

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

HOUSE BILL 2269

AN ACT

AMENDING SECTIONS 8-386, 8-386.01, 8-387, 8-407, 8-413 AND 8-415, ARIZONA REVISED STATUTES; AMENDING TITLE 12, CHAPTER 9, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 12; AMENDING SECTIONS 13-4405, 13-4407, 13-4415 AND 13-4428, ARIZONA REVISED STATUTES; 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 8-386, Arizona Revised Statutes, is amended to
3 read:

4 8-386. Information provided to victim by law enforcement
5 agencies

6 A. As soon after the detection of an offense as the victim may be
7 contacted without interfering with an investigation or arrest, the law
8 enforcement agency responsible for investigating the offense shall provide
9 ELECTRONIC FORMS, PAMPHLETS, INFORMATION CARDS OR OTHER MATERIALS TO the
10 victim ~~with a multicopy form~~:

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

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

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

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

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

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

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

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

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

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

40 (g) If the suspect is a juvenile and the officer requests that the
41 accused be detained, a statement of the victim's right, on request, to be
42 informed if the juvenile will be released or will be detained pending the
43 detention hearing and of the victim's right to be present and heard at the
44 detention hearing and that, to exercise these rights, the victim must

1 contact the detention screening section of the juvenile probation
2 department immediately to request notice of all of the following:

3 (i) The juvenile's release.

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

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

9 (h) That the victim or the immediate family member of the victim,
10 if the victim is killed or incapacitated, has the right to receive one
11 copy of the police report, including any supplements to the report, from
12 the investigating law enforcement agency at no charge pursuant to section
13 39-127.

14 B. If at the time of contact with a law enforcement agency the
15 victim is physically or emotionally unable to request or waive applicable
16 rights, the law enforcement agency shall designate this ~~on the multicopy~~
17 ~~form~~ IN A FORMAT THAT IS AUTHORIZED BY SUBSECTION A OF THIS SECTION and
18 the entities that may be subsequently affected shall presume that the
19 victim invoked the victim's right to request applicable rights to which
20 the victim is entitled, on request, unless the victim later waives those
21 rights.

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

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

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

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

43 2. Be designed so that detention centers within a county receive
44 notice of the victim's request or waiver of the victim's predisposition
45 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
5 request or waiver of the victim's predisposition rights includes
6 information that allows the affected entity to contact the victim.

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

11 Sec. 2. Section 8-386.01, Arizona Revised Statutes, is amended to
12 read:

13 8-386.01. Issuance and execution of arrest warrants

14 A. ~~Beginning on the effective date of this section,~~ On the issuance
15 of an arrest warrant, the court issuing the warrant shall state in the
16 warrant whether the person named in the warrant is to be arrested for or
17 is to be charged with committing an offense to which this article applies
18 or **THAT** is materially related to an offense to which this article applies.

19 B. On receipt of notice of an arrest or an impending arrest of a
20 juvenile and if applicable pursuant to subsection A of this section, the
21 agency that is responsible for holding the original warrant shall notify
22 the law enforcement agency that was responsible for the original
23 investigation of the offense of the impending detainment of the juvenile
24 who is arrested on the law enforcement agency's warrant.

25 C. On receiving notice that the warrant was executed pursuant to
26 subsection B of this section, the law enforcement agency that was
27 responsible for the original investigation of the offense shall do all of
28 the following if the victim has requested notice pursuant to section ~~8-286~~
29 **8-386**:

30 1. Notify the victim of the arrest and advise the victim that to
31 exercise the right to be informed if the juvenile is released the victim
32 must contact the detention center of the juvenile probation department
33 immediately.

34 2. Inform the victim of the telephone number of the detention
35 center in which the juvenile is detained.

36 3. Provide the detention center with the victim information
37 pursuant to section ~~8-286~~ **8-386** so that the detention center may notify
38 the victim of the release or escape of the juvenile pursuant to section
39 ~~8-290.03~~ **8-393**, if applicable.

