



Victims' Rights Brief

For Arizona's Justice System Administrators, Practitioners and Advocates



Legislative and Case Law Updates

This issue highlights victims' rights related laws passed during the 2024 Arizona legislative session and are effective September 14th, 2024. The information below provides a brief summary of changes to the law as they relate to victims' rights but does not include all statutory provisions. We encourage you to visit the Arizona State Legislature's website at <http://www.azleg.gov> for a complete review of the statutes. Please consult with your agency's legal team if you have any questions or need help implementing statutory changes. Links to the chaptered versions of the laws are also included below.

Legislative Update - Effective 9/14/2024

SB 1436: Offenses; Lifetime Injunction Amends A.R.S. § 13-719

SB 1436 expands the list of offenses for which a court can issue a lifetime injunction prohibiting a defendant from contacting a victim. The new additions include aggravated assault involving strangulation or other exigent circumstances, voyeurism, and stalking. This amendment enhances protections for victims by broadening the range of serious offenses that qualify for lifetime injunctions, ensuring victims of these crimes receive long-term safeguards against contact from offenders.

SB 1371: Police Reports; Time; Cost Requirements Amends A.R.S. § 39-127

SB 1371 amends A.R.S. § 39-127 to improve access to police reports and video recordings for victims. The bill expands rights for victims of domestic violence and sexual offenses, ensuring they or their attorneys receive one free copy of police reports and video recordings from the investigating agency. Additionally, law enforcement agencies must now prioritize the processing of these requests, providing timelier access to case materials. The bill also introduces a definition for "sexual offense" to clarify its scope under Title 13, Chapters 14 and 35.1 of Arizona statutes.

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If you have questions, suggestions, or an idea for an article, please contact Ryan Clark at (602) 542-8848 or by email at ryan.clark@azag.gov

SB 1671: Prisoner Spendable Accounts; Restitution Amends A.R.S. § 31-230

SB 1671 clarifies that courts have the authority to order more than 20% of an inmate's spendable account to be allocated toward restitution. Previously, the statute mandated a minimum of 20%, leaving the impression that higher amounts could not be withheld unless specifically addressed by the court. This amendment now explicitly allows judges to order a greater portion—up to 50%—of an inmate's account to be withheld for restitution purposes.

Case Law Update

Gilpin v. Harris, 553 P.3d 169 (Ariz. 2024)

In *Gilpin v. Hon. Harris/Martinez*, the Arizona Supreme Court overruled previous case law (*State v. Heartfield*) and held that defendants adjudicated “guilty except insane” (GEI) are responsible for paying restitution to victims when their actions cause or threaten death or serious bodily injury. This ruling clarifies that, despite being found GEI, such defendants can still be held financially accountable for the harm caused. The court emphasized that the legislative changes to Arizona's insanity defense law reflect an intention to hold GEI defendants responsible for their criminal conduct, aligning their responsibility with that of other convicted defendants.

G.F. v. Nielson, No. 1 CA-SA 24-0105 (Ct. App. Sep. 3, 2024)

In *G.F. v. Hon. Nielson, et al.*, the Arizona Court of Appeals ruled that a crime victim is entitled to an evidentiary hearing to determine whether they can receive restitution for a mental health diagnostic evaluation. The case involved a victim who requested restitution after being groomed by their high school teacher, who pled guilty to multiple felonies. The superior court initially denied restitution for the evaluation, citing the speculative nature of the request. However, the Court of Appeals held that the victim presented a colorable claim for economic loss and was entitled to a hearing to assess whether the costs for the evaluation, and potentially future mental health treatment, could be recovered as restitution.



Victims' Rights Complaints

A Year in Review FY24

The Victims' Rights Complaint Program, under the Attorney General's Office of Victim Services (AGO/OVS), is a nationally acclaimed multidisciplinary initiative dedicated to ensuring the rights of victims are consistently upheld. Overseen by the Compliance Administrator (CA), the Complaint program plays a pivotal role in the AGO's mission to champion justice and healing for those affected by crimes in Arizona. This includes fostering victim engagement in the judicial process, investigating victims' rights concerns with criminal and juvenile justice bodies, and pinpointing service gaps or inconsistencies in the interpretation of victims' rights legislation. Furthermore, the CA ensures accountability, offers guidance and technical support to agencies tasked with delivering mandated victim services, and exonerates agencies against unwarranted criticisms from unsubstantiated claims of violations.

Program Review

In Fiscal Year 2024, the Office of Victim Services (OVS) received 269 complaints alleging violations of victims' rights. Of these, 19 complaints met the criteria for further investigation, which requires the complainant be a crime victim, lawful representative, or victim's legal counsel; the complaint was made within one year of the alleged violation; and the complaint alleges a violation under the Victims' Bill of Rights or associated Arizona Revised Statutes. Additionally, 22 complaints were carried over from the previous fiscal year, bringing the total number of complaints under investigation to 41.

