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**Jane Dee Hull
Secretary of State**

CHAPTER 158

SENATE BILL 1166

AN ACT

AMENDING SECTIONS 8-281, 8-282, 8-283, 8-284, 8-286, 8-287, 8-290, 8-290.01, 8-290.03, 8-290.04, 8-290.05, 8-290.06, 8-290.07, 8-290.08, 8-290.15, 8-290.25, 13-4401, 13-4402, 13-4403, 13-4410, 13-4411, 13-4412, 13-4417 AND 13-4426, ARIZONA REVISED STATUTES; AMENDING SECTION 13-4405, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1995, CHAPTER 197, SECTION 3; RELATING TO VICTIMS' RIGHTS.

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-281, Arizona Revised Statutes, is amended to
3 read:

4 8-281. Applicability

5 This article applies to acts that are committed by a juvenile and that
6 if committed by an adult would be either:

- 7 1. A misdemeanor offense involving physical injury, the threat of
- 8 physical injury or A sexual ~~assault~~ OFFENSE.
- 9 2. A felony offense.

10 Sec. 2. Section 8-282, Arizona Revised Statutes, is amended to read:

11 8-282. Definitions

12 In this article, unless the context otherwise requires:

- 13 1. "Accused" means a juvenile who is referred to juvenile court for
- 14 committing a delinquent act.
- 15 2. "APPELLATE PROCEEDING" MEANS A REVIEW OF A LOWER COURT'S DECISION
- 16 BEFORE THE STATE COURT OF APPEALS, THE STATE SUPREME COURT, A FEDERAL COURT
- 17 OF APPEALS OR THE UNITED STATES SUPREME COURT.

1 ~~2-~~ 3. "Arrest" means the actual custodial restraint or temporary
2 custody of a person.

3 ~~3-~~ 4. "Court" means the juvenile division of the superior court when
4 exercising its jurisdiction over children in any proceeding relating to
5 delinquency.

6 ~~4-~~ 5. "Crime victim advocate" means a person who is employed or
7 authorized by a public entity or a private entity that receives public
8 funding primarily to provide counseling, treatment or other supportive
9 assistance to crime victims.

10 ~~5-~~ 6. "Custodial agency" means a law enforcement officer, sheriff or
11 municipal jailer or a juvenile detention center having custody of a person
12 who is arrested.

13 ~~6-~~ 7. "Delinquency proceeding" means any hearing, argument or other
14 matter scheduled or held by a juvenile court judge, commissioner or hearing
15 officer relating to an alleged or adjudicated delinquent offense.

16 ~~7-~~ 8. "Delinquent" means a child who is adjudicated to have committed
17 a delinquent act.

18 ~~8-~~ 9. "Delinquent act" means an act to which this article applies
19 pursuant to section 8-281.

20 10. "DETENTION HEARING" MEANS THE ACCUSED'S INITIAL APPEARANCE BEFORE
21 THE COURT TO DETERMINE RELEASE PRIOR TO ADJUDICATION.

22 ~~9-~~ 11. "Final disposition" means the ultimate termination of the
23 delinquency proceeding by a court, including dismissal, acquittal, transfer
24 to adult court or imposition of a disposition after an adjudication for a
25 delinquent offense.

26 ~~10-~~ 12. "Immediate family" means a victim's spouse, parent, child,
27 sibling, grandparent or lawful guardian.

28 ~~11-~~ 13. "Juvenile defendant" means a juvenile against whom a petition
29 is filed seeking to have the juvenile adjudicated delinquent.

30 ~~12-~~ 14. "Lawful representative" means a person who is designated by
31 the victim or appointed by the court and who will act in the best interests
32 of the victim.

33 ~~13-~~ 15. "Postadjudication release" means release on probation,
34 intensive probation, work furlough, community supervision, home detention
35 ~~or any other permanent, placement, RELEASE on conditional liberty pursuant~~
36 ~~to section 41-2818 by the department of youth treatment and rehabilitation~~
37 ~~or JUVENILE CORRECTIONS OR ANY OTHER PERMANENT, CONDITIONAL OR TEMPORARY~~
38 ~~RELEASE FROM CONFINEMENT, DISCHARGE OR COMPLETION OF COMMITMENT BY THE~~
39 ~~DEPARTMENT OF JUVENILE CORRECTIONS, a sheriff, or from confinement in a~~
40 ~~municipal jail, a juvenile detention center, a residential treatment facility~~
41 ~~or a secure mental health facility.~~

42 16. "POSTADJUDICATION REVIEW HEARING" MEANS A HEARING THAT IS HELD IN
43 OPEN COURT AND THAT INVOLVES A REQUEST BY THE JUVENILE FOR REVIEW OF A
44 DISPOSITION.

1 ~~14-~~ 17. "Postarrest release" means the discharge of the accused from
2 confinement.

3 ~~15-~~ 18. "Rights" means any right granted to the victim by the laws of
4 this state.

5 ~~16-~~ 19. "Victim" means a person against whom the delinquent act was
6 committed, or if the person is killed or incapacitated, the person's spouse,
7 parent, child or other lawful representative, except if the person is in
8 custody for an offense or is the accused.

9 Sec. 3. Section 8-283, Arizona Revised Statutes, is amended to read:

10 8-283. Implementation of rights and duties

11 A. Except as provided in sections 8-285 and 8-286, the rights and
12 duties that are established by this article arise on the arrest or formal
13 charging of a juvenile who is alleged to be responsible for a delinquent act
14 against a victim. The rights and duties continue to be enforceable pursuant
15 to this ~~chapter~~ ARTICLE until the final disposition of the charges, INCLUDING
16 ACQUITTAL OR DISMISSAL OF THE CHARGES, ALL POSTADJUDICATION RELEASE, REVIEW
17 AND APPELLATE PROCEEDINGS AND THE DISCHARGE OF ALL PROCEEDINGS RELATED TO
18 RESTITUTION. If a delinquent is ordered to pay restitution to a victim, the
19 rights and duties continue to be enforceable until restitution is paid or a
20 judgment is entered in favor of the victim PURSUANT TO SECTION 8-250.

