

# 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](http://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](mailto:Colette.chapman@azag.gov).

## 2019 LEGISLATIVE UPDATES

This issue of the Victims' Rights Brief highlights victims' rights laws passed in the 2019 legislative session that affect criminal and juvenile justice agencies. The information below provides a brief summary of the statute changes as they relate to victims' rights 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.

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

### Arizona Revised Statutes Relating to Victims' Rights

**SB1315:** AMENDING SECTIONS 8-383, 8-387, 8-388, 8-396, 8-397, 8-398, 8-404, 8-412, 8-416, 13-4402, 13-4408, 13-4415, 13-4417, 13-4425, 13-4433, 13-4437, 22-371 AND 22-425, ARIZONA REVISED STATUTES; ***RELATING TO VICTIMS' RIGHTS.***

#### **A.R.S. §§ 13-4433 and 8-412.** Victim's right to refuse an interview

- ◆ Extends beyond final disposition of the case. Except in cases involving a dismissal with prejudice or an acquittal, the right of a victim and a victim's representative to refuse an interview, a deposition or any other discovery request by the defendant, the defendant's attorney or any other person acting on behalf of the defendant remains enforceable beyond a final disposition of the charges.

#### **A.R.S. § 13-4437.** Standing to invoke rights; recovery of damages; right to counsel

- ◆ Specifies that a victim has standing to seek an order, to bring special action or to file a notice of appearance in a trial court as well as an appellate proceeding
- ◆ The victim may not be charged a filing fee to file a special action or to seek an order
- ◆ The proceedings may be initiated by the victim's counsel or prosecutor

## SB 1315 (continued)

A.R.S. §§ 22-371. Right of appeal; procedure for taking appeal; transcript and 22-425. Jury trials and appeals in municipal courts

- ◆ Allows a victim as defined in A.R.S. § 13-4401 to bring a special action in justice and municipal courts seeking to enforce any right or to challenge an order denying any right guaranteed to victims.

Makes clarifying and conforming changes to the following victims' rights statutes:

A.R.S. §§ 13-4402 and 8-383. Implementation of rights and duties; A.R.S. §§ 8-387. Notice of terms and conditions of release; 8-388 Notice of diversion; 8-396. Notice of probation modification, termination or revocation disposition matters; notice of arrest; 8-404. Impact Statement; predisposition report; A.R.S. §§ 13-4415. Notice of probation modification, termination or revocation disposition matters; notice of arrest; 13-4425. Inspection of presentence report A.R.S. §§ 13-4417 and 8-398. Request for notice; forms; notice system

### **HB 2055: AMENDING SECTION 8-348, ARIZONA REVISED STATUTES; *RELATING TO JUVENILE COURT.***

A.R.S. § 8-348. Setting aside adjudication; application; release from disabilities; exceptions

- ◆ Allows the court, when determining whether to set aside an adjudication, to consider:
  - a) the nature and circumstances of the offense on which the adjudication is based;
  - b) whether the person has been convicted of a felony offense;
  - c) whether the person has any pending criminal charges;
  - d) the victim's input; and
  - e) any other factor that is relevant to the application.
- ◆ Specifies that if a victim has made a request for post adjudication notice, the victim has the right to be present and heard at any hearing on the application.
- ◆ Requires the State to provide the victim with notice of the application and of the rights provided to the victim in this section.
- ◆ Allows the court, on a showing of good cause, to modify any monetary obligation except for victim restitution.

## **HB (continued)**

**HB2080:** ADDING 13-906; *RELATING TO RESTORATION OF CIVIL RIGHTS.*

13-906. Restoration of civil rights; process

- ◆ Provides that if the restoration of a person’s civil rights is discretionary with the court and the victim has made a request for post-conviction notice, a victim has the right to be present and be heard at any proceeding in which the defendant files an application for the restoration of civil rights.
- ◆ Specifies that the attorney for the state shall provide the victim with notice of the defendant’s application and of the rights provided to the victim in this section.

**HB2466** AMENDING TITLE 12, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-514; AMENDING TITLE 13, CHAPTER 40, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-4443; *RELATING TO COURTS AND CIVIL PROCEEDINGS.*

**12-514.** Civil action arising from sexual conduct or sexual contact committed against a minor; failure to report; statute of limitations; revived action after a criminal conviction; definitions

- ◆ An emergency measure that creates a statute of limitations of 12 years after a plaintiff reaches 18 years of age for lawsuits, giving victims of childhood sexual conduct or sexual contact, or of a mandatory reporter's failure to report such conduct, additional time to file a civil action.
- ◆ Allows victims, until December 31, 2020, who are otherwise time-barred to bring their claims as outlined.

**13-4443.** Notice of available civil remedies.

- ◆ Makes it the “policy of the state” that following the final disposition of any criminal proceeding, the court “may” notify the victim that civil remedies may be available to pursuant to section 12-514, if applicable.

### Other Legislation of Interest

**SB1250** RELATING TO INJUNCTIONS

**SB1538** RELATING TO ADULT PROTECTIVE SERVICES