

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 6: Probation
Chapter 1: General Administration
Section 6-103: Victims' Rights Requirements for Probation Personnel

A. Definitions. In this section unless otherwise specified, 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 to which this article applies pursuant to § 8-381 as provided in A.R.S. § 8-382(9).

“Victim” means a person against whom the criminal offense or delinquent act 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.

B. Applicability. Pursuant to Az. Const. Art. 2, § 2.1 and Art. 6, § 3 and A.R.S. §§ 13-603, 13-804, 13-4401 et seq., and A.R.S. §§ 8-381 through 8-420, the following requirements shall govern the administration of victims’ rights by adult and juvenile probation departments. Specifically A.R.S. § 8-381 provides: “This article applies to acts that are committed by a juvenile and that if committed by an adult would be either: 1. A misdemeanor offense. 2. A felony offense. 3. A petty offense. 4. A violation of a local criminal ordinance.”

The notification rights set forth in this code section apply to victims who have requested notice pursuant to A.R.S. § 13-4417 and A.R.S. § 8-398.

C. Purpose. To define the role and responsibility of probation personnel in preserving and protecting victims’ rights to justice and due process.

D. General Duties of Probation. Adult and juvenile probation departments shall:

1. Maintain the confidentiality and security of all victim information, including but not limited to, addresses, telephone numbers, place of employment, social security number or other locating information; and
2. Provide training concerning victim sensitivity, victim trauma and victims’ rights in orientation for all probation department personnel.

3. Identify language assistance resources for communicating with limited-English speaking victims.

E. Duties of Adult Probation. Adult probation departments shall:

1. Pursuant to A.R.S. § 13-4415(B), provide notice to a victim in the following circumstances:
 - B. On request of a victim who has provided a current address or other current contact information, the probation department shall notify the victim of the following:
 1. Any proposed modification to any term of probation if the modification affects restitution or incarceration status or the defendant's contact with or the safety of the victim.
 2. The victim's right to be heard at a hearing that is set to consider any modification to be made to any term of probation.
 3. Any violation of any term of probation that results in the filing with the court of a petition to revoke probation.
 4. That a petition to revoke probation alleging that the defendant absconded from probation has been filed with the court.
 5. Any conduct by the defendant that raises a substantial concern for the victim's safety.
2. Provide the notices required by E(1) when:
 - a. A hearing is set to consider any modification to any term of probation.
 - b. Filing a petition to revoke probation, including a petition to revoke alleging the defendant has absconded.
3. Provide notice to the victim when the probationer is incarcerated as a condition of probation, as well as when a petition to enact a discretionary jail sanction of 30 or more days is implemented. The notice of incarceration shall also include the anticipated release date, noting the date may change as the incarceration period continues.
4. Provide notice to a victim of modifications from intensive to standard probation or from supervised probation to unsupervised probation.
5. Provide notice to the victim when the probationer leaves or returns to the county or state pursuant to Arizona Rules of Criminal Procedure 27.11(4), ACJA §6-211, or through the Interstate Compact for Adult Offender Supervision.
6. Develop a standardized presentence report format, in conjunction with the superior court, which addresses the emotional, economic and physical losses of victims.

7. Monitor the payment of restitution by working with the clerk of the court to establish a process by which supervising probation officers are provided with accurate and timely information concerning the collection of court-ordered restitution.
8. Require probation staff to:
 - a. Utilize all available means to contact victims telephonically, electronically, personally, or in writing to ascertain, pursuant to A.R.S. § 13-4424(B), “The probation officer shall consider the economic, physical and psychological impact that the criminal offense has had on the victim and the victim’s immediate family pursuant to § 12-253.”;
 - b. Take into consideration the impact of the criminal offense on the victim, the victim’s thoughts concerning sentencing alternatives, and the circumstances surrounding victim and community protection when making a sentencing recommendation to the court;
 - c. Document all victim notifications and attempts to notify the victim;
 - d. Respond to all queries by victims, providing accurate information in accordance with supreme court rules governing public access to judicial records;
 - e. Within the scope of their duties, minimize contact between victims and victims’ family and the probationer and probationer’s family;
 - f. Emphasize and address the probationer’s responsibility to satisfy any court-ordered restitution at each scheduled visit and immediately address any arrearage in court-ordered restitution with the probationer;
 - g. Notify the court having jurisdiction upon finding that the probationer has become in arrears in an amount totaling two full court-ordered monthly payments of restitution. This notification shall consist of a petition to modify, petition to revoke, or memorandum to the court outlining the reasons for the delinquencies and expected duration thereof. A copy of the memorandum shall be provided to the victim, if the victim has requested notice of restitution modifications; and
 - h. Request court extension of probation pursuant to A.R.S. §13-902(C):