21 B. After the final termination of a delinquency proceeding by
22 dismissal or acquittal, a person who has received notice and has the right
23 to be present and be heard pursuant to the victims' bill of rights, article
24 II, section 2.1, Constitution of Arizona, this article or any court rule is
25 no longer entitled to those rights.

26 Sec. 4. Section 8-284, Arizona Revised Statutes, is amended to read:

27 8-284. Inability to exercise rights; designation of others;
28 notice; representative for a minor

29 A. If a victim is physically or emotionally unable to exercise any
30 right but is able to designate a lawful representative who is not a bona fide
31 witness, the designated person may exercise the same rights that the victim
32 is entitled to exercise. The victim may revoke this designation at any time
33 and exercise the victim's rights.

34 B. If a victim is incompetent, deceased or otherwise incapable of
35 designating another person to act in the victim's place, the court may
36 appoint a lawful representative who is not a witness. If at any time the
37 victim is no longer incompetent, incapacitated or otherwise incapable of
38 acting, the victim may personally exercise the victim's rights.

39 C. If the victim is a minor the victim's parent or other immediate
40 family member may exercise all of the victim's rights on behalf of the
41 victim. If the delinquent act is alleged against a member of the minor's
42 immediate family, these rights may not be exercised by that person but may
43 be exercised by another member of the immediate family unless the court,

1 after considering the guidelines in subsection D, finds that another person
2 would better represent the interests of the minor.

3 D. The court shall consider the following guidelines in appointing a
4 representative for a minor:

5 1. If the minor has a relative who would not be so substantially
6 affected or adversely impacted by the conflict resulting from the allegation
7 of a delinquent act against a member of the immediate family of the minor
8 that the representative could not represent the victim.

9 2. The representative's willingness and ability to do all of the
10 following:

11 (a) Undertake working with and accompanying the minor victim through
12 all proceedings, including delinquency, civil and dependency proceedings.

13 (b) Communicate with the minor victim.

14 (c) Express the concerns of the minor to those authorized to come in
15 contact with the minor as a result of the proceedings.

16 3. The representative's training, if any, to serve as a minor's
17 representative.

18 4. The likelihood of the representative being called as a witness in
19 the case.

20 E. The minor's representative shall accompany the minor victim through
21 all proceedings, including delinquency, CRIMINAL, dependency and civil
22 proceedings, and, before the minor's courtroom appearance, shall explain to
23 the minor the nature of the proceedings and what the minor will be asked to
24 do, including telling the minor that the minor is expected to tell the truth.
25 The representative shall be available to observe the minor in all aspects of
26 the case in order to consult with the court as to any special needs of the
27 minor. Those consultations shall take place before the minor testifies. The
28 court may recognize the minor's representative when the representative
29 indicates a need to address the court. A minor's representative shall not
30 discuss the facts and circumstances of the case with the minor witness,
31 unless the court orders otherwise on a showing that it is in the best
32 interests of the minor.

33 F. Any notices that are to be provided to a victim pursuant to this
34 article shall be sent only to the victim or the victim's lawful
35 representative.

36 Sec. 5. Section 8-286, Arizona Revised Statutes, is amended to read:

37 8-286. Information provided to victim by law enforcement
38 agencies

39 A. As soon after the detection of an offense as the victim may be
40 contacted without interfering with an investigation or arrest, the law
41 enforcement agency responsible for investigating the offense shall provide
42 the victim with a multicopy form:

43 1. That allows the victim to request or waive applicable rights to
44 which the victim is entitled, on request, under this article.

1 2. That provides the victim a method to designate a lawful
2 representative if the victim so chooses pursuant to section 8-284, subsection
3 A or section 8-285.

4 3. That provides notice to the victim of all of the following
5 information:

6 (a) The victim's ~~rights~~ RIGHT under the victims' bill of rights,
7 article II, section 2.1, Constitution of Arizona, TO BE TREATED WITH
8 FAIRNESS, RESPECT AND DIGNITY AND TO BE FREE OF INTIMIDATION, HARASSMENT OR
9 ABUSE THROUGHOUT THE CRIMINAL OR JUVENILE JUSTICE PROCESS.

10 (b) The availability, if any, of crisis intervention services and
11 emergency and medical services and, if applicable, that medical expenses
12 arising out of the need to secure evidence may be reimbursed pursuant to
13 section 13-1414.

14 (c) In cases involving domestic violence, the procedures and resources
15 available for the protection of the victim pursuant to section 13-3601.

16 (d) The names and telephone numbers of public and private victim
17 assistance programs, INCLUDING THE COUNTY VICTIM COMPENSATION PROGRAM AND
18 PROGRAMS that provide counseling, treatment and other support services.

19 (e) The police report number, if available, other identifying case
20 information and the following statement:

21 If within thirty days you are not notified of an arrest in your
22 case, you may call (the law enforcement agency's telephone
23 number) for the status of the case.

24 (f) Whether the suspect is an adult or juvenile, the victim will be
25 notified by the law enforcement agency at the earliest opportunity after the
26 arrest of a suspect.

27 (g) If the suspect is a juvenile and the officer requests that the
28 accused be detained, a statement of the victim's right, on request, to be
29 informed if the juvenile will be released or will be detained pending the
30 ~~detained-advisory~~ DETENTION hearing and of the victim's right to be present
31 and heard at the ~~detained-advisory~~ DETENTION hearing and that, to exercise
32 these rights, the victim must contact the detention screening section of the
33 juvenile probation department immediately to request notice of all of the
34 following:

35 (i) The juvenile's release.

