

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 13-805, 13-806, 13-810, 13-4402, 13-4405, 13-4407, 13-4408, 13-4415, 13-4428 AND 22-116, 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 2. THE DEFENDANT'S NAME AND THE CASE NUMBER OF EACH CASE WHERE
2 RESTITUTION IS OWED.

3 3. THE NAME OF EACH VICTIM WHO IS OWED RESTITUTION AND THE SPECIFIC
4 AMOUNT OF RESTITUTION FROM THE MONETARY JUDGMENT THAT IS FOR EACH VICTIM.

5 4. THE NAME AND ADDRESS OF THE TRANSFERRING ENTITY AND A REQUEST TO
6 RETURN ANY MONEY THAT WAS NOT DISTRIBUTED FROM THE TRANSFERRED MONETARY
7 JUDGMENT, IF ANY, AFTER PAYING THE RESTITUTION THAT IS OWED.

8 Sec. 8. Section 13-805, Arizona Revised Statutes, is amended to
9 read:

10 13-805. Jurisdiction

11 A. The trial court shall retain jurisdiction of the case AS
12 FOLLOWS:

13 1. SUBJECT TO PARAGRAPH 2 OF THIS SUBSECTION, for purposes of
14 ordering, modifying and enforcing the manner in which court-ordered
15 payments are made until paid in full or until the defendant's sentence
16 expires.

17 2. FOR ALL RESTITUTION ORDERS IN FAVOR OF A VICTIM, INCLUDING LIENS
18 AND CRIMINAL RESTITUTION ORDERS, FOR PURPOSES OF ORDERING, MODIFYING AND
19 ENFORCING THE MANNER IN WHICH PAYMENTS ARE MADE UNTIL PAID IN FULL.

20 B. At the time the defendant is ordered to pay restitution by the
21 court, the court may enter a criminal restitution order in favor of each
22 person who is entitled to restitution for the unpaid balance of any
23 restitution order. A criminal restitution order does not affect any other
24 monetary obligation imposed on the defendant pursuant to law.

25 C. At the time the defendant completes the defendant's period of
26 probation or the defendant's sentence or the defendant absconds from
27 probation or the defendant's sentence, the court shall enter both:

28 1. A criminal restitution order in favor of the state for the
29 unpaid balance, if any, of any fines, costs, incarceration costs, fees,
30 surcharges or assessments imposed.

31 2. A criminal restitution order in favor of each person entitled to
32 restitution for the unpaid balance of any restitution ordered, if a
33 criminal restitution order is not issued pursuant to subsection B of this
34 section.

35 D. A JUSTICE COURT OR MUNICIPAL COURT SHALL ENTER A CRIMINAL
36 RESTITUTION ORDER WITHIN ONE YEAR AFTER THE DATE OF THE ORIGINAL
37 RESTITUTION ORDER.

38 ~~D.~~ E. The clerk of the court shall notify each person who is
39 entitled to restitution of the criminal restitution order.

40 ~~E.~~ F. A criminal restitution order may be recorded and is
41 enforceable as any civil judgment, except that a criminal restitution
42 order does not require renewal pursuant to section 12-1611 or
43 12-1612. Enforcement of a criminal restitution order by any person who is
44 entitled to restitution or by the state includes the collection of
45 interest that accrues at a rate of ten percent per annum. A criminal

1 restitution order does not expire until paid in full. A FILING FEE,
2 RECORDING FEE OR ANY OTHER CHARGE IS NOT REQUIRED FOR RECORDING A CRIMINAL
3 RESTITUTION ORDER.

4 ~~F.~~ G. All monies paid pursuant to a criminal restitution order
5 entered by the ~~superior~~ court shall be paid to the clerk of the ~~superior~~
6 court.

7 ~~G.~~ H. Monies received as a result of a criminal restitution order
8 entered pursuant to this section shall be distributed in the following
9 order of priority:

10 1. Restitution ordered that is reduced to a criminal restitution
11 order.

12 2. Associated interest.

13 ~~H.~~ I. The interest accrued pursuant to subsection ~~F~~ F of this
14 section does not apply to fees imposed for collection of the court ordered
15 payments.

16 ~~I.~~ J. A criminal restitution order is a criminal penalty for the
17 purposes of a federal bankruptcy involving the defendant.

