

VICTIMS' RIGHTS BRIEF

For Arizona's Justice System Administrators, Practitioners and Advocates



**Office of Arizona
Attorney General
Tom Horne**

1275 West Washington Street
Phoenix, AZ 85007
Phone: 602-542-4911
Fax: 602-542-8453

INSIDE THIS ISSUE:

Page 2-3: 2014 Legislative Updates (continued)

The Victims' Rights Brief is published by the Arizona Attorney General's Office of Victim Services, which remains wholly responsible for its content.

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.

For more information about Victims' Rights, visit us at www.azag.gov/victim-services

Have an idea for an article in the Victims' Rights Brief?

Contact Colette Chapman at 602-542-8848

or email

colette.chapman@azag.gov

2014 Legislative Updates

This issue of the Victims' Rights Brief is a summary of laws passed in the 2014 Arizona legislative session affecting the criminal and juvenile justice system and victims' rights. Unless otherwise specified, the general effective date for implementation is **July 24, 2014**. Because the information below provides a brief synopsis and is not inclusive of all provisions of the statute, we encourage you to visit the Arizona State Legislature website at <http://www.azleg.gov> for a complete reading of the statute.

In light of the multiple modifications to victims' rights statutes during the 2014 legislative season, appropriate changes to victim notification letters and agency policies and procedures is warranted.

2014 LEGISLATIVE UPDATES

The Arizona Attorney General's Office sponsored HB2593 that resulted in Arizona being the first state in the Nation to prohibit abatement!

HB2593 (death; post-conviction; appellate proceedings; dismissal)

- **Added A.R.S. § 13-106 Death of convicted defendant; dismissal of appellate and post-conviction proceedings**
 - States that the court shall dismiss any appeals or post-conviction proceedings upon the death of a convicted defendant.
 - Stipulates that a defendant's criminal conviction, imprisonment, restitution, fine or assessment is not abated (terminated) upon the defendant's death.
- **Added A.R.S. § 13-716 and amended § 41-1604.09 Juvenile offenders sentenced to life imprisonment; parole eligibility**
 - Provides that a person sentenced to life in prison with the possibility of release after a minimum number of calendar years for an offense committed before 18 years of age is required to be parole eligible upon completion of the minimum sentence regardless of whether the offense was committed on or after January 1, 1994.
 - States that if parole is granted, the person is required to remain on parole for the remainder of the individual's life subject to revocation.

HB 2312 (prosecutor presence; interview of minor)

Amended A.R.S. §§ 8-412, 13-4433 Victims' right to refuse an interview, applicability

- Specifies that in a juvenile or criminal case a minor who has agreed to an interview may not be interviewed by the defendant, the defendant's attorney, or an agent of the defendant unless the prosecutor is notified at least five days in advance. States that the minor must be informed that the prosecutor may be present at the interview.

HB 2625 (penalty assessment; victims' rights enforcement)

(Effective date January 1, 2015)

A.R.S. § ~~41-1722~~ 41-1727: Establishes a Victims' Rights Enforcement Fund to be administered by the Arizona Department of Public Safety (DPS). Funds will be distributed to qualifying organizations and entities; and, DPS may use up to five percent of the monies deposited in the fund for its administrative costs.

A qualifying organization or entity is a nonprofit organization or entity that can demonstrate a five-year history of providing, without cost to the crime victim, each of the following services to crime victims:

1. Legal representation to enforce the rights of crime victims as counsel of record in criminal cases.
2. Social services to assist the crime victim during the course of the legal representation.

Allows for an entity applying for funds to establish their qualifications through an attorney who meets the above requirements.

Non-profit organizations and entities applying for funds shall not be limited with respect to the type of crimes committed against the victim population they serve.