36 (ii) The date, time and place of the ~~detained-advisory~~ DETENTION
37 hearing and any changes to that schedule.

38 (iii) If the victim chooses to exercise the right to be heard through
39 a written statement, how that statement may be submitted to the court.

40 B. IF AT THE TIME OF CONTACT WITH A LAW ENFORCEMENT AGENCY THE VICTIM
41 IS PHYSICALLY OR EMOTIONALLY UNABLE TO REQUEST OR WAIVE APPLICABLE RIGHTS,
42 THE LAW ENFORCEMENT AGENCY SHALL DESIGNATE THIS ON THE MULTICOPY FORM AND THE
43 ENTITIES THAT MAY BE SUBSEQUENTLY AFFECTED SHALL PRESUME THAT THE VICTIM

1 INVOKED THE VICTIM'S RIGHT TO REQUEST APPLICABLE RIGHTS TO WHICH THE VICTIM
2 IS ENTITLED, ON REQUEST, UNLESS THE VICTIM LATER WAIVES THOSE RIGHTS.

3 ~~B-~~ C. The law enforcement agency shall submit one copy of the
4 victim's request or waiver of predisposition rights form to the detention
5 center, if the arresting officer is requesting that the accused be detained,
6 at the time the juvenile is taken to detention. If detention is not
7 requested, the form copies shall be submitted to the juvenile probation
8 intake section at the time the case is otherwise referred to court. The
9 probation intake section shall submit a copy of the victim's request or
10 waiver of predisposition rights form to the prosecutor and the departments
11 or governmental agencies, as applicable, that are mandated by this article
12 to provide victims' rights services upon request.

13 ~~G-~~ D. If the accused juvenile is cited and released ~~pursuant to~~ BY
14 an Arizona traffic ticket and complaint form PURSUANT TO SECTION 8-232, THE
15 LAW ENFORCEMENT AGENCY SHALL inform the victim how to obtain additional
16 information about subsequent proceedings.

17 E. LAW ENFORCEMENT AGENCIES WITHIN A COUNTY MAY ESTABLISH DIFFERENT
18 PROCEDURES DESIGNED TO EFFICIENTLY AND EFFECTIVELY PROVIDE NOTICE OF THE
19 VICTIM'S RIGHTS PURSUANT TO THIS ARTICLE AND NOTICE TO AFFECTED ENTITIES OF
20 VICTIM REQUEST OR WAIVER INFORMATION. IF DIFFERENT PROCEDURES ARE
21 ESTABLISHED, THE PROCEDURES SHALL:

22 1. BE REPORTED TO THE ENTITIES WITHIN A COUNTY AFFECTED BY THE
23 PROCEDURES AND REPORTED TO THE ATTORNEY GENERAL.

24 2. BE DESIGNED SO THAT DETENTION CENTERS WITHIN A COUNTY RECEIVE
25 NOTICE OF THE VICTIM'S REQUEST OR WAIVER OF THE VICTIM'S PREDISPOSITION
26 RIGHTS AT THE SAME TIME THAT AN ACCUSED JUVENILE IS DETAINED.

27 3. BE DESIGNED SO THAT THE JUVENILE PROBATION INTAKE SECTION OF THE
28 COUNTY RECEIVES NOTICE OF THE VICTIM'S REQUEST OR WAIVER OF THE VICTIM'S
29 PREDISPOSITION RIGHTS AT THE SAME TIME THAT THE CASE IS REFERRED TO COURT.

30 4. PROVIDE THAT THE NOTICE TO AFFECTED ENTITIES OF A VICTIM'S REQUEST
31 OR WAIVER OF THE VICTIM'S PREDISPOSITION RIGHTS INCLUDES INFORMATION THAT
32 ALLOWS THE AFFECTED ENTITY TO CONTACT THE VICTIM.

33 5. BE SUPPORTED BY THE USE OF BROCHURES, FORMS OR OTHER WRITTEN
34 MATERIALS DEVELOPED BY THE LAW ENFORCEMENT AGENCIES WITHIN A COUNTY AND
35 REVIEWED BY THE ATTORNEY GENERAL PURSUANT TO SECTION 8-290.08, SUBSECTION B.

36 Sec. 6. Section 8-287, Arizona Revised Statutes, is amended to read:

37 8-287. Notice of terms and conditions of release

38 On the request of the victim, the juvenile court or the department of
39 ~~youth treatment and rehabilitation~~ JUVENILE CORRECTIONS shall provide a copy
40 of the terms and conditions of release.

1 Sec. 7. Section 8-290, Arizona Revised Statutes, is amended to read:
2 8-290. Notice of delinquency proceedings

3 ~~A. Pursuant to detained advisory hearings, the court shall provide~~
4 ~~notice of delinquency proceedings to the victim at least five days before a~~
5 ~~scheduled proceeding to allow the court to provide notice to the victim.~~

6 ~~B.~~ A. The court shall give notice to the ~~victim~~ PROSECUTOR'S OFFICE
7 in a timely manner of any changes in ~~the~~ scheduled proceedings.

8 B. EXCEPT FOR DETENTION HEARINGS THE COURT SHALL PROVIDE NOTICE OF ALL
9 PROCEEDINGS TO THE PROSECUTOR'S OFFICE AT LEAST FIVE DAYS BEFORE A SCHEDULED
10 PROCEEDING.

11 C. IF THE COURT FINDS THAT IT IS NOT REASONABLE TO PROVIDE THE FIVE
12 DAYS' NOTICE TO THE PROSECUTOR'S OFFICE PURSUANT TO SUBSECTION B, THE COURT
13 SHALL STATE IN THE RECORD WHY IT WAS NOT REASONABLE TO PROVIDE FIVE DAYS'
14 NOTICE.