40 D. A law enforcement agency is not required to provide victim
41 information pursuant to section ~~8-286~~ **8-386**, subsections C and E to the
42 custodial agency at the time a juvenile is detained unless the law
43 enforcement agency that performs the warrant arrest is also the law
44 enforcement agency that was responsible for the original investigation of
45 the offense.

1 E. The victim's right to be informed of an arrest or a release
2 pursuant to an executed warrant applies to warrants that are issued on or
3 after September 1, 1996.

4 F. Law enforcement, courts and juvenile custodial agencies are not
5 liable pursuant to section ~~8-290.26~~ 8-393 for the failure to inform a
6 victim of the arrest or release of a juvenile on warrants that were issued
7 before September 1, 1996.

8 Sec. 3. Section 8-387, Arizona Revised Statutes, is amended to
9 read:

10 8-387. Notice of terms and conditions of release

11 On the request of the victim, the juvenile court or the department
12 of juvenile corrections shall provide a copy of the terms and conditions
13 of release. THE COPY OF THE TERMS AND CONDITIONS OF RELEASE MAY BE
14 PROVIDED TO THE VICTIM IN AN ELECTRONIC FORM, PAMPHLET, INFORMATION CARD
15 OR OTHER MATERIAL.

16 Sec. 4. Section 8-407, Arizona Revised Statutes, is amended to
17 read:

18 8-407. Victim's discretion; form of statement

19 A. The victim has discretion to exercise the victim's rights under
20 this article to be present and be heard at a court proceeding, and the
21 absence of the victim at the court proceeding does not preclude the court
22 from continuing the proceeding.

23 B. Except as provided in subsection C OF THIS SECTION, a victim's
24 right to be heard may be exercised through an oral statement, submission
25 of a written statement or submission of a statement through audiotape or
26 videotape OR ANY OTHER VIDEO OR DIGITAL MEDIA THAT IS AVAILABLE TO THE
27 COURT.

28 C. If a person against whom a delinquent act has been committed is
29 in custody for an offense, the person may be heard by submitting a written
30 statement to the court.

31 Sec. 5. Section 8-413, Arizona Revised Statutes, is amended to
32 read:

33 8-413. Victim's right to privacy; exception; definitions

34 A. The victim has the right at any court proceeding not to testify
35 regarding any identifying or locating information unless the victim
36 consents or the court orders disclosure on finding that a compelling need
37 for the information exists. A court proceeding on the motion shall be in
38 camera.

39 B. A victim's identifying and locating information that is
40 obtained, compiled or reported by a law enforcement agency or prosecution
41 agency shall be redacted by the originating agency and prosecution
42 agencies from records pertaining to the criminal case involving the
43 victim, including discovery disclosed to the defendant.

44 C. Subsection B of this section does not apply to:

1 1. The victim's name EXCEPT, IF THE VICTIM IS A MINOR, THE VICTIM'S
2 NAME MAY BE REDACTED FROM PUBLIC RECORDS PERTAINING TO THE CRIME IF THE
3 COUNTERVAILING INTERESTS OF CONFIDENTIALITY, PRIVACY, THE RIGHTS OF THE
4 MINOR OR THE BEST INTERESTS OF THIS STATE OUTWEIGH THE PUBLIC INTEREST IN
5 DISCLOSURE.

6 2. Any records that are transmitted between law enforcement and
7 prosecution agencies or a court.

8 3. Any records if the victim OR, IF THE VICTIM IS A MINOR, THE
9 VICTIM'S REPRESENTATIVE AS DESIGNATED UNDER SECTION 8-384 OR 13-4403 has
10 consented to the release of the information.

11 4. The general location at which the reported crime occurred.

12 D. For the purposes of this section:

13 1. "Identifying information" includes a victim's date of birth,
14 social security number and official state or government issued driver
15 license or identification number.

16 2. "Locating information" includes the victim's address, telephone
17 number, e-mail address and place of employment.

