

COMMITTEE ON JUDICIARY
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1315
(Reference to Senate engrossed bill)

1 Page 1, line 5, strike "8-385,"; after "8-412" insert "AND SECTION 8-389,
2 SUBSECTION B"

3 Between lines 24 and 25, insert:

4 "Sec. 2. Section 8-387, Arizona Revised Statutes, is amended to
5 read:

6 8-387. Notice of terms and conditions of release

7 On the request of the victim, the juvenile ~~court~~ PROBATION DEPARTMENT
8 or the department of juvenile corrections shall provide a copy of the terms
9 and conditions of release. The copy of the terms and conditions of release
10 may be provided to the victim in an electronic form, pamphlet, information
11 card or other material.

12 Sec. 3. Section 8-388, Arizona Revised Statutes, is amended to read:

13 8-388. Notice of diversion

14 If an accused is accepted into a diversion program pursuant to
15 section 8-321, the ~~court~~ PROBATION DEPARTMENT administering the program
16 shall give the victim notice of the conditions that the accused must comply
17 with in order for the complaint or citation to be adjusted or dismissed.
18 The notice shall state whether restitution was required and that, on
19 request of the victim, the victim has the right to be notified of the
20 accused's completion of or termination from the program.

21 Sec. 4. Section 8-396, Arizona Revised Statutes, is amended to read:

22 8-396. Notice of probation modification, termination or
23 revocation disposition matters; notice of arrest

1 A. On request of a victim who has provided an address or other
2 contact information, the ~~court~~ PROBATION DEPARTMENT shall notify the victim
3 of any of the following:

4 1. A probation revocation disposition proceeding or any proceeding
5 in which the court is asked to terminate the probation or intensive
6 probation of the delinquent who committed the delinquent act against the
7 victim.

8 2. Any hearing on a proposed modification of the terms of probation
9 or intensive probation.

10 3. The arrest of a delinquent pursuant to a warrant issued for a
11 probation violation.

12 B. On request of a victim who has provided a current address or
13 other current contact information, the probation department shall notify
14 the victim of the following:

15 1. Any proposed modification to any term of probation if the
16 modification affects restitution or incarceration status or the
17 delinquent's contact with or the safety of the victim.

18 2. The victim's right to be heard at a hearing that is set to
19 consider any modification to be made to any term of probation.

20 3. Any violation of any term of probation that results in the filing
21 with the court of a petition to revoke probation.

22 4. That a petition to revoke probation alleging that the juvenile
23 absconded from probation has been filed with the court.

24 5. Any conduct by the juvenile that raises a substantial concern for
25 the victim's safety.

26 C. If a victim has requested postadjudication notice and probation
27 is revoked and the juvenile is committed to the department of juvenile
28 corrections, the ~~court~~ PROBATION DEPARTMENT shall notify the department of
29 juvenile corrections of the victim's request.

30 D. On request of the victim, the department of juvenile corrections
31 shall notify the victim of any of the following:

1 1. Any proceeding in which the department may revoke the conditional
2 liberty of the delinquent who committed the delinquent act against the
3 victim.

4 2. A modification of the terms of conditional liberty only if the
5 modification will substantially affect the delinquent's contact with the
6 victim or the safety of the victim or if the modification affects
7 restitution or secure care status.

8 3. The arrest of a delinquent pursuant to a warrant issued for a
9 conditional liberty violation.

10 Sec. 5. Section 8-397, Arizona Revised Statutes, is amended to read:

11 8-397. Notice of release, discharge or escape from a mental
12 health treatment agency or residential treatment

13 A. If the victim has made a request for notice, the ~~court~~ PROBATION
14 DEPARTMENT or the department of juvenile corrections, whichever has
15 supervision of the accused or delinquent, shall provide the victim, at
16 least ten days before the release or discharge of the accused or
17 delinquent, with notice of the release or discharge of the accused or
18 delinquent who is placed by court order in a mental health treatment agency
19 or a residential treatment agency. The mental health treatment agency or
20 residential treatment agency that has custody of the accused or delinquent
21 shall notify the ~~court~~ PROBATION DEPARTMENT or department of juvenile
22 corrections, whichever has supervision of the accused or delinquent, at
23 least thirty days before the release or discharge of the accused or
24 delinquent.