15 D. ON RECEIVING THE NOTICE FROM THE COURT, THE PROSECUTOR'S OFFICE
16 SHALL, ON REQUEST, PROVIDE NOTICE TO THE VICTIM IN A TIMELY MANNER OF
17 SCHEDULED PROCEEDINGS AND ANY CHANGES IN THE SCHEDULE.

18 Sec. 8. Section 8-290.01, Arizona Revised Statutes, is amended to
19 read:

20 8-290.01. Notice of adjudication: impact statement

21 A. On request the prosecutor's office, within fifteen days after the
22 adjudication, transfer, acquittal or dismissal of the charges against the
23 accused, shall give notice to the victim of the offense OR OFFENSES for which
24 the accused was adjudicated delinquent, transferred for adult prosecution or
25 acquitted or of the charges dismissed against the JUVENILE defendant.

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

29 1. The function of the predisposition report.

30 2. The name and telephone number of the probation department that is
31 preparing the predisposition report.

32 3. The right to make a victim impact statement under section 8-290.14.

33 4. The right to receive portions of the predisposition report pursuant
34 to section 8-290.14, subsection C.

35 5. The right to be present and be heard at any predisposition or
36 disposition proceeding pursuant to section 8-290.15.

37 6. The time, place and date of the disposition proceeding.

38 7. If the court orders restitution, the right to have a judgment
39 entered for any unpaid amount and to file a restitution lien pursuant to
40 section 8-251.

41 C. The victim shall be informed that ~~his~~ THE VICTIM'S impact statement
42 may include the following:

43 1. An explanation of the nature and extent of any physical,
44 psychological or emotional harm or trauma suffered by the victim.

1 2. An explanation of the extent of any economic loss or property
2 damage suffered by the victim.

3 3. An opinion of the need for and extent of restitution.

4 4. Whether the victim has applied for or received any compensation for
5 the loss or damage.

6 D. Notice provided pursuant to this section does not remove the
7 probation department's responsibility to initiate the contact between the
8 victim and the probation department concerning the victim's economic,
9 physical, psychological or emotional harm. At the time of contact, the
10 probation department shall advise the victim of the date, time and place of
11 the disposition proceeding and of the victim's right, if present, to be heard
12 at that proceeding.

13 Sec. 9. Section 8-290.03, Arizona Revised Statutes, is amended to
14 read:

15 8-290.03. Notice of release or escape

16 A. The custodial agency shall immediately notify the victim of the
17 postarrest release or escape of the accused.

18 B. The department of ~~youth treatment and rehabilitation~~ JUVENILE
19 CORRECTIONS shall immediately give notice to a victim and the prosecutor's
20 office of an escape by, ~~or~~ AND AGAIN UPON THE subsequent rearrest of, the
21 accused or delinquent who was detained or committed to the department and
22 confined in a secure care facility and who committed a delinquent act against
23 the victim. THE DEPARTMENT SHALL GIVE NOTICE BY ANY REASONABLE MEANS.

24 Sec. 10. Section 8-290.04, Arizona Revised Statutes, is amended to
25 read:

26 8-290.04. Notice of delinquent's status

27 A. If the victim has made a request for postadjudication notice, the
28 director of the department of ~~youth treatment and rehabilitation~~ JUVENILE
29 CORRECTIONS shall mail to the victim the following information about a
30 delinquent in the custody of the department of ~~youth treatment and~~
31 ~~rehabilitation~~ JUVENILE CORRECTIONS:

32 1. Within thirty days after the request, notice of the earliest
33 release date of the delinquent.

34 2. At least fifteen days before the delinquent's release, notice of
35 the release.

36 3. Within fifteen days after the delinquent's death, notice of the
37 death.

38 B. If the victim has made a request for postadjudication notice, the
39 custodial agency having custody of the delinquent shall mail to the victim
40 notice of release at least fifteen days before the delinquent's release or
41 notice of death within fifteen days after the delinquent's death.

1 Sec. 11. Section 8-290.05, Arizona Revised Statutes, is amended to
2 read:

3 8-290.05. Notice of postadjudication release; right to be
4 heard; hearing; final decision

5 A. The victim has the right to be present and be heard at any
6 proceeding in which postadjudication release from confinement is being
7 considered.

8 B. If the victim has made a request for postadjudication notice, the
9 department of ~~youth treatment and rehabilitation~~ JUVENILE CORRECTIONS, at
10 least fifteen days before the hearing, shall give to the victim written
11 notice of the hearing and of the victim's right to be present and be heard
12 at the hearing.

13 C. If the victim has made a request for postadjudication notice, the
14 department of ~~youth treatment and rehabilitation~~ JUVENILE CORRECTIONS shall
15 give notice to the victim of the decision reached by the department. The
16 department shall mail the notice within fifteen days after the department
17 reaches its decision.

18 Sec. 12. Section 8-290.06, Arizona Revised Statutes, is amended to
19 read:

20 8-290.06. Notice of probation modification, termination or
21 revocation disposition matters

22 A. On request of the victim, the court shall notify the victim of any
23 probation revocation disposition proceeding or any proceeding in which the
24 court is asked to terminate the probation or intensive probation of the
25 delinquent who committed the delinquent act against the victim.

26 B. On request of the victim, the court shall notify the victim of a
27 modification of the terms of probation or intensive probation of a delinquent
28 only if the modification will substantially affect the delinquent's contact
29 with or the safety of the victim or if the modification affects restitution
30 or incarceration status.

31 C. On request of the victim, the department of ~~youth treatment and~~
32 ~~rehabilitation~~ JUVENILE CORRECTIONS shall notify the victim of any proceeding
33 in which the department may revoke the conditional liberty of the delinquent
34 who committed the delinquent act against the victim.

35 D. On request of the victim, the department of ~~youth treatment and~~
36 ~~rehabilitation~~ JUVENILE CORRECTIONS shall notify the victim of a modification
37 of the terms of conditional liberty only if the modification will
38 substantially affect the delinquent's contact with the victim or the safety
39 of the victim or if the modification affects restitution or secure care
40 status.