18 Sec. 6. Section 8-415, Arizona Revised Statutes, is amended to
19 read:

20 8-415. Effect of failure to comply

21 A. The failure to comply with a victim's constitutional or
22 statutory right is a ground for the victim to request a reexamination
23 proceeding within ten days after the proceeding at which the victim's
24 right was denied or with leave of the court for good cause shown. After
25 the victim requests a reexamination proceeding and after the court gives
26 reasonable notice, the court shall afford the victim a reexamination
27 proceeding to consider the issues raised by the denial of the victim's
28 right. Except as provided in subsection B of this section, the court
29 shall reconsider any decision that arises from a proceeding in which the
30 victim's right was not protected and shall ensure that the victim's rights
31 are thereafter protected.

32 B. The failure to use reasonable efforts to perform a duty or
33 provide a right is not cause to seek to set aside an adjudication or
34 disposition after trial. Failure to afford a right under this chapter
35 shall not provide grounds for a new trial. A victim who was given notice
36 of a plea or sentencing proceeding may make a motion to reopen a plea or
37 sentence only if the victim was not voluntarily absent from the proceeding
38 and has asserted the right to be heard before or during the proceeding at
39 issue and the right to be heard was denied and, in the case of a plea, the
40 accused has not pled to the highest offense charged. This subsection does
41 not affect the victim's right to restitution, which the victim may seek to
42 enforce at any time.

43 C. Unless the juvenile is discharged from the juvenile's sentence,
44 the failure to use reasonable efforts to provide notice and a right to be

1 present or be heard pursuant to this chapter at a proceeding that involves
2 a ~~postconviction~~ POSTADJUDICATION release is a ground for the victim to
3 seek to set aside the ~~postconviction~~ POSTADJUDICATION release until the
4 victim is afforded the opportunity to be present or be heard.

5 D. If the victim seeks to have a ~~postconviction~~ POSTADJUDICATION
6 release set aside pursuant to subsection C of this section, the court or
7 department of juvenile corrections shall afford the victim a reexamination
8 proceeding after the parties are given notice.

9 E. A reexamination proceeding conducted pursuant to this section or
10 any other proceeding that is based on the failure to perform a duty or
11 provide a right shall commence not more than thirty days after the
12 appropriate parties have been given notice that the victim is exercising
13 the right to a reexamination proceeding pursuant to this section or to
14 another proceeding based on the failure to perform a duty or provide a
15 right.

16 Sec. 7. Title 12, chapter 9, Arizona Revised Statutes, is amended
17 by adding article 12, to read:

18 ARTICLE 12. MONETARY JUDGMENT AWARDS TO PRISONERS

19 12-1721. Monetary judgment awarded to prisoners; outstanding
20 restitution and incarceration costs

21 A. IN ANY CIVIL ACTION, A MONETARY JUDGMENT MAY NOT BE PAID TO A
22 PERSON WHO IS OR WAS PREVIOUSLY INCARCERATED IN THE STATE DEPARTMENT OF
23 CORRECTIONS BEFORE ALL RESTITUTION AND INCARCERATION COSTS OWED BY THE
24 PERSON ARE PAID IF THE MONETARY JUDGMENT IS AGAINST THIS STATE, A
25 POLITICAL SUBDIVISION OF THIS STATE, ANY PRISON, JAIL OR CORRECTIONAL
26 FACILITY OR ANY OFFICER OR AGENT OF A PRISON, JAIL OR CORRECTIONAL
27 FACILITY. IF THE MONETARY JUDGMENT IS NOT SUFFICIENT TO PAY BOTH
28 RESTITUTION AND INCARCERATION COSTS THAT ARE OWED, THE MONETARY JUDGMENT
29 MUST FIRST BE USED TO PAY ANY OUTSTANDING RESTITUTION AND ANY REMAINING
30 BALANCE MAY BE USED TO PAY OUTSTANDING INCARCERATION COSTS.