25 B. The ~~court~~ PROBATION DEPARTMENT or the department of juvenile
26 corrections, whichever has supervision of the accused or delinquent, shall
27 provide notice to the victim immediately after the escape or subsequent
28 readmission of the accused or the delinquent notice of the escape or
29 subsequent readmission of the accused or the delinquent who is placed by
30 court order in a mental health treatment agency or a residential treatment
31 agency. The mental health treatment agency or residential treatment agency
32 that has custody of the accused or delinquent shall immediately notify the

1 ~~court~~ PROBATION DEPARTMENT or the department of juvenile corrections,
2 whichever has supervision of the accused or delinquent, of the escape,
3 runaway or subsequent readmission of the accused or delinquent.

4 Sec. 6. Section 8-398, Arizona Revised Statutes, is amended to read:

5 8-398. Request for notice; forms; notice system

6 A. The victim shall provide to and maintain with the law enforcement
7 agency that is responsible for providing notice to the victim a request for
8 notice on a form that is provided by that agency OR THE INVESTIGATING LAW
9 ENFORCEMENT AGENCY. The form shall include a telephone number and address.
10 If the victim fails to keep the victim's telephone number and address
11 current, the victim's request for notice is withdrawn. At any time the
12 victim may request notice of subsequent proceedings by filing on a request
13 form provided by the agency the victim's current telephone number and
14 address.

15 B. All notices provided to a victim pursuant to this article shall
16 be on forms developed or reviewed by the attorney general.

17 C. The court and all agencies that are responsible for providing
18 notice to the victim shall establish and maintain a system for the receipt
19 of victim requests for notice.

20 Sec. 7. Section 8-404, Arizona Revised Statutes, is amended to read:

21 8-404. Impact statement; predisposition report

22 A. The victim may submit a written impact statement or make an oral
23 impact statement to the probation officer for the officer's use in
24 preparing a predisposition or transfer report.

25 B. In preparing the predisposition or transfer report, the probation
26 officer shall consider the economic, physical and psychological impact that
27 the delinquent act has had on the victim and the victim's immediate family.

28 C. On request, the ~~court~~ PROBATION DEPARTMENT shall provide the
29 victim with the following information from the predisposition report:

- 30 1. The referral history.
- 31 2. The probation officer's assessment of the case.
- 32 3. The disposition and treatment recommendations.

1 4. The probation officer's recommendations for treatment and
2 disposition.

3 5. The detention history."

4 Renumber to conform

5 Page 2, between lines 35 and 36, insert:

6 "Sec. 9. Section 8-416, Arizona Revised Statutes, is amended to
7 read:

8 8-416. Standing to invoke rights; recovery of damages; right
9 to counsel

10 A. The rights enumerated in the victims' bill of rights, article II,
11 section 2.1, Constitution of Arizona, any implementing legislation or court
12 rules belong to the victim. The victim has standing to seek an order, to
13 bring a special action or to file a notice of appearance in **A TRIAL COURT**
14 **OR** an appellate proceeding seeking to enforce any right or to challenge an
15 order denying any right guaranteed to victims. **A VICTIM MAY NOT BE CHARGED**
16 **A FILING FEE TO FILE A SPECIAL ACTION OR TO SEEK AN ORDER PURSUANT TO THIS**
17 **SUBSECTION.** In asserting any right, the victim has the right to be
18 represented by personal counsel at the victim's expense, **AND THE**
19 **PROCEEDINGS MAY BE INITIATED BY THE VICTIM'S COUNSEL OR THE PROSECUTOR.**

20 B. A victim has the right to recover damages from a governmental
21 entity responsible for the intentional, knowing or grossly negligent
22 violation of the victim's rights under the victims' bill of rights, article
23 II, section 2.1, Constitution of Arizona, any implementing legislation or
24 court rule. Nothing in this section alters or abrogates any provision for
25 immunity provided for under common law or statute.

26 C. At the request of the victim, the prosecutor may assert any right
27 to which the victim is entitled.

28 D. On the filing of a notice of appearance, counsel for the victim
29 shall be endorsed on all pleadings and, if present, be included in all
30 bench conferences and in chambers meetings and sessions with the trial
31 court that directly involve a victim's right enumerated in article II,
32 section 2.1, Constitution of Arizona.

1 E. Notwithstanding any other law and without limiting any rights and
2 powers of the victim, the victim has the right to present evidence or
3 information and to make an argument to the court, personally or through
4 counsel, at any proceeding to determine the amount of restitution pursuant
5 to section 13-804."