1 Sec. 13. Section 8-290.07, Arizona Revised Statutes, is amended to
2 read:

3 8-290.07. Notice of release, discharge or escape from a mental
4 health treatment agency or residential treatment

5 A. If the victim has made a request for notice, the court or the
6 department of ~~youth treatment and rehabilitation~~ JUVENILE CORRECTIONS,
7 whichever has supervision of the accused or delinquent, shall ~~notify~~ PROVIDE
8 the victim, at least ten days before the release or discharge of the accused
9 or delinquent, WITH notice of the release or discharge of the accused or
10 delinquent who is placed by court order in a mental health treatment agency
11 or a residential treatment agency. The mental health treatment agency or
12 residential treatment agency that has custody of the accused or delinquent,
13 shall notify the court or department of ~~youth treatment and rehabilitation~~
14 JUVENILE CORRECTIONS, whichever has supervision of the accused or delinquent,
15 at least thirty days before the release or discharge of the accused or
16 delinquent.

17 B. The court or the department of ~~youth treatment and rehabilitation~~
18 JUVENILE CORRECTIONS, whichever has supervision of the accused or delinquent,
19 shall mail to the victim immediately after the escape or subsequent
20 readmission of the accused or the delinquent, notice of the escape or
21 subsequent readmission of the accused or the delinquent who is placed by
22 court order in a mental health treatment agency or a residential treatment
23 agency. The mental health treatment agency or residential treatment agency
24 that has custody of the accused or delinquent, shall immediately notify the
25 court or the department of ~~youth treatment and rehabilitation~~ JUVENILE
26 CORRECTIONS, whichever has supervision of the accused or delinquent, of the
27 escape, runaway or subsequent readmission of the accused or delinquent.

28 Sec. 14. Section 8-290.08, Arizona Revised Statutes, is amended to
29 read:

30 8-290.08. Request for notice; forms; notice system

31 A. The victim shall provide to and maintain with the law enforcement
32 agency that is responsible for providing notice to the victim a request for
33 notice on a form that is provided by that agency. The form shall include a
34 telephone number and address. If the victim fails to keep the victim's
35 telephone number and address current, the victim's request for notice is
36 withdrawn. At any time the victim may ~~restore a~~ request ~~for~~ notice of
37 subsequent proceedings by filing on a request form provided by the agency the
38 victim's current telephone number and address.

39 B. ~~Except as provided in subsection C,~~ All notices provided to a
40 victim pursuant to this article shall be on forms ~~reviewed~~ DEVELOPED OR
41 REVIEWED by the attorney general.

42 C. ~~Each law enforcement agency, prosecuting office and court within~~
43 ~~a county may agree formally or informally to establish different notice~~
44 ~~procedures that are designed to more efficiently and effectively provide~~

1 ~~notice to victims. If different notice procedures are established, they~~
2 ~~shall be explained to the victim as soon as the notice is implemented and as~~
3 ~~applicable. Notice of any different procedures shall be reported to the~~
4 ~~attorney general.~~

5 ~~D.~~ C. The court and all agencies that are responsible for providing
6 notice to the victim shall establish and maintain a system for the receipt
7 of victim requests for notice.

8 Sec. 15. Section 8-290.15, Arizona Revised Statutes, is amended to
9 read:

10 8-290.15. Disposition

11 A. The victim may present evidence, information and opinions that
12 concern the delinquent act, the delinquent, the disposition or the need for
13 restitution at any predisposition or disposition proceeding, ~~and the victim~~
14 ~~has the right to be present and be heard at any disposition proceeding.~~

15 B. AT ANY DISPOSITION PROCEEDING THE VICTIM HAS THE RIGHT TO BE
16 PRESENT AND TO ADDRESS THE COURT.

17 Sec. 16. Section 8-290.25, Arizona Revised Statutes, is amended to
18 read:

19 8-290.25. Effect of failure to comply

20 A. The failure to use reasonable efforts to perform a duty or provide
21 a right is not cause to seek to set aside an adjudication or disposition.

22 B. The failure to use reasonable efforts to provide notice and a right
23 to be present or be heard pursuant to this article at a proceeding that
24 involves postadjudication release is a ground for the victim TO MOVE to set
25 aside the postadjudication release until the victim is afforded the
26 opportunity to be present or be heard.

27 C. If the victim seeks to have a postadjudication release set aside
28 pursuant to subsection B, the custodial agency or the department of ~~youth~~
29 ~~treatment and rehabilitation~~ JUVENILE CORRECTIONS shall afford the victim a
30 reexamination proceeding after the parties are given notice.

31 D. A reexamination proceeding conducted pursuant to this section or
32 any other proceeding that is based on the failure to perform a duty or to
33 provide a right shall begin not more than thirty days after the appropriate
34 parties have been given notice that the victim is exercising the victim's
35 right to a reexamination proceeding pursuant to this section or to another
36 proceeding based on the failure to perform a duty or provide a right.

37 Sec. 17. Section 13-4401, Arizona Revised Statutes, is amended to
38 read:

39 13-4401. Definitions

40 In this chapter, unless the context otherwise requires:

41 1. "Accused" means a person who has been arrested for committing a
42 criminal offense and who is held for an initial appearance or other
43 proceeding before trial.

1 2. "Appellate proceeding" means a contested oral argument held in open
2 court before the state court of appeals, the state supreme court, a federal
3 court of appeals or the United States supreme court.

4 3. "Arrest" means the actual custodial restraint of a person or ~~his~~
5 THE PERSON'S submission to custody.

6 4. "Court" means all state, county and municipal courts in this state.