31 B. IF THE VICTIM WAS ORDERED BY THE COURT TO RECEIVE RESTITUTION
32 THROUGH THE CLERK OF THE SUPERIOR COURT, THIS STATE, THE POLITICAL
33 SUBDIVISION OF THIS STATE OR THE PRISON, JAIL OR CORRECTIONAL FACILITY
34 THAT WAS ORDERED TO PROVIDE THE MONETARY JUDGMENT MAY TRANSFER THE MONEY
35 TO THE CLERK OF THE SUPERIOR COURT FOR DISTRIBUTION TO THE VICTIM. IF ANY
36 MONIES REMAIN AFTER PAYING THE RESTITUTION OWED TO VICTIMS, THIS STATE,
37 THE POLITICAL SUBDIVISION OF THIS STATE OR THE PRISON, JAIL OR
38 CORRECTIONAL FACILITY MAY PAY OUTSTANDING INCARCERATION COSTS.

39 C. IF MONEY IS TRANSFERRED TO A CLERK OF THE SUPERIOR COURT
40 PURSUANT TO SUBSECTION B OF THIS SECTION, THIS STATE, THE POLITICAL
41 SUBDIVISION OF THIS STATE OR THE PRISON, JAIL OR CORRECTIONAL FACILITY
42 MUST ALSO PROVIDE THE CLERK WITH THE FOLLOWING INFORMATION AT THE TIME OF
43 THE TRANSFER:

- 44 1. A COPY OF THE MONETARY JUDGMENT.

1 (g) If the suspect is an adult and has been arrested, the victim's
2 right, on request, to be informed of the suspect's release, of the next
3 regularly scheduled time, place and date for initial appearances in the
4 jurisdiction and of the victim's right to be heard at the initial
5 appearance and that, to exercise these rights, the victim is advised to
6 contact the custodial agency regarding the suspect's release and to
7 contact the court regarding any changes to the initial appearance
8 schedule.

9 (h) 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 (i) That the victim or the immediate family member of the victim,
12 if the victim is killed or incapacitated, has the right to receive one
13 copy of the police report, including any supplements to the report, from
14 the investigating law enforcement agency at no charge pursuant to section
15 39-127.

16 B. If at the time of contact with a law enforcement agency the
17 victim is physically or emotionally unable to request or waive applicable
18 rights, the law enforcement agency shall designate this ~~on the multicopy~~
19 ~~form~~ IN THE FORMAT THAT IS AUTHORIZED BY SUBSECTION A OF THIS SECTION and
20 the entities that may be subsequently affected shall presume that the
21 victim invoked the victim's right to request applicable rights to which
22 the victim is entitled, on request, unless the victim later waives those
23 rights.

24 C. The law enforcement agency shall submit a copy of the victim's
25 request or waiver of preconviction rights form to the custodial agency and
26 a copy to the prosecutor if a suspect is arrested, at the time the suspect
27 is taken into custody. If there is no arrest, the form copies shall be
28 submitted to the prosecutor at the time the case is otherwise presented to
29 the prosecutor for review. The prosecutor shall submit a copy of the
30 victim's request or waiver of preconviction rights form to the departments
31 or sections of the prosecutor's office, if applicable, that are mandated
32 by this article to provide victims' rights services on request.

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

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

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

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

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

8 4. Provide that the notice to affected entities of a victim's
9 request or waiver of the victim's preconviction rights includes
10 information that affords the affected entity the ability to contact the
11 victim.

12 5. Be supported by use of **ELECTRONIC FORMS**, brochures, ~~forms~~ or
13 other written materials that are developed by the law enforcement agencies
14 within a county and reviewed by the attorney general pursuant to section
15 13-4417, subsection B.

