

# **VICTIMS' RIGHTS BRIEF**

**For Arizona's Justice System Administrators, Practitioners and Advocates**

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## **Victims' Rights Updates!!!**

### **2006 Legislative Update:**

The 2<sup>nd</sup> Regular Session of the 47<sup>th</sup> Legislature saw the passage of numerous changes relating to victims' rights that were signed into law by the Governor.

For a review of the Victims' Rights Laws, please refer to Title 13, Chapter 40; Title 8, Chapter 3, Article 7, of the Arizona Revised Statutes or visit [www.azleg.state.az.us/](http://www.azleg.state.az.us/). The following is a summary of the legislative changes:

#### **A.R.S. § 13-4436. Effect of failure to comply**

Amends the statute by acknowledging failure to comply with a victim's rights, either constitutional or statutory, provides a victim the ability to request a reexamination of the effected proceeding within ten days of the proceeding occurring. Except for setting aside a conviction after trial, any decision can be reconsidered from a proceeding where the victims' rights were not protected. Further, to specifically address the issue of a conviction after trial, the statute is amended to clearly state failure to uphold a victim's rights does not provide grounds for a new trial. Regarding a plea or sentencing hearing, a victim may file a motion to reopen a plea or sentence if the victim was notified and not willingly absent from the proceeding. This also includes that the victim must have asserted the right to be heard prior to or during the proceeding in question and the right was denied.

#### **A.R.S. §§ 8- 412(G)/ 13-4433(H). Victim's right to refuse an interview**

Is amended to provide the parent or legal guardian of a minor child who exercises victims' rights on behalf of the minor child the right to refuse an interview by the juvenile defendant or any party of the juvenile defendant.

#### **A.R.S. § 41-2407(C). Victim compensation and assistance fund; subrogation**

Provides that those who were victimized while assisting a Public Safety Officer during the prevention of a crime or apprehension of a criminal can seek crime victim compensation.

#### **A.R.S. § 39-127. Free copies of police reports for crime victims; definitions**

With the addition of this statute, victims or their representative if the victim is killed or incapacitated may request and receive one free copy of the related police report.

#### **A.R.S. § 13-4071(D). Subpoena; issuance; duty of clerk**

This provides protection for victims to not have a defendant use a blank subpoena to access the records of a victim. The victim must also be provided notice and has the right to testify at a

proceeding involving a subpoena of their records from a third party. Finally, records relating to recovered or disassociated memories cannot be subpoenaed unless prosecution intends to bring forth evidence of the victim's recovered memory.

**Please note: A.R.S §§ 8-421 and 13-4402.01 were repealed in a measure to remove duplicate statutes from the statute books. The statutes are still valid and should be implemented where applicable.**

## Supreme Court Update:

The Arizona Supreme Court has a new service for crime victims and the public. Victims may now register and receive automated notification on cases file in the Superior Court (currently only in Maricopa County). Eventually, all counties will be included. This service does not replace any notification by the County Attorney's offices, rather is meant to support victims by providing more ways to be included in the process. Find more information at [www.supreme.state.az.us/publicaccess/notification](http://www.supreme.state.az.us/publicaccess/notification) and spread the word!

## Office of Victim Services Update:

There has been a shuffle at OVS with our Victim Advocates! Elisha Elder, once located in Phoenix has moved to the Tucson office. In her place here in Phoenix, OVS is proud to welcome Erin Yabu to the advocate family! She started with OVS as an intern at the Tucson location and joined the Phoenix office on July 31, 2006! Welcome Erin and Best Wishes Elisha!



The Victims' Rights Brief is published by the Arizona Attorney General's Office of Victim Services, which remains wholly responsible for its content. Questions regarding content can be directed to Mel Burton at (602) 542-8409. To learn more about victims' rights via the internet, email us at [victimrights@azag.gov](mailto:victimrights@azag.gov) or visit us at [www.azag.gov](http://www.azag.gov).