

ARIZONA CODE OF JUDICIAL ADMINISTRATION

Part 5: Court Operations

Chapter 2: Programs and Standards

Section 5-204: Administration of Victims' Rights

A. Definitions. In this section the following definitions apply:

“Court” means the superior court or any court of limited jurisdiction.

“Criminal Offense” means “conduct that gives a peace officer or prosecutor probable cause to believe that a felony, a misdemeanor, a petty offense or a violation of local criminal ordinance has occurred,” as provided by A.R.S. § 13-4401(6).

“Delinquent act” means an act committed by a juvenile that if committed by an adult would be either (1) a misdemeanor offense; (2) a felony offense; (3) a petty offense; or (4) a violation of a local criminal ordinance, in accordance with A.R.S. §§ 8-381 and -382.

“Victim”, except as otherwise specified, means a person against whom a criminal offense or delinquent act has been committed, 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 other lawful representative, except if 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 as provided in Az. Const. Art. 2, § 2.1, A.R.S. §§ 8-382 and 13-4401.

B. Purpose and Applicability. This section defines the role and responsibility of courts in preserving and protecting victims' rights to justice and due process as provided by Az. Const. Art. 2, § 2.1, Art. 6 § 3 and A.R.S. §§ 13-603, -804, -4401 et seq. and 8-381 et seq.

C. Notice of Proceedings.

1. The court shall provide at least five business days notice before the scheduled proceeding to the prosecutor, by written document, telephonic transmission followed up with a written confirmation, facsimile transmission, or any other electronically transmitted message or document which includes the transmittal date, case number, defendant's name, type of hearing, and the date, time and place of next hearing. The court may provide additional information. If notice is initially given by telephonic transmission, the court shall record the name of the person contacted on a confirming written notice.
2. In the superior court, continuances shall only be granted when extraordinary circumstances exist weighing these circumstances against the victim's right to a speedy trial. The court shall state on the record the reason for any continuance.

3. In the supreme court and court of appeals, victims who have requested post-conviction or postadjudication notifications shall be sent a copy of the memorandum decision or opinion from the issuing court concurrently with the parties. If the victim is represented by counsel, the notice shall be provided to the victim's counsel.

D. Notice of Victim Rights. The statement of victim rights shall be prominently posted in each superior, justice of the peace, and municipal court in this state and, in superior court, shall be read out loud by the judge at the daily commencement of the regular criminal or delinquent docket.

E. Victim Statements. Any victim requests and victim statements received by court offices shall be forwarded to the appropriate court or prosecuting agency.

F. Transcripts for Crime Victims. On the request of the victim, the court or clerk shall provide at no charge, the minute entry or portion of the record of any proceeding in the case that is reasonably necessary for the purpose of pursuing a claimed victim's right.

G. Inspection of Pre-sentence/Disposition Report. Each court in conjunction with the prosecutor shall develop a written plan and procedures to allow the victim to inspect the pre-sentence/disposition report. When requested by the victim, the pre-sentence/disposition report should be made available to the victim within the same time frame it is available to the sentencing judge as prescribed in Rule 26.4, Rules of Criminal Procedure and Rule 30.A.1., Rules of Procedure for the Juvenile Court.

H. Criminal History Record Information. Pursuant to Rule 123, Rules of the Supreme Court, all criminal history record information in court files shall be included as an addendum to the pre-sentence report and shall not be made available for review by the victim. The clerk shall maintain a filing system that will ensure that confidential criminal history information does not become part of the public record and that criminal history and other confidential information is made available only to authorized criminal justice agencies.

I. Minimizing Victim Contacts.

1. The court shall work closely with law enforcement officials, prosecutors, and defense attorneys to assist with separation of defendant and defendant's family from the victim and victim's family or representative.
2. When new court facilities are constructed or renovated, provisions shall be made for separation of the victim and victim's family or representative from the defendant and the defendant's family or representative.

J. Victim Right to Privacy. The court shall develop a written plan and procedures to ensure that victim information is not improperly disclosed.

K. Restitution Payment Processing.

1. Collection of restitution should be done pursuant to ACJA §§ 3-401 and 4-301.
2. The clerk of court or other court entity responsible for receipting and disbursing restitution shall forward all restitution payments made by cash, cashiers' check, credit card or money order to victims within ten business days, unless the amount of any single disbursement is less than thirty dollars. The court, clerk of court, or other court agency responsible for receipting and disbursing restitution shall disburse all personal check payments within 21 calendar days of receipt. Where a single disbursement is less than thirty dollars the court may develop a clearly defined business system routine to hold funds received for individual victims until the aggregate total in an account reaches a minimum of thirty dollars.
3. Notwithstanding subsection (2) above, courts receiving restitution payments shall remit all amounts collected over one dollar to victims not less than once each calendar year. In cases where victims cannot be located, courts, clerks or other agencies responsible for restitution payments shall follow state unclaimed property provisions.
4. For purposes of this subsection (K), "victim" also includes any person, including the surviving dependent of a person, who has suffered physical injury or pecuniary loss resulting from the crime or delinquent act of the accused or a corporation, partnership, association or other legal entity.

L. Nonpayment of Restitution. Upon notice from the clerk, regarding a defendant's default in payment of restitution, the court, on motion of the prosecutor, on petition of any person entitled to restitution pursuant to a court order or on its own motion, shall require the defendant to show cause why the defendant's default should not be treated as contempt and may issue a summons or warrant for arrest of the defendant's appearance.

Adopted by Administrative Order 2004-94, effective November 10, 2004. Amended by Administrative Order 2008-23, effective February 28, 2008. The former subsection K(4) was removed from this code section due to its suspension by Administrative Order 2008-55, effective June 12, 2008. Amended by Administrative Order 2009-129, effective December 23, 2009. Amended by Administrative Order 2012-69, effective August 15, 2012. Amended by Administrative Order 2015-23, effective March 4, 2015.