

House Engrossed Senate Bill

**FILED**

**JANICE K. BREWER  
SECRETARY OF STATE**

State of Arizona  
Senate  
Forty-seventh Legislature  
Second Regular Session  
2006

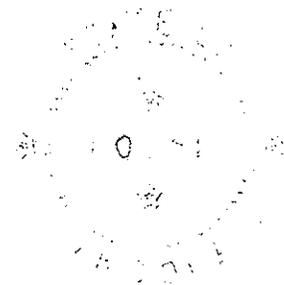
CHAPTER 79

**SENATE BILL 1093**

AN ACT

AMENDING SECTION 13-4071, ARIZONA REVISED STATUTES; RELATING TO SUBPOENAS.

(TEXT OF BILL BEGINS ON NEXT PAGE)



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

2 Section 1. Section 13-4071, Arizona Revised Statutes, is amended to  
3 read:

4 13-4071. Subpoena; issuance; duty of clerk

5 A. The process by which attendance of a witness before a court or  
6 magistrate is required is a subpoena.

7 B. The subpoena may be signed and issued:

8 1. By a magistrate before whom a complaint is laid for witnesses,  
9 either on behalf of the state or the defendant.

10 2. By the county attorney, attorney general, municipal prosecutor or  
11 city prosecutor for witnesses to appear before the grand jury, or for  
12 witnesses on a complaint, indictment or information to appear before the  
13 court in which the complaint, indictment or information is to be heard or  
14 tried or by the county attorney, attorney general, municipal prosecutor or  
15 city prosecutor for witnesses requested by a grand jury.

16 3. By the clerk of the court in which an indictment or information is  
17 to be tried, or by the clerk as authorized in subsection C.

18 C. The clerk of the court or the clerk's designee ~~shall upon~~, ON  
19 request of the county attorney or attorney general, SHALL issue a subpoena  
20 for witnesses to appear before the grand jury, without prior authorization by  
21 a grand jury, ~~provided~~ IF all of the following occur:

22 1. A duly impaneled grand jury is sworn and is in existence at the  
23 time of the issuance of ~~such~~ THE subpoena.

24 2. The county attorney or attorney general designates the subpoena  
25 with the standard identifying grand jury number.

26 3. The county attorney or attorney general reports to the foreman of  
27 the grand jury, or in the foreman's absence the acting foreman, the fact of  
28 the issuance of the subpoena within ten days following its issuance or, if  
29 the grand jury is in recess, at the first succeeding session of the grand  
30 jury after the expiration of the ten day period.

31 4. The county attorney or attorney general reports to the presiding  
32 judge of the superior court the fact of the issuance of the subpoena within  
33 ten days following its issuance.

34 D. The clerk ~~shall~~, at any time, ~~upon~~ ON application of the defendant,  
35 and without charge, SHALL issue as many blank subpoenas, subscribed by the  
36 clerk as clerk, for witnesses as the defendant requires. BLANK SUBPOENAS  
37 SHALL NOT BE USED TO PROCURE DISCOVERY IN A CRIMINAL CASE, INCLUDING TO  
38 ACCESS THE RECORDS OF A VICTIM. RECORDS RELATING TO RECOVERED MEMORIES OR  
39 DISASSOCIATED MEMORIES MAY BE SUBJECT TO SUBPOENA ONLY IF THE STATE SEEKS TO  
40 INTRODUCE EVIDENCE OF THE VICTIM'S RECOVERED OR DISASSOCIATED MEMORY, THE  
41 RECORDS ARE NOT OTHERWISE PRIVILEGED AND THE COURT APPROVES THE SUBPOENA  
42 AFTER A HEARING. THE VICTIM SHALL BE GIVEN NOTICE OF AND THE RIGHT TO BE  
43 HEARD AT ANY PROCEEDING INVOLVING A SUBPOENA FOR RECORDS OF THE VICTIM FROM A  
44 THIRD PARTY.

APPROVED BY THE GOVERNOR APRIL 10, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 10, 2006.