7 5. "Crime victim advocate" means a person who is employed or
8 authorized by a public entity or a private entity that receives public
9 funding primarily to provide counseling, treatment or other supportive
10 assistance to crime victims.

11 6. "Criminal offense" means conduct that gives a peace officer or
12 prosecutor probable cause to believe that a felony or that a misdemeanor
13 involving physical injury, the threat of physical injury or a sexual offense
14 has occurred.

15 7. "Criminal proceeding" means a hearing, argument or other matter
16 scheduled by and held before a trial court but does not include any
17 deposition, lineup, grand jury proceeding or other matter not held in the
18 presence of the court.

19 8. "Custodial agency" means a law enforcement officer, sheriff or
20 municipal jailer, the state department of corrections or a secure mental
21 health facility having custody of a person who is arrested or is in custody
22 for a criminal offense.

23 9. "Defendant" means a person or entity that is formally charged by
24 complaint, indictment or information of committing a criminal offense.

25 10. "Final disposition" means the ultimate termination of the criminal
26 prosecution of a defendant by a trial court, including dismissal, acquittal
27 or imposition of a sentence.

28 11. "Immediate family" means a victim's spouse, parent, child, sibling,
29 ~~or~~ grandparent OR LAWFUL GUARDIAN.

30 12. "Lawful representative" means a person who is designated by the
31 victim or appointed by the court and who will act in the best interests of
32 the victim.

33 13. "Post-arrest release" means the discharge of the accused from
34 confinement on recognizance, bond or other condition.

35 14. "Post-conviction release" means parole, work furlough, community
36 supervision, home arrest or any other permanent, conditional or temporary
37 discharge from confinement in the custody of the state department of
38 corrections or a sheriff or from confinement in a municipal jail or a secure
39 mental health facility.

40 15. "Post-conviction relief proceeding" means a contested argument or
41 evidentiary hearing that is held in open court and that involves a request
42 for relief from a conviction or sentence.

43 16. "Prisoner" means a person who has been convicted of a criminal
44 offense against a victim and who has been sentenced to the custody of the

1 sheriff, the state department of corrections, a municipal jail or a secure
2 mental health facility.

3 17. "Rights" means any right granted to the victim by the laws of this
4 state.

5 18. "Victim" means a person against whom the criminal offense has been
6 committed, or if the person is killed or incapacitated, the person's spouse,
7 parent, child or other lawful representative, except if the person is in
8 custody for an offense or is the accused.

9 Sec. 18. Section 13-4402, Arizona Revised Statutes, is amended to
10 read:

11 13-4402. Implementation of rights and duties

12 A. Except as provided in sections 13-4404 and 13-4405, the rights and
13 duties that are established by this chapter arise on the arrest or formal
14 charging of the person or persons who are alleged to be responsible for a
15 criminal offense against a victim. The rights and duties continue to be
16 enforceable pursuant to this chapter until the final disposition of the
17 charges, including acquittal or dismissal of the charges, all post-conviction
18 release and relief proceedings and the discharge of all criminal proceedings
19 relating to restitution. IF A DEFENDANT IS ORDERED TO PAY RESTITUTION TO A
20 VICTIM, THE RIGHTS AND DUTIES CONTINUE TO BE ENFORCEABLE UNTIL RESTITUTION
21 IS PAID OR A CRIMINAL RESTITUTION ORDER IS ENTERED IN FAVOR OF THE VICTIM
22 PURSUANT TO SECTION 13-805.

23 B. If a defendant's conviction is reversed and the case is returned
24 to the trial court for further proceedings, the victim has the same rights
25 that were applicable to the criminal proceedings that led to the appeal or
26 other post-conviction relief proceeding.

27 C. After the final termination of a criminal prosecution by dismissal
28 with prejudice or acquittal, a person who has received notice and the right
29 to be present and heard pursuant to the victims' rights act, article II,
30 section 2.1, Constitution of Arizona, any implementing legislation or court
31 rule is no longer entitled to such rights.

32 Sec. 19. Section 13-4403, Arizona Revised Statutes, is amended to
33 read:

34 13-4403. Inability to exercise rights; designation of others;
35 notice; representative for a minor

36 A. If a victim is physically or emotionally unable to exercise any
37 right but is able to designate a lawful representative who is not a bona fide
38 witness, the designated person may exercise the same rights that the victim
39 is entitled to exercise. The victim may revoke ~~his~~ THIS designation at any
40 time and exercise ~~his~~ THE VICTIM'S rights.

41 B. If a victim is incompetent, deceased or otherwise incapable of
42 designating another person to act in ~~his~~ THE VICTIM'S place, the court may
43 appoint a lawful representative who is not a witness. If at any time the

1 victim is no longer incompetent, incapacitated or otherwise incapable of
2 acting, the victim may personally exercise ~~his~~ THE VICTIM'S rights.

3 C. If the victim is a minor the victim's parent or other immediate
4 family member may exercise all of the victim's rights on behalf of the
5 victim. If the criminal offense is alleged against a member of the minor's
6 immediate family, such rights may not be exercised by that person but may be
7 exercised by another member of the immediate family unless the court, after
8 considering the guidelines in subsection ~~E~~ D of this section, finds that
9 another person would better represent the interests of the minor for purposes
10 of this chapter.

11 ~~D. Any notices that are to be provided to a victim pursuant to this~~
12 ~~chapter shall be sent only to the victim or the victim's lawful~~
13 ~~representative.~~

14 ~~E~~ D. The court shall consider the following guidelines in appointing
15 a representative for a minor:

16 1. Whether there is a relative who would not be so substantially
17 affected or adversely impacted by the conflict occasioned by the allegation
18 of criminal conduct against a member of the immediate family of the minor
19 that ~~he~~ THE RELATIVE could not represent the victim.

20 2. The representative's willingness and ability to do all of the
21 following:

22 (a) Undertake working with and accompanying the minor victim through
23 all proceedings, including criminal, civil and dependency proceedings.