HB 2454 (human trafficking; prostitution)

- **A.R.S. § ~~41-113~~ 41-114:** Establishes the human trafficking victim assistance fund (Fund) consisting of monies received from civil penalties for unlawful advertising by escort services and massage therapists.
- **A.R.S. § ~~41-113~~ 41-114:** Requires the Governor's Office for Children, Youth and Families (Office) to establish program priorities for the Fund.
- **A.R.S. § ~~41-113~~ 41-114:** Requires the Office to spend monies in the Fund to provide assistance to victims of sex trafficking and trafficking of persons for forced labor or services.
- **A.R.S. §§ 13-2314.01 & 13-2314.03:** Authorizes monies in the state and the county anti-racketeering revolving funds to be spent on programs that provide assistance to victims of a criminal offense listed under the definition of "racketeering" in A.R.S. § 13-2301.
- **A.R.S. § 13-3212:** Specifies that if a minor victim is 15, 16 or 17 years of age, child prostitution under certain circumstances is a Class 2 felony and prescribes increased punishment.
- **A.R.S. § 13-4434:** States that any identifying or locating information involving the victim that is obtained by a law enforcement agency or prosecution agency must be redacted from records pertaining to the criminal case, including discovery disclosed to the defendant.
 - ◇ **Identifying information** includes a victim's date of birth, social security number and official state or government issued driver's license or identification number.
 - ◇ **Locating information** includes the victim's address, telephone number, e-mail address and place of employment.

HB 2563 Amended Title 8, Chapter 3, Article 3, Arizona Revised Statutes; Juvenile Crime Victims' Rights.

Aligns rights of victims of juvenile offenses with victims' rights of adult offenses.

- **A.R.S. § 8-350.02: Civil actions by victim or other persons** Provides that if a juvenile is adjudicated delinquent, the juvenile cannot deny the elements of the delinquency in a later civil action by the victim or the state.
- **A.R.S. § 8-383: Implementation of rights and duties** Provides that if a juvenile's adjudication is reversed and the case is returned to the juvenile court for further proceedings, the victim has the same rights that were applicable to the delinquency proceedings that led to the appeal or other post-adjudication relief proceeding.
- **A.R.S. § 8-384: Inability to exercise rights; designation of others; notice; representative for a minor or vulnerable adult; definition** Authorizes the appointment of a representative for a vulnerable adult who is a victim of juvenile delinquency.
- **A.R.S. § 8-386: Information provided to victim by law enforcement agencies** States that if the victim is killed or incapacitated, the law enforcement agency responsible for investigating the juvenile delinquency must provide the victim or the immediate family with one copy of the police report and any additional supplements to the report at no charge pursuant to A.R.S. § 39-127.
- **A.R.S. § 8-391: Notice of adjudication; impact statement** Provides notice to the victim of the right of the defense to view the ~~presentence~~ predisposition report.
- **A.R.S. § 8-392: Notice of post-adjudication review and appellate proceedings** Requires the supreme court or court of appeals to send a victim who requests notice, a copy of the memorandum decision or opinion, from the issuing court concurrently with the parties.
- **A.R.S. § 8-397: Notice of release, discharge or escape from a mental health treatment agency or residential treatment** Allows for the most expedient notification method by changing the requirement from "mail" notice to "provide notice" to the victim immediately after the escape or subsequent readmission from a mental health treatment agency or residential treatment agency.
- **A.R.S. § 8-409: Consultation between crime victim advocate and victim; privileged information; exception** Adds other professionals and administrative support persons that victim advocates work with in providing services to the victim as those the advocate can disclose victim/advocate communication, with a victim's verbal or written consent.
- **A.R.S. § 8-413: Victim's right to privacy; exception; definitions** States that any identifying or locating information involving the victim that is obtained by a law enforcement agency or prosecution agency must be redacted from records pertaining to the criminal case, including discovery disclosed to the defendant.
 - ◇ ***Identifying information*** includes a victim's date of birth, social security number and official state or government issued driver's license or identification number.
 - ◇ ***Locating information*** includes the victim's address, telephone number, e-mail address and place of employment.
- **A.R.S. § 8-414: Speedy adjudication; continuance; notice** Directs the prosecutor in any delinquency proceeding to make reasonable efforts to notify a victim of any request for a continuance.
- **A.R.S. § 8-415: Repealed and Rewritten** – Establishes the effects of failure to comply with victims' rights.
- **A.R.S. § 8-420: Right to leave work; scheduled proceedings; employment rights; nondiscrimination; confidentiality; definition** Allows a victim to leave work to obtain an order of protection, an injunction against harassment or any other injunctive relief regarding the health, safety or welfare of a victim or the victim's child.
- **A.R.S. § 8-421: Statement of rights** Requires that the Victims' Rights Statement must be prominently posted in each Juvenile Court in this state and shall be read out loud by a judge of the juvenile court at the time each victim first appears in that court.