAT
43 ARISES FROM A PROCEEDING IN WHICH THE VICTIM'S RIGHT WAS NOT PROTECTED AND
44 SHALL ENSURE THAT THE VICTIM'S RIGHTS ARE THEREAFTER PROTECTED.

45 B. THE FAILURE TO USE REASONABLE EFFORTS TO PERFORM A DUTY OR PROVIDE
46 A RIGHT IS NOT CAUSE TO SEEK TO SET ASIDE AN ADJUDICATION OR DISPOSITION

1 AFTER TRIAL. FAILURE TO AFFORD A RIGHT UNDER THIS CHAPTER SHALL NOT PROVIDE
2 GROUNDS FOR A NEW TRIAL. A VICTIM WHO WAS GIVEN NOTICE OF A PLEA OR
3 SENTENCING PROCEEDING MAY MAKE A MOTION TO REOPEN A PLEA OR SENTENCE ONLY IF
4 THE VICTIM WAS NOT VOLUNTARILY ABSENT FROM THE PROCEEDING AND HAS ASSERTED
5 THE RIGHT TO BE HEARD BEFORE OR DURING THE PROCEEDING AT ISSUE AND THE RIGHT
6 TO BE HEARD WAS DENIED AND, IN THE CASE OF A PLEA, THE ACCUSED HAS NOT PLED
7 TO THE HIGHEST OFFENSE CHARGED. THIS SUBSECTION DOES NOT AFFECT THE VICTIM'S
8 RIGHT TO RESTITUTION, WHICH THE VICTIM MAY SEEK TO ENFORCE AT ANY TIME.

9 C. UNLESS THE JUVENILE IS DISCHARGED FROM THE JUVENILE'S SENTENCE, THE
10 FAILURE TO USE REASONABLE EFFORTS TO PROVIDE NOTICE AND A RIGHT TO BE PRESENT
11 OR BE HEARD PURSUANT TO THIS CHAPTER AT A PROCEEDING THAT INVOLVES A
12 POSTCONVICTION RELEASE IS A GROUND FOR THE VICTIM TO SEEK TO SET ASIDE THE
13 POSTCONVICTION RELEASE UNTIL THE VICTIM IS AFFORDED THE OPPORTUNITY TO BE
14 PRESENT OR BE HEARD.

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

19 E. A REEXAMINATION PROCEEDING CONDUCTED PURSUANT TO THIS SECTION OR
20 ANY OTHER PROCEEDING THAT IS BASED ON THE FAILURE TO PERFORM A DUTY OR
21 PROVIDE A RIGHT SHALL COMMENCE NOT MORE THAN THIRTY DAYS AFTER THE
22 APPROPRIATE PARTIES HAVE BEEN GIVEN NOTICE THAT THE VICTIM IS EXERCISING THE
23 RIGHT TO A REEXAMINATION PROCEEDING PURSUANT TO THIS SECTION OR TO ANOTHER
24 PROCEEDING BASED ON THE FAILURE TO PERFORM A DUTY OR PROVIDE A RIGHT.

25 Sec. 13. Section 8-420, Arizona Revised Statutes, is amended to read:

26 8-420. Right to leave work; scheduled proceedings; employment
27 rights; nondiscrimination; confidentiality; definition

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

32 1. Leave work to exercise the employee's right to be present at a
33 proceeding pursuant to sections 8-395, 8-400, 8-401, 8-402, 8-403, 8-405,
34 8-406 and 8-415.

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

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

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

44 D. If an employee leaves work pursuant to subsection A of this
45 section, the employee may elect to use or an employer may require the
46 employee to use the employee's accrued paid vacation, personal leave or sick
47 leave.

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

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

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

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

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

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

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

22 J. The prosecutor shall inform the victim of the victim's rights
23 pursuant to this section. A victim may notify the prosecutor if exercising
24 the victim's right to leave under this section would create an undue hardship
25 for the victim's employer. The prosecutor shall communicate the notice to
26 the court during the scheduling of proceedings where the victim has the right
27 to be present. The court shall continue to take the victim's schedule into
28 consideration when scheduling a proceeding pursuant to subsection A of this
29 section.

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

34 Sec. 14. Section 8-421, Arizona Revised Statutes, is amended to read:

35 **8-421. Statement of rights**

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

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

14 Sec. 15. Section 39-127, Arizona Revised Statutes, is amended to read:
15 39-127. Free copies of police reports and transcripts for crime
16 victims

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

26 ~~B.~~ For the purposes of this ~~section~~ SUBSECTION, "criminal offense",
27 "immediate family" and "victim" have the same meanings prescribed in section
28 13-4401.

29 B. A VICTIM OF A DELINQUENT ACT THAT IS A PART I CRIME UNDER THE
30 STATEWIDE UNIFORM CRIME REPORTING PROGRAM OR AN IMMEDIATE FAMILY MEMBER OF
31 THE VICTIM IF THE VICTIM IS KILLED OR INCAPACITATED HAS THE RIGHT TO RECEIVE
32 ONE COPY OF THE POLICE REPORT FROM THE INVESTIGATING LAW ENFORCEMENT AGENCY
33 AT NO CHARGE AND, ON REQUEST OF THE VICTIM, THE COURT OR THE CLERK OF THE
34 COURT SHALL PROVIDE, AT NO CHARGE, THE MINUTE ENTRY OR PORTION OF THE RECORD
35 OF ANY PROCEEDING IN THE CASE THAT ARISES OUT OF THE OFFENSE COMMITTED
36 AGAINST THE VICTIM AND THAT IS REASONABLY NECESSARY FOR THE PURPOSE OF
37 PURSUING A CLAIMED VICTIM'S RIGHT. FOR THE PURPOSES OF THIS SUBSECTION,
38 "DELINQUENT ACT", "IMMEDIATE FAMILY" AND "VICTIM" HAVE THE SAME MEANINGS
39 PRESCRIBED IN SECTION 8-382.

APPROVED BY THE GOVERNOR APRIL 30, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 30, 2014.