24 (b) Communicate with the minor victim.

25 (c) Express the concerns of the minor to those authorized to come in
26 contact with the minor as a result of the proceedings.

27 3. The representative's training, if any, to serve as a minor's
28 representative.

29 4. The likelihood of the representative being called as a witness in
30 the case.

31 ~~F~~ E. The minor's representative shall accompany the minor victim
32 through all proceedings, including DELINQUENCY, criminal, ~~proceedings,~~
33 dependency ~~proceedings~~ and civil proceedings and, before the minor's
34 courtroom appearance, shall explain to the minor the nature of the
35 proceedings and what the minor will be asked to do, including telling the
36 minor that the minor is expected to tell the truth. The representative shall
37 be available to observe the minor in all aspects of the case in order to
38 consult with the court as to any special needs of the minor. Those
39 consultations shall take place before the minor testifies. The court may
40 recognize the minor's representative when the representative indicates a need
41 to address the court. A minor's representative shall not discuss the facts
42 and circumstances of the case with the minor witness, unless the court orders
43 otherwise upon a showing that it is in the best interests of the minor.

1 F. ANY NOTICES THAT ARE TO BE PROVIDED TO A VICTIM PURSUANT TO THIS
2 CHAPTER SHALL BE SENT ONLY TO THE VICTIM OR THE VICTIM'S LAWFUL
3 REPRESENTATIVE.

4 Sec. 20. Section 13-4405, Arizona Revised Statutes, as amended by Laws
5 1995, chapter 197, section 3, is amended to read:

6 13-4405. Information provided to victim by law enforcement
7 agencies

8 A. As soon after the detection of a criminal offense as the victim may
9 be contacted without interfering with an investigation or arrest, the law
10 enforcement agency that has responsibility for investigating the criminal
11 offense shall provide the victim with a multicopy form:

12 1. That allows the victim to request or waive applicable rights to
13 which the victim is entitled, on request, under this article.

14 2. That provides the victim a method to designate a lawful
15 representative if the victim chooses pursuant to section 13-4403, subsection
16 A or section 13-4404.

17 3. That provides notice to the victim of all of the following
18 information:

19 (a) The victim's ~~rights~~ RIGHT under the victims' bill of rights,
20 article II, section 2.1, Constitution of Arizona, to be treated with
21 fairness, respect and dignity and to be free of intimidation, harassment or
22 abuse throughout the criminal or juvenile justice process.

23 (b) The availability, if any, of crisis intervention services and
24 emergency and medical services and, where applicable, that medical expenses
25 arising out of the need to secure evidence may be reimbursed pursuant to
26 section 13-1414.

27 (c) In cases of domestic violence, the procedures and resources
28 available for the protection of the victim pursuant to section 13-3601.

29 (d) The names and telephone numbers of public and private victim
30 assistance programs, including the county victim compensation program and
31 programs that provide counseling, treatment and other support services.

32 (e) The police report number, if available, other identifying case
33 information and the following statement:

34 If within thirty days you are not notified of an arrest in your
35 case, you may call (the law enforcement agency's telephone
36 number) for the status of the case.

37 (f) Whether the suspect is an adult or juvenile, a statement THAT the
38 victim will be notified by the law enforcement agency at the earliest
39 opportunity after the arrest of a suspect.

40 (g) If the suspect is an adult and has been arrested, ~~of~~ the victim's
41 right, on request, to be informed of the suspect's release, of the next
42 regularly scheduled time, place and date for initial appearances in the
43 jurisdiction and of the victim's right to be heard at the initial appearance

1 and that, to exercise these rights, the victim is advised to contact the
2 court ~~immediately to request notice of all of the following:~~

3 ~~(i) CUSTODIAL AGENCY REGARDING the suspect's release—~~

4 ~~(ii) AND TO CONTACT THE COURT REGARDING any changes to the initial~~
5 appearance schedule.

6 ~~(iii) (h) If the victim chooses to exercise the right to be heard~~
7 through a written statement, how that statement may be submitted to the
8 court.

9 B. IF AT THE TIME OF CONTACT WITH A LAW ENFORCEMENT AGENCY THE VICTIM
10 IS PHYSICALLY OR EMOTIONALLY UNABLE TO REQUEST OR WAIVE APPLICABLE RIGHTS,
11 THE LAW ENFORCEMENT AGENCY SHALL DESIGNATE THIS ON THE MULTICOPY FORM AND THE
12 ENTITIES THAT MAY BE SUBSEQUENTLY AFFECTED SHALL PRESUME THAT THE VICTIM
13 INVOKED THE VICTIM'S RIGHT TO REQUEST APPLICABLE RIGHTS TO WHICH THE VICTIM
14 IS ENTITLED, ON REQUEST, UNLESS THE VICTIM LATER WAIVES THOSE RIGHTS.

15 ~~B.~~ C. The law enforcement agency shall submit ~~one~~ A copy of the
16 victim's request or waiver of preconviction rights form to the custodial
17 agency AND A COPY TO THE PROSECUTOR if a suspect is arrested, at the time the
18 suspect is taken into custody. If there is no arrest, the form copies shall
19 be submitted to the prosecutor at the time the case is otherwise presented
20 to the prosecutor for review. The prosecutor shall submit a copy of the
21 victim's request or waiver of preconviction rights form to the departments
22 or sections of the prosecutor's office, ~~as~~ IF applicable, that are mandated
23 by this article to provide victims' rights services on request.

24 ~~C.~~ D. If the suspected offender is cited and released, the law
25 enforcement agency responsible for investigating the offense shall inform the
26 victim of the court date and how to obtain additional information about the
27 subsequent criminal proceedings.

