

VICTIMS' RIGHTS BRIEF

For Arizona's Justice System Administrators, Practitioners and Advocates



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The **Victims' Rights Brief** is published by the Office of 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.

2016 Legislative Updates

This issue of the Victims' Rights Brief reviews laws passed in the 2016 Arizona legislative session that affect criminal and juvenile justice systems and victims' rights. Unless otherwise specified, the general effective date for implementation is August 6, 2016. 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.

2016 LEGISLATIVE UPDATES

HB2375 (crime victims' rights; facility dog)

Amended Title 8, Chapter 3, Article 7, and Title 13, Chapter 40, by adding A.R.S. §§ 8-422 and 13-4442; Use of a facility dog in court proceedings; definition

- Requires the court to allow victims under 18 to be accompanied by a facility dog, if available, while testifying in court. Applies to victims of juvenile and criminal (adult) offenses.
 - ◊ The party seeking the use of a facility dog must file notice with the court that includes the certification of the facility dog, the name of the person or entity who certified the dog and evidence that the facility dog is insured.
 - ◊ Requires the court to instruct the jury on the role of the facility dog and that the facility dog is a trained animal to ensure the presence of the facility dog does not influence the jury and is not a reflection on the truthfulness of the testimony.
- The court may allow a victim who is eighteen years of age or more, or a witness to use a facility dog.
- Defines facility dog as a dog that is a graduate of an assistance dog organization that meets specific criteria.

HB 2376 (victim restitution; stipulated amount; hearings)

Amended A.R.S. §§ 8-416 and 13-4437 Standing to invoke rights; recovery of damages; right to counsel

- Stipulates that the victim has the right to present evidence or information and to make an argument to the court, personally or through counsel, at any proceeding to determine the amount of restitution pursuant to section 13-804.

HB 2383 (public records; law enforcement)

Amended Title 39, Chapter 1, Article 2, by adding A.R.S. §§ 39-121.04 and 39-123.01

A.R.S. § 39-121.04 Public access to law enforcement records depicting certain witnesses or crime victims; victim rights

- Requires the petitioner in a special action for the release of records to establish that the public's interest in disclosure of a record containing a visual depiction of a minor witness or a victim outweighs the victim or witness's right to privacy.
- Applies to any record created or received by or in the possession of a law enforcement or prosecution agency that relates to a criminal investigation or prosecution and that visually depicts the image of a witness under eighteen years of age or a victim as defined in A.R.S. § 13-4401.
- Provides the victim whose image is depicted in the record the right to be present at and to be heard in any action pursuant to this article for the release of records as described in this section.

A.R.S. § 39-123.01 Personal identifying information of crime witnesses, confidentiality; definition

- Prohibits the disclosure of a witness's personal identifying information contained in records that are created or received by a law enforcement or prosecution agency and that are related to a criminal investigation or prosecution unless:
 - ◊ The witness consents in writing;
 - ◊ A court orders the disclosure; or
 - ◊ The witness's address is the location where the crime occurred.
- Exempts records that are transmitted between law enforcement and prosecution agencies, a court or a clerk of the court or any provision of law that governs the discovery process or the conduct of trials.
- "Personal Identifying Information" includes:
 - ◊ A witness's date of birth, social security number, personal telephone number, home address, personal e-mail address and official state or government issued driver license or identification number.

SB1211 (victim compensation fund; allocations)

Amended A.R.S. §41-2407. Victim compensation and assistance fund; subrogation

- Allows greater flexibility in which the Victim Compensation and Assistance Fund monies, administered by the Arizona Criminal Justice Commission, are expended to meet the needs of Arizona's victims of crime and governmental agencies that provide direct services to victims.

Other statutes of interest revised during the 2016 legislative session.

- HB2001 amended A.R.S. § 13-1425. Unlawful distribution of images depicting states of nudity or specific sexual activities; classification; definitions
- HB2419 amended A.R.S. § 13-2923. Stalking; classification; exceptions; definitions
- HB2103 amended A.R.S. §§ 12-116.06, 12-284.03, 36-3001 and 36-3002; Repealed A.R.S. §§ 36-3003 and 36-3004; amending A.R.S. §§ 36-3005, 36-3006, 36-3007, 36-3008, 41-178 and 43-618. Relating to Domestic Violence Services
- HB2488 amended Title 25, Chapter 4, Article 1 by adding A.R.S. § 25-416. Sexual assault conviction; effect on rights
- HB2539 amended Title 13, Chapter 38, Article 3, by adding A.R.S. § 13-3826. Petition to terminate sex offender registration; hearing; notice
- SB1375 amended A.R.S. § 44-1271 and 44-1282. Definitions and National do-not-call registry; prohibitions; enforcement; civil penalty; definition