18 Sec. 9. Section 13-806, Arizona Revised Statutes, is amended to
19 read:

20 13-806. Restitution lien

21 A. The state or any person entitled to restitution pursuant to a
22 court order may file in accordance with this section a restitution
23 lien. A filing fee, RECORDING FEE or any other charge is not required for
24 filing a restitution lien.

25 B. A restitution lien shall be signed by the attorney representing
26 the state in the criminal action or by a magistrate and shall set forth
27 all of the following information:

28 1. The name and date of birth of the defendant whose property or
29 other interests are subject to the lien.

30 2. The present residence or principal place of business of the
31 person named in the lien, if known.

32 3. The criminal proceeding pursuant to which the lien is filed,
33 including the name of the court, the title of the action and the court's
34 file number.

35 4. The name and address of the attorney representing the state in
36 the proceeding pursuant to which the lien is filed or the name and address
37 of the person entitled to restitution pursuant to a court order filing the
38 lien.

39 5. A statement that the notice is being filed pursuant to this
40 section.

41 6. The amount of restitution the defendant in the proceeding has
42 been ordered to pay or an estimated amount of economic loss caused by the
43 offense alleged in the proceeding if no restitution order has been entered
44 yet.

1 7. A statement that the total amount of restitution owed will
2 change and that the clerk of the court in which the proceeding was or is
3 pending shall maintain a record of the outstanding balance.

4 ~~C. A restitution lien may be filed by:~~

5 ~~1. A prosecutor in a criminal proceeding in which there was an~~
6 ~~economic loss after the filing of a misdemeanor complaint or felony~~
7 ~~information or indictment. At the time of arraignment the prosecutor~~
8 ~~shall give the defendant notice of any restitution lien filed.~~

9 ~~2. A victim in a criminal proceeding after restitution is~~
10 ~~determined and ordered by the trial court following pronouncement of the~~
11 ~~judgment and sentence.~~

12 C. A PROSECUTOR OR A VICTIM IN A CRIMINAL PROCEEDING IN WHICH THERE
13 WAS AN ECONOMIC LOSS MAY FILE A REQUEST WITH THE COURT FOR A PRECONVICTION
14 RESTITUTION LIEN AFTER THE FILING OF A MISDEMEANOR COMPLAINT OR FELONY
15 INFORMATION OR INDICTMENT.

16 D. A VICTIM IN A CRIMINAL PROCEEDING MAY FILE A RESTITUTION LIEN
17 AFTER RESTITUTION IS DETERMINED AND ORDERED BY THE TRIAL COURT FOLLOWING
18 PRONOUNCEMENT OF THE JUDGMENT AND SENTENCE.

19 ~~E.~~ E. A restitution lien is perfected against interests in
20 personal property by filing the lien with the secretary of state, except
21 that in the case of titled motor vehicles it shall be filed with the
22 department of transportation motor vehicle division. A restitution lien
23 is perfected against interests in real property by filing the lien with
24 the county recorder of the county in which the real property is
25 located. The state or a victim may give the additional notice of the lien
26 as either deems appropriate.

27 ~~F.~~ F. The filing of a restitution lien in accordance with this
28 section creates a lien in favor of the state or the victim in all of the
29 following:

30 1. Any interest of the defendant in real property situated in the
31 county in which the lien is filed then maintained or thereafter acquired
32 in the name of the defendant identified in the lien.

33 2. Any interest of the defendant in personal property situated in
34 this state then maintained or thereafter acquired in the name of the
35 defendant identified in the lien.

36 3. Any property identified in the lien to the extent of the
37 defendant's interest in the property.

38 ~~F.~~ G. The filing of a restitution lien under this section is
39 notice to all persons dealing with the person or property identified in
40 the lien of the state's or victim's claim. The lien created in favor of
41 the state or the victim in accordance with this section is superior and
42 prior to the claims or interests of any other person, except a person
43 possessing any of the following:

44 1. A valid lien perfected before the filing of the restitution
45 lien.

1 2. In the case of real property, an interest acquired and recorded
2 before the filing of the restitution lien.

3 3. In the case of personal property, an interest acquired before
4 the filing of the restitution lien.

5 ~~G.~~ H. This section does not limit the right of the state or any
6 other person entitled to restitution to obtain any order or injunction,
7 receivership, writ, attachment, garnishment or other remedy authorized by
8 law.