28 E. LAW ENFORCEMENT AGENCIES WITHIN A COUNTY MAY ESTABLISH DIFFERENT
29 PROCEDURES DESIGNED TO EFFICIENTLY AND EFFECTIVELY PROVIDE NOTICE OF THE
30 VICTIM'S RIGHTS PURSUANT TO THIS CHAPTER AND NOTICE TO AFFECTED ENTITIES OF
31 THE VICTIM REQUEST OR WAIVER INFORMATION. IF DIFFERENT PROCEDURES ARE
32 ESTABLISHED, THE PROCEDURES SHALL:

33 1. BE REPORTED TO THE ENTITIES WITHIN A COUNTY AFFECTED BY THE
34 PROCEDURES AND REPORTED TO THE ATTORNEY GENERAL.

35 2. BE DESIGNED SO THAT CUSTODIAL AGENCIES AND PROSECUTORS WITHIN A
36 COUNTY RECEIVE NOTICE OF THE VICTIM'S REQUEST OR WAIVER OF THE VICTIM'S
37 PRECONVICTION RIGHTS AT THE SAME TIME THAT AN ADULT SUSPECT IS ARRESTED.

38 3. BE DESIGNED SO THAT PROSECUTORS WITHIN A COUNTY RECEIVE NOTICE OF
39 THE VICTIM'S REQUEST OR WAIVER OF THE VICTIM'S PRECONVICTION RIGHTS, IF THERE
40 IS NO ARREST, AT THE SAME TIME THAT THE CASE IS OTHERWISE PRESENTED TO THE
41 PROSECUTOR FOR REVIEW.

42 4. PROVIDE THAT THE NOTICE TO AFFECTED ENTITIES OF A VICTIM'S REQUEST
43 OR WAIVER OF THE VICTIM'S PRECONVICTION RIGHTS INCLUDES INFORMATION THAT
44 AFFORDS THE AFFECTED ENTITY THE ABILITY TO CONTACT THE VICTIM.

1 5. BE SUPPORTED BY USE OF BROCHURES, FORMS OR OTHER WRITTEN MATERIALS
2 THAT ARE DEVELOPED BY THE LAW ENFORCEMENT AGENCIES WITHIN A COUNTY AND
3 REVIEWED BY THE ATTORNEY GENERAL PURSUANT TO SECTION 13-4417, SUBSECTION B.

4 Sec. 21. Section 13-4410, Arizona Revised Statutes, is amended to
5 read:

6 13-4410. Notice of conviction, acquittal or dismissal; impact
7 statement

8 A. The prosecutor's office shall, on request, give to the victim
9 within fifteen days after the conviction or acquittal or dismissal of the
10 charges against the defendant notice of the criminal offense for which the
11 defendant was convicted or acquitted or the dismissal of the charges against
12 the defendant.

13 B. If the defendant is convicted and the victim has requested NOTICE,
14 the victim shall be notified, if applicable, of:

- 15 1. The function of the presentence report.
- 16 2. The name and telephone number of the probation department that is
17 preparing the presentence report.
- 18 3. The right to make a victim impact statement under section 13-4424.
- 19 4. The defendant's right to view the presentence report.
- 20 5. The victim's right to view the presentence report except those
21 parts excised by the court or made confidential by law and, on request, to
22 receive a copy from the prosecutor.
- 23 6. The right to be present and be heard at any presentence or
24 sentencing proceeding pursuant to section 13-4426.
- 25 7. The time, place and date of the sentencing proceeding.
- 26 8. If the court orders restitution, the right to file a restitution
27 lien pursuant to section ~~13-804~~ 13-806.

28 C. The victim shall be informed that ~~his~~ THE VICTIM'S impact statement
29 may include the following:

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

37 D. Notice provided pursuant to this section does not remove the
38 probation department's responsibility pursuant to section 12-253 to initiate
39 the contact between the victim and the probation department concerning the
40 victim's economic, physical, psychological or emotional harm. At the time
41 of contact, the probation department shall advise the victim of the date,
42 time and place of sentencing and of the victim's right to be present and be
43 heard at that proceeding.

1 B. ~~Except as provided in subsection C of this section,~~ All notices
2 provided to a victim pursuant to this chapter shall be on forms developed OR
3 REVIEWED by the attorney general.

4 ~~C. Each law enforcement agency, prosecuting office and court within~~
5 ~~a county may agree formally or informally to establish different notice~~
6 ~~procedures that are designed to more efficiently and effectively provide~~
7 ~~notice to victims. If different notice procedures are established, they~~
8 ~~shall be explained to the victim as soon as the notice is implemented and as~~
9 ~~applicable. Notice of any different procedures shall be reported to the~~
10 ~~attorney general.~~

11 ~~D.~~ C. The court and all agencies that are responsible for providing
12 notice to the victim shall establish and maintain a system for the receipt
13 of victim requests for notice.

14 Sec. 25. Section 13-4426, Arizona Revised Statutes, is amended to
15 read:

16 13-4426. Sentencing

17 A. The victim may present evidence, information and opinions that
18 concern the criminal offense, the defendant, the sentence or the need for
19 restitution at any aggravation, mitigation, presentencing or sentencing
20 proceeding ~~and the victim has the right to be present and be heard at any~~
21 ~~sentencing proceeding.~~

22 B. AT ANY DISPOSITION PROCEEDING THE VICTIM HAS THE RIGHT TO BE
23 PRESENT AND TO ADDRESS THE COURT.

24 Sec. 26. Delayed effective date

25 Sections 8-281, 8-282, 8-283, 8-284, 8-286, 8-287, 8-290, 8-290.01,
26 8-290.03, 8-290.04, 8-290.05, 8-290.06, 8-290.07, 8-290.08, 8-290.15,
27 8-290.25 and 13-4405, Arizona Revised Statutes, as amended by this act, are
28 effective from and after August 31, 1996.

APPROVED BY THE GOVERNOR APRIL 11, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 1996.