

## Crime Victims' Bill of Rights

### ARIZONA CONSTITUTIONAL RIGHTS FOR CRIME VICTIMS

#### ARTICLE II, SECTION 2.1 VICTIMS' BILL OF RIGHTS

- A. To preserve and protect victims' rights to justice and due process, a victim of crime has a right:
1. To be treated with fairness, respect and dignity, and to be free from intimidation, harassment or abuse, throughout the criminal justice process.
  2. To be informed, **upon request**, when the accused or convicted person is released from custody or has escaped.
  3. To be present at and, **upon request**, to be informed of all criminal proceedings when the defendant has the right to be present.
  4. To be heard at any proceeding involving a post-arrest release decision, a negotiated plea and sentencing.
  5. To refuse an interview, deposition, or other discovery request by the defendant, the defendant's attorney, or other person acting on behalf of the defendant.
  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.
  7. To read pre-sentence reports relating to the crime against the victim when they are available to the defendant.
  8. To receive prompt restitution from the person or persons convicted of the criminal conduct that caused the victim's loss or injury.
  9. To be heard at any proceeding when any post-conviction release from confinement is being considered.
  10. To a speedy trial or disposition and prompt and final conclusion of the case after the conviction and sentence.
  11. To have all rules governing criminal procedure and the admissibility of evidence in all criminal proceedings protect victims' rights and to have these rules be subject to amendment or repeal by the legislature to ensure the protection of these rights.
  12. To be informed of victims' constitutional rights.
- B. A victim's exercise of any right granted by this section shall not be grounds for dismissing any criminal proceeding or setting aside any conviction or sentence.
- C. "Victim" means a person against whom the criminal offense has been committed, including a minor, or if the person is killed or incapacitated, the person's spouse, parent, child, grandparent or sibling, any other person related to the person by consanguinity or affinity to the second degree or any other lawful representative of the person, except if the person or the person's spouse, parent, child, grandparent, sibling, other person related to the person by consanguinity or affinity to the second degree or other lawful representative is in custody for an offense or is the accused.
- D. The legislature, or the people by initiative or referendum, have the authority to enact substantive and procedural laws to define, implement, preserve and protect the rights guaranteed to victims by this section, including the authority to extend any of these rights to juvenile proceedings.
- E. The enumeration in the constitution of certain rights for victims shall not be construed to deny or disparage others granted by the legislative or retained by victims.

## VICTIMS' RIGHTS BEFORE TRIAL

You have the right to be notified, on request:

- of the date, time, and place of court hearings involving the juvenile;
- of the release or escape of the juvenile from custody

You have the right:

- to be told the name, address, and telephone number of the prosecutor's office handling the case;
- to be informed of victim assistance and other resources available to help you;
- to be told if a prosecutor decides NOT to proceed with a prosecution, and to be given the reasons for such a decision;
- to refuse a defense interview, and to set reasonable conditions for any such interview you choose to grant;
- to have the juvenile or any agent of the juvenile, make contact with you through the prosecutor's office;
- to name a representative to exercise your rights if you are unable to do so;
- to be present throughout all criminal proceedings at which the juvenile has the right to be present;
- to exercise your right to be heard through an oral, written, or video/audio taped statement;
- to have your home address, employer's name and employer's address withheld from disclosure to the juvenile and/or juvenile's attorney;
- to be protected from unnecessary contact with the juvenile, juvenile's immediate family and defense witnesses;
- to confer with the prosecutor and be heard at any proceeding involving the release of the juvenile from custody;
- to ask the court to revoke bond or personal recognizance release if the prosecution has not made such a request and there have been threats or harassment by, or on behalf of, the juvenile;
- to be told of the juvenile's release and any hearings to decide the juvenile's eligibility for release, including release from a mental health treatment facility if the juvenile was hospitalized by court order;
- to confer with the prosecutor before a change of plea and to be heard at any proceeding involving a plea agreement;
- to contest a negotiated plea if reasonable efforts were **NOT** made to notify you beforehand; and
- to confer with the prosecutor before trial.

If there is any conflict of interest or disagreement between you and the prosecutor, you have the right:

- to be directed to the appropriate legal assistance, and
- to be represented by your own attorney at your own expense and your attorney has the right, upon the filing of a notice of appearance and if present, to be included in all bench conferences and in chambers meetings and sessions with the trial court that directly involve your rights according to Title 8, Chapter 3, Article 7 of the Arizona Constitution.

## **VICTIM'S RIGHTS DURING TRIAL**

You have the right:

- to be present in the courtroom;
- to be accompanied by a support person of your choice, including a Victim Witness Advocate, unless that person is a witness

## **VICTIM'S RIGHTS DURING SENTENCING**

You have the right:

- to give the pre-disposition investigator information about the emotional, physical, and financial impact of the crime and your input on disposition of the case;
- to be provided certain information contained in the pre-disposition report upon request.
- to be heard at disposition and present evidence, information, and opinions that concern the delinquent act, the delinquent, or the need for restitution.
- to have the court consider ordering the delinquent to pay restitution for your economic losses directly related to the crime

## **VICTIM'S RIGHTS AFTER DISPOSITION**

You have the right, on request:

- to be notified of the disposition imposed by the court;
- to have any property taken in evidence returned, or to be given an explanation for any refusal to return such property;
- to be notified of any juvenile post adjudication hearing directly affecting the juvenile;
- to be notified by the Board of Pardons and Paroles of a parole hearing, and to state your opinion about parole of the juvenile from the Department of Juvenile Corrections;
- to be notified by the Department of Juvenile Corrections of the release, escape, or death of the juvenile;
- to be notified of any appeal of the juvenile's adjudication;
- to be notified of the release, including juvenile's adjudication, of the juvenile from detention;
- to be heard at any proceeding related to the discharge, modification, revocation, or termination of the juvenile's probation;
- to file a Restitution Lien against the juvenile's property upon the juvenile reaching majority.