9 ~~H.~~ I. Following the entry of the judgment and sentence in the
10 criminal case, if the trial court sentences the defendant to pay a fine or
11 awards costs of investigation or prosecution, the state may file a
12 restitution lien pursuant to this section for the amount of the fine or
13 costs, except that a lien may not be perfected against a titled motor
14 vehicle.

15 ~~I.~~ J. A criminal restitution lien is a criminal penalty for the
16 purposes of any federal bankruptcy involving the defendant.

17 K. THE COURT SHALL ORDER THE RELEASE OF ANY PRECONVICTION
18 RESTITUTION LIEN THAT HAS BEEN FILED OR PERFECTED IF THE DEFENDANT IS
19 ACQUITTED OR THE STATE DOES NOT PROCEED WITH THE PROSECUTION.

20 ~~J.~~ L. A self-service storage facility that forecloses its lien
21 pursuant to section 33-1704 may sell personal property that is subject to
22 a restitution lien. The proceeds from the sale, less the reasonable costs
23 of sale, shall be paid to the restitution lienholder to satisfy the
24 restitution lien as prescribed in section 33-1704. A person who is a good
25 faith purchaser pursuant to section 33-1704 and who purchases personal
26 property that is subject to a restitution lien takes the property free and
27 clear of the rights of the restitution lienholder.

28 Sec. 10. Section 13-810, Arizona Revised Statutes, is amended to
29 read:

30 13-810. Consequences of nonpayment of fines, fees,
31 restitution or incarceration costs

32 A. In addition to any other remedy provided by law, including a
33 writ of execution or other civil enforcement, if a defendant who is
34 sentenced to pay a fine, a fee or incarceration costs defaults in the
35 payment of the fine, fee or incarceration costs or of any installment as
36 ordered, the clerk of the court imposing the fine, fee or incarceration
37 costs shall notify the prosecutor and the sentencing court. The court, on
38 motion of the prosecuting attorney or on its own motion, shall require the
39 defendant to show cause why the defendant's default should not be treated
40 as contempt and may issue a summons or a warrant of arrest for the
41 defendant's appearance.

42 B. In addition to any other remedy provided by law, including a
43 writ of execution or other civil enforcement, if a defendant who is
44 ordered to pay restitution defaults in the payment of the restitution or
45 of any installment as ordered, the clerk of the court that imposed the

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

7 ~~C.~~ IN ADDITION TO ANY OTHER REMEDY PROVIDED BY LAW, INCLUDING A
8 WRIT OF EXECUTION OR OTHER CIVIL ENFORCEMENT, THE COURT, ON RECEIPT OF A
9 PETITION AND ISSUANCE OF AN ORDER TO SHOW CAUSE, HAS JURISDICTION TO
10 PRESERVE RIGHTS OVER ALL RESTITUTION LIENS ENTERED PURSUANT TO SECTION
11 13-806, SUBSECTION B, AND PERFECTED PURSUANT TO SECTION 13-806,
12 SUBSECTION E.

13 ~~D.~~ D. At any hearing on the order to show cause the court, the
14 prosecuting attorney or a person entitled to restitution may examine the
15 defendant under oath concerning the defendant's financial condition,
16 employment and assets or on any other matter relating to the defendant's
17 ability to pay restitution.

18 ~~E.~~ E. If the court finds that the defendant has wilfully failed to
19 pay a fine, a fee, restitution or incarceration costs or finds that the
20 defendant has intentionally refused to make a good faith effort to obtain
21 the monies required for the payment, the court shall find that the default
22 constitutes contempt and may do one of the following:

23 1. Order the defendant incarcerated in the county jail until the
24 fine, fee, restitution or incarceration costs, or a specified part of the
25 fine, fee, restitution or incarceration costs, is paid.

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

28 3. Enter an order pursuant to section 13-812. The levy or
29 execution for the collection of a fine, a fee, restitution or
30 incarceration costs does not discharge a defendant who is incarcerated for
31 nonpayment of the fine, fee, restitution or incarceration costs until the
32 amount of the fine, fee, restitution or incarceration costs is collected.

33 4. Order the defendant to perform community restitution.

34 ~~F.~~ F. If the court finds that the default is not wilful and that
35 the defendant cannot pay despite sufficient good faith efforts to obtain
36 the monies, the court may take any lawful action including:

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

39 2. Enter any reasonable order that would assure compliance with the
40 order to pay.