6 Renumber to conform

7 Page 2, line 39, strike "13-4404,"; after "13-4433" insert "AND SECTION 13-4408,
8 SUBSECTION B"

9 Page 3, between lines 12 and 13, insert:

10 "Sec. 11. Section 13-4408, Arizona Revised Statutes, is amended to
11 read:

12 13-4408. Pretrial notice

13 A. Within seven days after the prosecutor charges a criminal offense
14 by complaint, information or indictment and the accused is in custody or
15 has been served a summons, the prosecutor's office shall give the victim
16 notice of the following:

17 1. The victim's rights under the victims' bill of rights, article
18 II, section 2.1, Constitution of Arizona, any implementing legislation and
19 court rule.

20 2. The charge or charges against the defendant and a clear and
21 concise statement of the procedural steps involved in a criminal
22 prosecution.

23 3. The procedures a victim shall follow to invoke ~~his~~ THE VICTIM'S
24 right to confer with the prosecuting attorney pursuant to section 13-4419.

25 4. The person within the prosecutor's office to contact for more
26 information.

27 5. The victim's right to request a preconviction restitution lien
28 pursuant to section 13-806.

29 B. Notwithstanding ~~the provisions of~~ subsection A of this section,
30 if a prosecutor declines to proceed with a prosecution after the final
31 submission of a case by a law enforcement agency at the end of an
32 investigation, the prosecutor ~~shall~~, before the decision not to proceed is

1 final, SHALL notify the victim, WHOSE INFORMATION HAS BEEN PROVIDED TO THE
2 PROSECUTOR PURSUANT TO SECTION 13-4405, and provide the victim with the
3 reasons for declining to proceed with the case. The notice shall inform
4 the victim of ~~his~~ THE VICTIM'S right on request to confer with the
5 prosecutor before the decision not to proceed is final. ~~Such~~ THIS notice
6 applies only to violations of a state criminal statute.

7 Sec. 12. Section 13-4415, Arizona Revised Statutes, is amended to
8 read:

9 13-4415. Notice of probation modification, termination or
10 revocation disposition matters; notice of arrest

11 A. On request of a victim who has provided an address or other
12 contact information, the court OR, IF THE CASE IS IN THE SUPERIOR COURT,
13 THE PROBATION DEPARTMENT shall notify the victim of any of the following:

14 1. A probation revocation disposition proceeding or any proceeding
15 in which the court is asked to terminate the probation or intensive
16 probation of a person who is convicted of committing a criminal offense
17 against the victim.

18 2. Any hearing on a proposed modification of the terms of probation
19 or intensive probation.

20 3. The arrest of a person who is on supervised probation and who is
21 arrested pursuant to a warrant issued for a probation violation.

22 B. On request of a victim who has provided a current address or
23 other current contact information, the COURT, OR IF THE CASE IS IN THE
24 SUPERIOR COURT, THE probation department shall notify the victim of the
25 following:

26 1. Any proposed modification to any term of probation if the
27 modification affects restitution or incarceration status or the defendant's
28 contact with or the safety of the victim.

29 2. The victim's right to be heard at a hearing that is set to
30 consider any modification to be made to any term of probation.

31 3. Any violation of any term of probation that results in the filing
32 with the court of a petition to revoke probation.

1 4. That a petition to revoke probation alleging that the defendant
2 absconded from probation has been filed with the court.

3 5. Any conduct by the defendant that raises a substantial concern
4 for the victim's safety.

5 C. If a victim has requested postconviction notice, the court **OR, IF**
6 **THE CASE IS IN THE SUPERIOR COURT, THE PROBATION DEPARTMENT** shall provide
7 notice of that request to the state department of corrections and the board
8 of executive clemency if a defendant's probation is revoked and the
9 defendant is committed to the custody of the state department of
10 corrections.

11 D. On the request of a victim, the state department of corrections
12 shall provide the victim with the notices that are required by sections
13 13-4412 and 13-4413.

14 E. On the request of the victim, the board of executive clemency
15 shall provide the victim with the notice that is required by section
16 13-4414.

17 Sec. 13. Section 13-4417, Arizona Revised Statutes, is amended to
18 read:

19 13-4417. Request for notice; forms; notice system

20 A. The victim shall provide to and maintain with the agency that is
21 responsible for providing notice to the victim a request for notice on a
22 form that is provided by that agency **OR THE INVESTIGATING LAW ENFORCEMENT**
23 **AGENCY**. The form shall include a telephone number and address. If the
24 victim fails to keep the victim's telephone number and address current, the
25 victim's request for notice is withdrawn. At any time the victim may
26 request notice of subsequent proceedings by filing on a request form
27 provided by the agency the victim's current telephone number and address.

28 B. All notices provided to a victim pursuant to this chapter shall
29 be on forms developed or reviewed by the attorney general.