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

21 Sec. 9. Section 13-4407, Arizona Revised Statutes, is amended to
22 read:

23 13-4407. Notice of terms and conditions of release

24 ~~upon~~ **ON** the request of the victim, the custodial agency shall
25 provide a copy of the terms and conditions of release to the victim unless
26 the accused appeared in response to a summons. In that case, ~~upon~~ **ON**
27 request of the victim, the prosecutor's office ~~shall~~, on receiving such
28 information, **SHALL** provide a copy of the terms and conditions of release
29 to the victim. **THE COPY OF THE TERMS AND CONDITIONS OF RELEASE MAY BE**
30 **PROVIDED TO THE VICTIM IN AN ELECTRONIC FORM, PAMPHLET, INFORMATION CARD**
31 **OR OTHER MATERIAL.**

32 Sec. 10. Section 13-4415, Arizona Revised Statutes, is amended to
33 read:

34 13-4415. Notice of probation modification, termination or
35 revocation disposition matters; notice of arrest

36 A. On request of a victim who has provided an address or other
37 contact information, the court shall notify the victim of any of the
38 following:

39 1. A probation revocation disposition proceeding or any proceeding
40 in which the court is asked to terminate the probation or intensive
41 probation of a person who is convicted of committing a criminal offense
42 against the victim.

43 2. Any hearing on a proposed modification of the terms of probation
44 or intensive probation.

1 3. The arrest of a person who is on supervised probation and who is
2 arrested pursuant to a warrant issued for a probation violation.

3 B. On request of a victim who has provided a current address or
4 other current contact information, the probation department shall notify
5 the victim of the following:

6 1. Any proposed modification to any term of probation if the
7 modification affects restitution or incarceration status or the
8 defendant's contact with or the safety of the victim.

9 2. The victim's right to be heard at a hearing that is set to
10 consider any modification to be made to any term of probation.

11 3. Any violation of any term of probation that results in the
12 filing with the court of a petition to revoke probation.

13 4. That a petition to revoke probation alleging that the defendant
14 absconded from probation has been filed with the court.

15 5. Any conduct by the defendant that raises a substantial concern
16 for the victim's safety.

17 C. IF A VICTIM HAS REQUESTED POSTCONVICTION NOTICE, THE COURT SHALL
18 PROVIDE NOTICE OF THAT REQUEST TO THE STATE DEPARTMENT OF CORRECTIONS AND
19 THE BOARD OF EXECUTIVE CLEMENCY IF A DEFENDANT'S PROBATION IS REVOKED AND
20 THE DEFENDANT IS COMMITTED TO THE CUSTODY OF THE STATE DEPARTMENT OF
21 CORRECTIONS.

22 D. ON THE REQUEST OF A VICTIM, THE STATE DEPARTMENT OF CORRECTIONS
23 SHALL PROVIDE THE VICTIM WITH THE NOTICES THAT ARE REQUIRED BY SECTIONS
24 13-4412 AND 13-4413.

25 E. ON THE REQUEST OF THE VICTIM, THE BOARD OF EXECUTIVE CLEMENCY
26 SHALL PROVIDE THE VICTIM WITH THE NOTICE THAT IS REQUIRED BY SECTION
27 13-4414.

28 Sec. 11. Section 13-4428, Arizona Revised Statutes, is amended to
29 read:

30 13-4428. Victim's discretion; form of statement

31 A. It is at the victim's discretion to exercise ~~his~~ THE VICTIM'S
32 rights under this chapter to be present and heard at a court proceeding,
33 and the absence of the victim at the court proceeding does not preclude
34 the court from going forth with the proceeding.

35 B. Except as provided in subsection C OF THIS SECTION, a victim's
36 right to be heard may be exercised, at the victim's discretion, through an
37 oral statement, submission of a written statement or submission of a
38 statement through audiotape or videotape OR ANY OTHER VIDEO OR DIGITAL
39 MEDIA THAT IS AVAILABLE TO THE COURT.

40 C. If a person against whom a criminal offense has been committed
41 is in custody for an offense, the person may be heard by submitting a
42 written statement to the court.