When the court has required, as a condition of probation, that the defendant make restitution for any economic loss related to the defendant's offense and that condition has not been satisfied, the court at any time before the termination or expiration of probation may extend the period within the following limits:

1. For a felony, not more than five years.
2. For a misdemeanor, not more than two years.

- i. As provided by A.R.S. § 12-253(7), “Bring defaulting probationers into court when in the probation officer’s judgment the conduct of the probationer justifies the court to revoke suspension of the sentence.”
 - (1) If the probationer is on standard probation supervision and is not located within 90 days, the supervising probation officer shall file a petition to revoke probation, seek a criminal restitution order pursuant to A.R.S. § 13-805(C)(1)(2) for a probationer who is an absconder as defined in A.R.S. § 13-105(1), and request that the court issue a warrant. The supervising officer shall file the petition to revoke sooner, when required by local departmental policies, the circumstances surrounding the case or the need for community protection.
 - (2) If the probationer is on intensive probation supervision and is not located within 72 hours, the intensive probation officer shall file a petition to revoke probation no later than the next business day and request that the court issue a warrant. The supervising officer shall file the petition to revoke sooner, when required by local departmental policies, the circumstances surrounding the case, or the need for community protection.
 - (3) When a petition to revoke is filed prior to the expiration of 90 days, the probation officer shall seek a criminal restitution order upon the expiration of 90 days, pursuant to A.R.S. § 13-805(C)(1)(2), for a probationer who is an absconder as defined in A.R.S. § 13-105(1).

F. Duties of Juvenile Probation. Juvenile probation departments shall require probation staff to:

1. Utilize all available means to contact victims and, where appropriate, the victim’s family telephonically, electronically, personally, or in writing to ascertain the emotional, economic and physical impact the delinquent offense has had on the victim;
2. Advise the victim that, pursuant to A.R.S. § 8-400, the victim “...has the right to be present throughout all court hearings in which the accused or delinquent has the right to be present”;
3. Pursuant to A.R.S. § 8-404(B): “In preparing the predisposition or transfer report, the probation officer shall consider the economic, physical and psychological impact that the delinquent act has had on the victim and the victim’s immediate family”;
4. Respond to all queries by victims, providing accurate information in accordance with supreme court rules governing public access to judicial records;
5. Within the scope of their duties, minimize contact between victims and victims’ family and the probationer and probationer’s family; and
6. Emphasize and address the probationer’s responsibility to satisfy any court-ordered restitution at each scheduled visit and immediately address any arrearage in court-ordered restitution with the probationer.

G. Duties of Juvenile Court. Each juvenile court shall:

1. Give victims notice if an accused is accepted into a diversion program, pursuant to A.R.S. § 8-388:

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

2. Provide the victim with information from the predisposition report pursuant to A.R.S. § 8-404(C):

On request, the court shall provide the victim with the following information from the predisposition report:

1. The referral history.
2. The probation officer's assessment of the case.
3. The disposition and treatment recommendations.
4. The probation officer's recommendations for treatment and disposition.
5. The detention history.

3. Notify the victim in the following circumstances as required by A.R.S. § 8-396(A-C):

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

1. A probation revocation disposition proceeding or any proceeding in which the court is asked to terminate the probation or intensive probation of the delinquent who committed the delinquent act against the victim.
2. Any hearing on a proposed modification of the terms of probation or intensive probation.
3. The arrest of a delinquent pursuant to a warrant issued for a probation violation.

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

1. Any proposed modification to any term of probation if the modification affects restitution or incarceration status or the delinquent's contact with or the safety of the victim.
2. The victim's right to be heard at a hearing that is set to consider any modification to be made to any term of probation.
3. Any violation of any term of probation that results in the filing with the court of a petition to revoke probation.

4. That a petition to revoke probation alleging that the juvenile absconded from probation has been filed with the court.
 5. Any conduct by the juvenile that raises a substantial concern for the victim's safety.
- C. If a victim has requested postadjudication notice and probation is revoked and the juvenile is committed to the department of juvenile corrections, the court shall notify the department of juvenile corrections of the victim's request.

Adopted by Administrative Order 2004-94, effective November 10, 2004. Amended by Administrative Order 2008-32, effective April 3, 2008. Amended by Administrative Order 2012-66, effective August 15, 2012. Amended by Administrative Order 2015-124, effective December 23, 2015.