30 C. The court and all agencies that are responsible for providing
31 notice to the victim shall establish and maintain a system for the receipt
32 of victim requests for notice.

1 Sec. 14. Section 13-4425, Arizona Revised Statutes, is amended to
2 read:

3 13-4425. Inspection of presentence report

4 If the presentence report is available to the defendant, the court
5 shall permit the victim to inspect the presentence report, except those
6 parts excised by the court or made confidential by law. If the ~~court~~
7 **PROBATION DEPARTMENT** excises any portion of the presentence report, it
8 shall inform the parties and the victim of its decision and shall state on
9 the record its reasons for the excision. On request of the victim, the
10 prosecutor's office shall provide to the victim a copy of the presentence
11 report."

12 Renumber to conform

13 Page 4, after line 22, insert:

14 "Sec. 16. Section 13-4437, Arizona Revised Statutes, is amended to
15 read:

16 13-4437. Standing to invoke rights; recovery of damages; right
17 to counsel

18 A. The rights enumerated in the victims' bill of rights, article II,
19 section 2.1, Constitution of Arizona, any implementing legislation or court
20 rules belong to the victim. The victim has standing to seek an order, to
21 bring a special action or to file a notice of appearance in **A TRIAL COURT**
22 **OR** an appellate proceeding, seeking to enforce any right or to challenge an
23 order denying any right guaranteed to victims. **A VICTIM MAY NOT BE CHARGED**
24 **A FILING FEE TO FILE A SPECIAL ACTION OR TO SEEK AN ORDER PURSUANT TO THIS**
25 **SUBSECTION.** In asserting any right, the victim has the right to be
26 represented by personal counsel at the victim's expense **AND THE PROCEEDINGS**
27 **MAY BE INITIATED BY THE VICTIM'S COUNSEL OR THE PROSECUTOR.**

28 B. A victim has the right to recover damages from a governmental
29 entity responsible for the intentional, knowing or grossly negligent
30 violation of the victim's rights under the victims' bill of rights, article
31 II, section 2.1, Constitution of Arizona, any implementing legislation or

1 court rules. Nothing in this section alters or abrogates any provision for
2 immunity provided for under common law or statute.

3 C. At the request of the victim, the prosecutor may assert any right
4 to which the victim is entitled.

5 D. On the filing of a notice of appearance, counsel for the victim
6 shall be endorsed on all pleadings and, if present, be included in all
7 bench conferences and in chambers meetings and sessions with the trial
8 court that directly involve a victim's right enumerated in article II,
9 section 2.1, Constitution of Arizona.

10 E. Notwithstanding any other law and without limiting any rights and
11 powers of the victim, the victim has the right to present evidence or
12 information and to make an argument to the court, personally or through
13 counsel, at any proceeding to determine the amount of restitution pursuant
14 to section 13-804.

15 Sec. 17. Section 22-371, Arizona Revised Statutes, is amended to
16 read:

17 22-371. Right of appeal; procedure for taking appeal;
18 transcript

19 A. The defendant in a criminal action may appeal to the superior
20 court from the final judgment of a justice or municipal court.

21 B. The procedure for appeals from a justice or municipal court to
22 the superior court shall be as provided by rules adopted by the supreme
23 court.

24 C. In a trial in a justice or municipal court, a transcript of the
25 proceedings may be ordered in the sole discretion of the superior court.

26 D. A defendant may not appeal from a judgment or sentence that is
27 entered pursuant to a plea agreement or from an admission to a probation
28 violation.

29 E. A VICTIM, AS DEFINED IN SECTION 13-4401, MAY BRING A SPECIAL
30 ACTION SEEKING TO ENFORCE ANY RIGHT OR TO CHALLENGE AN ORDER DENYING ANY
31 RIGHT GUARANTEED TO VICTIMS.

1 Sec. 18. Section 22-425, Arizona Revised Statutes, is amended to
2 read:

3 22-425. Jury trials and appeals in municipal courts

4 A. In the trial of offenses for violation of ordinances of cities or
5 towns of such a nature as by the common law were not triable before a jury,
6 no jury trial shall be granted.

7 B. Either party may appeal from a municipal court to the superior
8 court in the same manner as appeals are allowed from justice courts.

9 C. A VICTIM, AS DEFINED IN SECTION 13-4401, MAY BRING A SPECIAL
10 ACTION SEEKING TO ENFORCE ANY RIGHT OR TO CHALLENGE AN ORDER DENYING ANY
11 RIGHT GUARANTEED TO VICTIMS."

12 Amend title to conform

And, as so amended, it do pass

JOHN M. ALLEN
CHAIRMAN

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