41 3. Enter an order pursuant to section 13-812. The levy or
42 execution for the collection of a fine, a fee, restitution or
43 incarceration costs does not discharge a defendant incarcerated for
44 nonpayment of the fine, fee, restitution or incarceration costs until the
45 amount of the fine, fee, restitution or incarceration costs is collected.

1 ~~F.~~ G. If a fine, a fee, restitution or incarceration costs are
2 imposed on an enterprise it is the duty of the person or persons
3 authorized to make disbursement from the assets of the enterprise to pay
4 them from those assets, and their failure to do so shall be held a
5 contempt unless they make the showing required in subsection A or B of
6 this section.

7 Sec. 11. Section 13-4402, Arizona Revised Statutes, is amended to
8 read:

9 13-4402. Implementation of rights and duties

10 A. Except as provided in sections 13-4404 and 13-4405, the rights
11 and duties that are established by this chapter arise on the arrest or
12 formal charging of the person or persons who are alleged to be responsible
13 for a criminal offense against a victim. The rights and duties continue
14 to be enforceable pursuant to this chapter until the final disposition of
15 the charges, including acquittal or dismissal of the charges, all
16 post-conviction release and relief proceedings and the discharge of all
17 criminal proceedings relating to restitution. If a defendant is ordered
18 to pay restitution to a victim, the rights and duties continue to be
19 enforceable **BY THE COURT** until restitution is paid ~~or a criminal~~
20 ~~restitution order is entered in favor of the victim pursuant to section~~
21 ~~13-805.~~

22 B. If a defendant's conviction is reversed and the case is returned
23 to the trial court for further proceedings, the victim has the same rights
24 that were applicable to the criminal proceedings that led to the appeal or
25 other post-conviction relief proceeding.

26 C. After the final termination of a criminal prosecution by
27 dismissal with prejudice or acquittal, a person who has received notice
28 and the right to be present and heard pursuant to the victims' rights act,
29 article II, section 2.1, Constitution of Arizona, any implementing
30 legislation or court rule is no longer entitled to such rights.

31 Sec. 12. Section 13-4405, Arizona Revised Statutes, is amended to
32 read:

33 13-4405. Information provided to victim by law enforcement
34 agencies

35 A. As soon after the detection of a criminal offense as the victim
36 may be contacted without interfering with an investigation or arrest, the
37 law enforcement agency that has responsibility for investigating the
38 criminal offense shall provide **ELECTRONIC FORMS, PAMPHLETS, INFORMATION**
39 **CARDS OR OTHER MATERIALS TO** the victim ~~with a multicopy form:~~

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

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

1 3. That provides notice to the victim of all of the following
2 information:

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

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

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

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

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

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

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

24 (g) If the suspect is an adult and has been arrested, the victim's
25 right, on request, to be informed of the suspect's release, of the next
26 regularly scheduled time, place and date for initial appearances in the
27 jurisdiction and of the victim's right to be heard at the initial
28 appearance and that, to exercise these rights, the victim is advised to
29 contact the custodial agency regarding the suspect's release and to
30 contact the court regarding any changes to the initial appearance
31 schedule.

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

34 (i) That the victim or the immediate family member of the victim,
35 if the victim is killed or incapacitated, has the right to receive one
36 copy of the police report, including any supplements to the report, from
37 the investigating law enforcement agency at no charge pursuant to section
38 39-127.

39 B. If at the time of contact with a law enforcement agency the
40 victim is physically or emotionally unable to request or waive applicable
41 rights, the law enforcement agency shall designate this ~~on the multicopy~~
42 ~~form~~ **IN THE FORMAT THAT IS AUTHORIZED BY SUBSECTION A OF THIS SECTION** and
43 the entities that may be subsequently affected shall presume that the
44 victim invoked the victim's right to request applicable rights to which

1 the victim is entitled, on request, unless the victim later waives those
2 rights.

3 C. The law enforcement agency shall submit a copy of the victim's
4 request or waiver of preconviction rights form to the custodial agency and
5 a copy to the prosecutor if a suspect is arrested, at the time the suspect
6 is taken into custody. If there is no arrest, the form copies shall be
7 submitted to the prosecutor at the time the case is otherwise presented to
8 the prosecutor for review. The prosecutor shall submit a copy of the
9 victim's request or waiver of preconviction rights form to the departments
10 or sections of the prosecutor's office, if applicable, that are mandated
11 by this article to provide victims' rights services on request.