Throughout the year, OVS completed 21 investigations, substantiating 19 violations against 5 agencies.

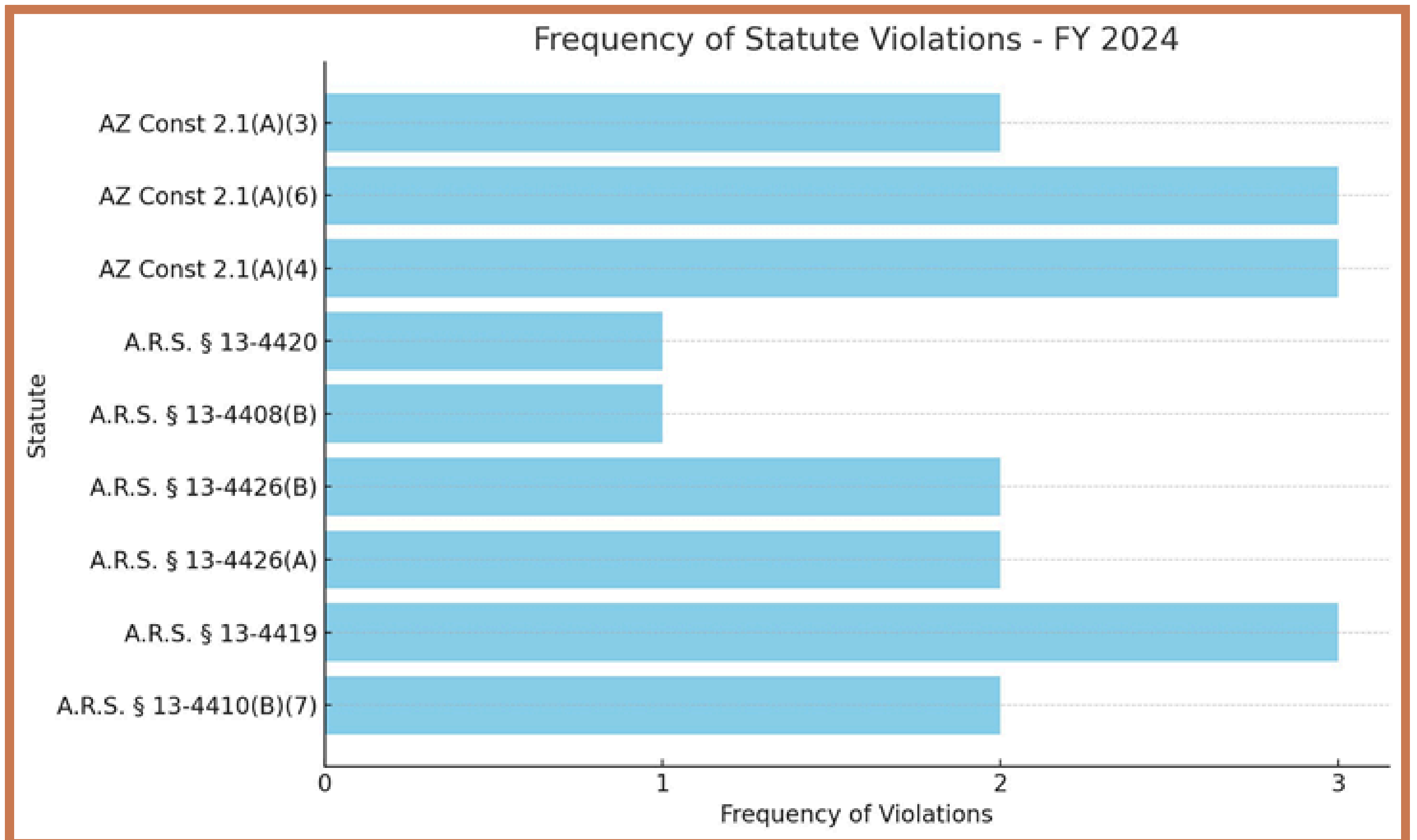
A particularly noteworthy trend this year was the noticeable decrease in the number of complaints filed against law enforcement agencies. This decrease may be a result of recommendations implemented from previous year's complaints, updated Academy training with AZPOST and other OVS-lead training efforts to address past violation areas. OVS commends all law enforcement agencies for their continued efforts promoting victims' rights. As always, OVS remains committed to supporting and enhancing the work of all agencies to ensure that victims' rights are consistently upheld.