**ARIZONA REVISED STATUTES (LAWS) REGARDING**  
**RIGHTS TO CRIME VICTIMS**

There are many laws on the books that relate directly or indirectly to crime victims. The list below identifies those laws that were designed to specifically address victims' rights.

**DOMESTIC VIOLENCE/ADDRESS CONFIDENTIALLY/VICTIM INFORMATION**

- A.R.S. 8-409(D)                      Party to child custody proceeding who is a victim of domestic violence, or who resides in a domestic violence shelter, need not disclose his/her address.
- A.R.S. 25-314(E)                    Petitioner for dissolution of a marriage or legal separation who is a victim of domestic violence, or who resides in a domestic violence shelter, need not disclose his/her address.
- A.R.S. 13-3601                      An officer responding to a domestic violence call shall inform the alleged or potential victim of available resources.

**VICTIM IMPACT STATEMENT (A.R.S. § 8-391(B),(C)):**

B. If the juvenile is adjudicated delinquent and the victim has requested notice, the prosecutor's office shall notify the victim, if applicable, of:

1. The function of the predisposition report.
2. The name and telephone number of the probation department that is preparing the predisposition report.
3. The right to make a victim impact statement under section 8-404.
4. The right to receive portions of the predisposition report pursuant to section 8-404, subsection C.
5. The right to be present and be heard at any predisposition or disposition proceeding pursuant to section 8-405.

C. The victim shall be informed that the victim's impact statement may include the following:

1. An explanation of the nature and extent of any physical, psychological or emotional harm or trauma suffered by the victim.
2. An explanation of the extent of any economic loss or property damage suffered by the victim.
3. An opinion of the need for and extent of restitution.
4. Whether the victim has applied for or received any compensation for the loss or damage.

## GENERAL DEFINITIONS OF HEARINGS AND PROCEEDINGS

The following are basic definitions of hearings and proceedings that may occur during the course of a juvenile prosecution. However, each case is unique and the court may combine issues needing to be addressed at any hearing. Please contact the person designated by the prosecutor's office handling the case in which you are involved if you have any questions.

**DETENTION HEARING** – when a juvenile is arrested and detained he or she is taken to the Juvenile Detention Center (jail). The Deputy County Attorney has 24 hours to determine whether to file charges. If charges are filed by the Deputy County Attorney, the juvenile must be taken before a judge or commissioner within 24 hours after charges are filed. A judge will determine whether there is probable cause to believe that the juvenile committed the acts alleged, and, if so, whether continued detention is necessary. Many juveniles are released at this hearing to a parent, guardian or person having custody or control of the juvenile, with a personal promise that the juvenile will return to court when required. Unlike the adult criminal justice system, the juvenile justice system never requires the juvenile to post bond for release.

**ADVISORY HEARING** – A hearing where the juvenile is informed for the first time of the exact nature of the charges and of his or her Constitutional Rights, including the right to an attorney. If the court finds the juvenile cannot afford an attorney, an attorney will be appointed. The juvenile will then enter a plea to the charges. Usually the juvenile will enter a denial (not guilty) since the juvenile has not had sufficient time to consult with a defense attorney.

**CHANGE OF PLEA** – A proceeding at which the court will be given a “**plea agreement**” by the prosecutor and the juvenile's attorney. The plea agreement may stipulate that the juvenile admits to the original charges, or to such other charge(s) as the prosecutor and the juvenile's attorney have agreed upon.

**DISMISSAL** – A dismissal of the prosecution usually involves a determination by the court that the charges alleged in the petition should be dropped for good cause. If the prosecution is dismissed without prejudice, the charges can be re-filed.

**CONTINUANCE** – Delays are common at all stages of the juvenile justice process. Continuances are legal postponements of scheduled proceedings and may occur without warning. Ask the contact person designated by the prosecutor in your case to explain any proceedings you do not understand, and follow the procedures outlined by the prosecutor's office to check for schedule changes in advance of any proceeding that you plan to attend.

**COMPETENCY** – A mental competency hearing usually involves determining whether the juvenile is mentally competent to stand trial. The court could order that the juvenile be civilly committed, become a dependent child, or stand trial as a competent juvenile.

**MOTION TO SUPPRESS HEARING** – A motion to suppress hearing is usually held to determine whether or no evidence in a criminal case was illegally obtained. If the evidence was in violation of the juvenile's fourth amendment (search and seizure), Fifth Amendment (privilege against self incrimination), or sixth amendment (right to assistance of counsel, etc.) rights, the judge will suppress (prevent) the evidence from being presented in the case.

**PRE-ADJUDICATORY CONFERENCE** – A pre-adjudicatory conference is usually a discussion between the attorneys and the court. Issues relating to the relevant facts, the gathering of evidence, and other matters pertinent to the case are discussed. The court could also make decisions relating to the juvenile's release conditions, or other motions that could be raised on short notice. The juvenile may also enter a change of plea at this hearing.

**ADJUDICATION** – An adjudication is a hearing before a judge where evidence is presented by both the prosecutor and the juvenile's attorney. The victim(s) and witness(es) are subpoenaed (summoned) to testify, and the judge decides whether there is enough evidence to prove the juvenile is responsible “beyond a reasonable doubt.”

**DISPOSITION** – A disposition is scheduled within **45** days (30 days if the juvenile is being detained) after the juvenile admits responsibility or is found responsible at trial. The victim has the right to be heard and to submit a statement at this time. The judge hears testimony regarding the need for restitution; the victim's and juvenile's wishes regarding the potential consequences, and reviews the pre-disposition report prepared by the juvenile probation officer assigned to investigate the matter for disposition.