

VICTIMS' RIGHTS BRIEF

For Arizona's Justice System Administrators, Practitioners and Advocates



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The **Victims' Rights Brief** is published by the Arizona Attorney General, Office of Victim Services. The goal in generating the Brief is to promote justice and healing for crime victims by sharing information and fostering sensitivity within the justice system.

To learn more about victims' rights visit us at
www.azag.gov/victim-services

If you have questions, suggestions or an idea for an article, contact **Colette Chapman** at (602) 542-8848 or email Colette.chapman@azag.gov.

2018 Legislative Updates

This issue of the Victims' Rights Brief reviews laws passed in the 2018 Arizona legislative session that affect criminal and juvenile justice systems and victims' rights. Unless otherwise noted, the general effective date for implementation is August 3, 2018. The information below provides a brief synopsis and is not inclusive of all provisions of the statutes. We encourage you to visit the Arizona State Legislature website at <http://www.azleg.gov> for a complete reading of the statute. Also included is information on Arizona Supreme Court No. R-17-0015.

Legislative and rule changes will require criminal justice agencies to revise victim notification letters and agency policies and procedures.

Arizona Revised Statutes Relating to Victims' Rights

HB2312: AMENDING SECTIONS 13-907, ARIZONA REVISED STATUTES; ***RELATING TO SETTING ASIDE A CONVICTION***

A.R.S. § 13-907. Setting aside judgment of convicted person on discharge; application; release from disabilities; firearm possession; exceptions

- ◇ Requires a convicted person to be informed of the option to have a conviction set aside at the time of sentencing and permits an application to be made to the court in general, not to the specific judge or judge's successor who imposed the original sentence or term of probation.
- ◇ Provides that the Court shall consider certain factors when determining whether to set aside a conviction to include the victim's input and the status of victim restitution, if any.
- ◇ Adds that a victim has the right to be present and be heard at any proceeding in which the defendant has filed an application to have a judgment of guilt set aside pursuant to this section.
- ◇ Requires the Attorney for the State to provide the victim with notice of the defendant's application and of the rights provided to the victim in this section (right to be present and heard) if the victim has made a request for post-conviction notice.

SB1503: AMENDING SECTIONS 13-804, ***RELATING TO RESTITUTION***

A.R.S. § 13-804. Restitution for offense causing economic loss; fine for reimbursement of public monies; review hearing

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SB 1503 (continued)

- ◇ Requires the Adult Probation Department that is supervising the probationer to notify the court having jurisdiction over the case when the probationer becomes in arrears in an amount that totals four full court-ordered monthly payments of victim restitution.
- ◇ Provides that the notification must include the reason for the arrearage, the expected duration of the arrearage and a recommendation to the court that either further action is not warranted or that a review hearing should be held pursuant to this section.
- ◇ States that if the Adult Probation Department recommends that no further action is warranted, the Adult Probation Department shall include specific reasons for the recommendation.
- ◇ Requires that a copy of the notification be provided to the State and to the victim, if the victim has requested notice pursuant to section 13-4415.
- ◇ The prosecutor or the victim may file a written objection to the recommendation that includes the reasons for the objection – any objection must be filed with the court within ten (10) days after the notification was provided to the party.
- ◇ Requires the Court to hold a review hearing if requested by the state or the victim or, may hold a review hearing on its own motion.
- ◇ Provides that if the state or victim requests a review hearing, the hearing must be held within forty-five (45) days after the court received the request.

ARIZONA SUPREME COURT: No. R-17-0015

(Effective date April 2, 2018)

- ◇ Amended Rules of Criminal Procedure: Rule 4.2 Initial Appearance; Rule 5.1 Right to a Preliminary Hearing; Waiver; Continuance; Rule 5.4 Determining Probable Cause; Rule 7.2. Right to Release; Rule 7.4. Procedure

Collectively, the aforementioned amendments to the Rules of Criminal Procedure focus on bail eligibility considerations and the right to release.

Rule 7.2(b)(4) Bail Eligibility Hearing.

- ◇ (B) Timing. If the State makes an oral motion under A.R.S. § 13-3961(E), the court must hold this hearing within 24 hours of the initial appearance, subject to continuances as provided in A.R.S. § 13-3961. If this motion is not made, the hearing must be held as soon as practicable, but no later than 7 days after the initial appearance unless the detained defendant moves for a continuance.

Rule 7.4(b) Bail Eligibility Hearings.

- ◇ Provides that, notwithstanding the time limits of Rule 39(g)(1), a victim must be afforded the rights provided in Rule 39(g), Court Enforcement of Victim Notice Requirements

Legislative Update from 2017 - Effective 2017

SB1066: AMENDING SECTIONS 13-810, 13-3414, 13-3990, 13-4410 AND 31-412, ARIZONA REVISED STATUTES; ***RELATING TO THE CLERK OF THE COURT.***

A.R.S. § 13-4410 Notice of conviction, acquittal or dismissal; impact statement

- ◇ Specifies that, if the defendant is convicted, the prosecutor's office shall notify the victim of the right to request a copy of the defendant's restitution payment history from the clerk of the court pursuant to section 13-810 or 31-412.

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Other Legislation of Interest

HB2249: AMENDING SECTIONS 12-284, 12-1809, 12-1810, 13-3602 AND 13-3624, ARIZONA REVISED STATUTES; ***RELATING TO PROTECTIVE ORDERS***

HB2522: AMENDING SECTIONS 28-672, 28-675 AND 28-676, ARIZONA REVISED STATUTES; ***RELATING TO TRAFFIC VIOLATIONS***

SB1211: AMENDING TITLE 13, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-717; AMENDING SECTION 41-1604.09, ARIZONA REVISED STATUTES; ***RELATING TO PAROLE ELIGIBILITY.***