Senate Engrossed House Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

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CHAPTER 204

HOUSE BILL 2756

AN ACT

AMENDING SECTIONS 13-4405 AND 13-4439, ARIZONA REVISED STATUTES; RELATING TO VICTIMS' RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 13-4405, Arizona Revised Statutes, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

(g) If the suspect is an adult and has been arrested, the victim's right, on request, to be informed of the suspect's release, of the next regularly scheduled time, place and date for initial appearances in the jurisdiction and of the victim's right to be heard at the initial appearance and that, to exercise these rights, the victim is advised to contact the custodial agency regarding the suspect's release and to contact the court regarding any changes to the initial appearance schedule.

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

(i) THAT THE VICTIM OR THE IMMEDIATE FAMILY MEMBER OF THE VICTIM, IF THE VICTIM IS KILLED OR INCAPACITATED, HAS THE RIGHT TO RECEIVE ONE COPY OF THE POLICE REPORT FROM THE INVESTIGATING LAW ENFORCEMENT AGENCY AT NO CHARGE PURSUANT TO SECTION 39-127.

B. If at the time of contact with a law enforcement agency the victim is physically or emotionally unable to request or waive applicable rights, the law enforcement agency shall designate this on the multicopy form and the entities that may be subsequently affected shall presume that the victim invoked the victim's right to request applicable rights to which the victim is entitled, on request, unless the victim later waives those rights.

C. The law enforcement agency shall submit a copy of the victim's request or waiver of preconviction rights form to the custodial agency and a copy to the prosecutor if a suspect is arrested, at the time the suspect is taken into custody. If there is no arrest, the form copies shall be submitted to the prosecutor at the time the case is otherwise presented to the prosecutor for review. The prosecutor shall submit a copy of the victim's request or waiver of preconviction rights form to the departments or sections of the prosecutor's office, if applicable, that are mandated by this article to provide victims' rights services on request.

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

E. Law enforcement agencies within a county may establish different procedures designed to efficiently and effectively provide notice of the victim's rights pursuant to this section and notice to affected entities of the victim request or waiver information. If different procedures are established, the procedures shall:

1. Be reported to the entities within a county affected by the procedures and reported to the attorney general.

2. Be designed so that custodial agencies and prosecutors within a county receive notice of the victim's request or waiver of the victim's preconviction rights at the same time that an adult suspect is arrested.

3. Be designed so that prosecutors within a county receive notice of the victim's request or waiver of the victim's preconviction rights, if there is no arrest, at the same time that the case is otherwise presented to the prosecutor for review.

4. Provide that the notice to affected entities of a victim's request or waiver of the victim's preconviction rights includes information that affords the affected entity the ability to contact the victim.

5. Be supported by use of brochures, forms or other written materials that are developed by the law enforcement agencies within a county and reviewed by the attorney general pursuant to section 13-4417, subsection B.

F. If a suspect has not been arrested at the time of contact with the victim pursuant to subsection A of this section, the law enforcement agency that is responsible for investigating the offense shall notify the victim of the arrest of a suspect at the earliest opportunity after the arrest and of the time, place and date for the initial appearance.

Sec. 2. Section 13-4439, Arizona Revised Statutes, is amended to read:

13-4439. Right to leave work; scheduled proceedings; counseling; employment rights; nondiscrimination; confidentiality; definition

A. An employer who has fifty or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of that employer, shall allow an employee who is a victim of a crime to leave work to:

1. Exercise the employee's right to be present at a proceeding pursuant to sections 13-4414, 13-4420, 13-4421, 13-4422, 13-4423, 13-4426, 13-4427 and 13-4436.

2. OBTAIN OR ATTEMPT TO OBTAIN AN ORDER OF PROTECTION, AN INJUNCTION AGAINST HARASSMENT OR ANY OTHER INJUNCTIVE RELIEF TO HELP ENSURE THE HEALTH, SAFETY OR WELFARE OF THE VICTIM OR THE VICTIM'S CHILD.

B. An employer may not dismiss an employee who is a victim of a crime because the employee exercises the right to leave work pursuant to subsection A of this section.

C. An employer is not required to compensate an employee who is a victim of a crime when the employee leaves work pursuant to subsection A of this section.

D. If an employee leaves work pursuant to subsection A of this section, the employee may elect to use or an employer may require the employee to use the employee's accrued paid vacation, personal leave or sick leave.

E. An employee who is a victim of a crime shall not lose seniority or precedence while absent from employment pursuant to subsection A of this section.

F. Before an employee may leave work pursuant to subsection A of this section, the employee shall do all of the following:

1. Provide the employer with a copy of the form provided to the employee by the law enforcement agency pursuant to section 13-4405, subsection A, ~~or a copy of~~ the information the law enforcement agency provides to the employee pursuant to section 13-4405, subsection E, A COURT ORDER THE EMPLOYEE IS SUBJECT TO OR ANY OTHER PROPER DOCUMENTATION.

2. If applicable, give the employer a copy of the notice of each scheduled proceeding that is provided to the victim by the agency that is responsible for providing notice to the victim.

G. It is unlawful for an employer or an employer's agent to refuse to hire or employ, to bar or to discharge from employment or to discriminate against an individual in compensation or other terms, conditions or

1 privileges of employment because the individual ~~leaves~~ EXERCISES THE RIGHT TO
2 LEAVE work pursuant to subsection A of this section.
3 H. Employers shall keep confidential records regarding the employee's
4 leave pursuant to this section.
5 I. An employer may limit the leave provided under this section if the
6 employee's leave creates an undue hardship to the employer's business.
7 J. The prosecutor shall inform the victim of the victim's rights
8 pursuant to this section. A victim may notify the prosecutor if exercising
9 the victim's right to leave under this section would create an undue hardship
10 for the victim's employer. The prosecutor shall communicate the notice to
11 the court during the scheduling of proceedings where the victim has the right
12 to be present. The court shall continue to take the victim's schedule into
13 consideration when scheduling a proceeding pursuant to subsection A of this
14 section.
15 K. For THE purposes of this section, "undue hardship" means a
16 significant difficulty and expense to a business and includes the
17 consideration of the size of the employer's business and the employer's
18 critical need of the employee.

APPROVED BY THE GOVERNOR MAY 11, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 11, 2007.