As a result of the substantiated complaints, OVS issued letters of findings to the relevant agencies, outlining the specific violations and recommending improvements where necessary. The most frequently cited violations pertained to victims' right to confer with a prosecutor under A.R.S. § 13-4419 and related constitutional provisions, emphasizing the importance of adequate policies to ensure a victims' right to confer with a prosecutor.

Fiscal Year 2024 - 269 Complaints



Victims' Rights Violations by Statute



- **A.R.S. §§ 13-4410(B)(7)**, Notice of conviction, acquittal or dismissal; impact statement
- **A.R.S. §§ 13-4419**, Victim conference with prosecuting attorney
- **A.R.S. §§ 13-4426(A)(B)**, Sentencing
- **A.R.S. §§ 13-4408(B)**, Pre-trial notice
- **A.R.S. §§ 13-4420**, Criminal proceedings; right to be present
- **Arizona Constitution Article II, Section 2.1(A)(4)**, To be heard at any proceeding involving a post arrest release decision, a negotiated plea, and sentencing.
- **Arizona Constitution Article II, Section 2.1(A)(6)**, to confer with the prosecution, after the crime against the victim has been charged, before trial or before any disposition of the case and to be informed of the disposition.
- **Arizona Constitution Article II, Section 2.1(A)(3)**. To be present at and, upon request, to be informed of all criminal proceedings where the defendant has the right to be present.

Results Driven Data

The Compliance Administrator makes conclusions and findings on victims' rights complaints from a detailed review of all evidence presented or discovered during the investigative process. This includes items such as judicial records, law enforcement reports, notification letters, file annotations, and insights learned from interviews. Annually, OVS aggregates data to identify reoccurring issues and areas that need attention across the state. This valuable information shapes state-wide training agendas and guides committee deliberations.

This year, the OVS Director and Compliance Administrator had the privilege of presenting OVS' complaint process and victims' rights information at the Limited Jurisdiction New Judge Training. This event, attended by limited jurisdiction judges from across the state, provided OVS with an opportunity to offer interactive instruction and discussion on victims' rights. The session included updates on case law and rule changes, detailed explanations of the complaint process, and a platform for participants to analyze common violation scenarios, promoting a stronger understanding victims' rights.

Impact

During the course of our investigations, the relevant agencies were receptive to OVS' recommendations and demonstrated a strong commitment to enhancing their services for victims. Based on OVS' feedback, numerous agencies reviewed their daily operations, updated their policies and procedures, and sought training on victims' rights for their personnel. Furthermore, victims gave overwhelmingly positive feedback regarding the complaint process. It is important to note that the Complaint Program benefits the wider victim community, not just those victims who have lodged a complaint with OVS. Any improvements made by criminal justice agencies, whether in response to a substantiated complaint or otherwise, have significant and far-reaching implications for all victims.

We strongly encourage all criminal justice agencies to proactively review their policies, procedures, daily operations, and notification letters to ensure alignment with statutory requirements whether or not a victims' rights complaint has been lodged against your agency.



Victims' Rights Education

The OVS Victims' Rights Education Program is currently updating the Basic and Advanced Victims' Rights presentations to develop a new Advanced presentation for FY25, which will focus on the highly-requested topic of complex victims' rights. Presentations for FY25 will begin in October via webinar. Please keep an eye out for registration opportunities on the OVS Education website noted below.

Participants are reminded of their training obligations within the Victims' Rights Education Program. It is mandatory to complete the Basic Victims' Rights course every 5 years. Additionally, systems-based practitioners should engage in the Advanced Victims' Rights course annually, with community-based practitioners encouraged to attend yearly as well. For more details, to request a training and to register for courses, please visit <https://www.azag.gov/criminal/victim-services/training>.



Arizona Attorney General's Office of Victim Services Information

Phoenix Victim Service's Office:

Mainline: 602-542-4911

Fax: 602-542-8453

2005 N. Central Avenue, Phoenix, AZ, 85004



Tucson Victim Service's Office:

Mainline: 520-628-6459

Fax: 520-628-6566

400 W Congress, S-315, Tucson, AZ, 85701

Victims' Rights Program (VRP): Email OVSVRP@azag.gov for questions or information related to the Arizona VRP Program.

Victims' Rights Compliance: Email VictimRights@azag.gov for questions or information related to Arizona Victims' Rights Compliance.

Training and Education: Reach out to OVSTraining@azag.gov for information about the vicarious victims' rights trainings or education opportunities provided by the Arizona Attorney General's Office.

The Arizona Attorney General's Office is dedicated to a system of justice that is inclusive of crime victims and will remain vigilant in striving to provide the most efficient and effective service to the people of Arizona.

For more information and resources about the Arizona Attorney General's Office, please visit: azag.gov