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

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

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

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

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

30 4. Provide that the notice to affected entities of a victim's
31 request or waiver of the victim's preconviction rights includes
32 information that affords the affected entity the ability to contact the
33 victim.

34 5. Be supported by use of **ELECTRONIC FORMS**, brochures, ~~forms~~ or
35 other written materials that are developed by the law enforcement agencies
36 within a county and reviewed by the attorney general pursuant to section
37 13-4417, subsection B.

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

1 Sec. 13. Section 13-4407, Arizona Revised Statutes, is amended to
2 read:

3 13-4407. Notice of terms and conditions of release
4 ~~Upon~~ ON the request of the victim, the custodial agency shall
5 provide a copy of the terms and conditions of release to the victim unless
6 the accused appeared in response to a summons. In that case, ~~upon~~ ON
7 request of the victim, the prosecutor's office ~~shall~~, on receiving such
8 information, SHALL provide a copy of the terms and conditions of release
9 to the victim. THE COPY OF THE TERMS AND CONDITIONS OF RELEASE MAY BE
10 PROVIDED TO THE VICTIM IN AN ELECTRONIC FORM, PAMPHLET, INFORMATION CARD
11 OR OTHER MATERIAL.

12 Sec. 14. Section 13-4408, Arizona Revised Statutes, is amended to
13 read:

14 13-4408. Pretrial notice
15 A. Within seven days after the prosecutor charges a criminal
16 offense by complaint, information or indictment and the accused is in
17 custody or has been served a summons, the prosecutor's office shall give
18 the victim notice of the following:

19 1. The victim's rights under the victims' bill of rights, article
20 II, section 2.1, Constitution of Arizona, any implementing legislation and
21 court rule.

22 2. The charge or charges against the defendant and a clear and
23 concise statement of the procedural steps involved in a criminal
24 prosecution.

25 3. The procedures a victim shall follow to invoke his right to
26 confer with the prosecuting attorney pursuant to section 13-4419.

27 4. The person within the prosecutor's office to contact for more
28 information.

29 5. THE VICTIM'S RIGHT TO REQUEST A PRECONVICTION RESTITUTION LIEN
30 PURSUANT TO SECTION 13-806.

31 B. Notwithstanding the provisions of subsection A of this section,
32 if a prosecutor declines to proceed with a prosecution after the final
33 submission of a case by a law enforcement agency at the end of an
34 investigation, the prosecutor shall, before the decision not to proceed is
35 final, notify the victim and provide the victim with the reasons for
36 declining to proceed with the case. The notice shall inform the victim of
37 his right on request to confer with the prosecutor before the decision not
38 to proceed is final. Such notice applies only to violations of a state
39 criminal statute.

1 and the absence of the victim at the court proceeding does not preclude
2 the court from going forth with the proceeding.

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

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

11 Sec. 17. Section 22-116, Arizona Revised Statutes, is amended to
12 read:

13 22-116. Funds in possession of justice of the peace; deposit
14 with county treasurer; payment to claimants;
15 disposition of unclaimed funds

16 A. On or before April 1 each year, every justice of the peace whose
17 court is in possession of funds obtained from any source for more than two
18 years shall pay the funds to the county treasurer and shall provide the
19 treasurer with an itemized list showing the name of the person depositing
20 the money with the justice, the date of the deposit and the amount.

21 B. The treasurer shall deposit the money in an account known as the
22 suspension account, and at any time within one year from deposit of the
23 funds the amount owing any person shall be returned and paid to the person
24 on warrant issued by the board of supervisors. The board of supervisors
25 shall require strict proof that the money should be repaid to the person
26 claiming it, and the warrant, if issued, shall be paid from the suspension
27 fund.

28 **C. THE TREASURER SHALL DEPOSIT MONIES FROM UNCLAIMED VICTIM**
29 **RESTITUTION PAYMENTS IN THE VICTIM COMPENSATION AND ASSISTANCE FUND**
30 **ESTABLISHED BY SECTION 41-2407.**

31 ~~C.~~ D. One year after deposit of the money with the county
32 treasurer all money remaining in the suspension account for which no claim
33 has been filed shall be deposited in the general fund of the county.