

VICTIMS' RIGHTS BRIEF

For Arizona's Justice System Administrators, Practitioners, and Advocates

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JUSTICE FOR ALL ACT OF 2004

Rights for victims of crime have had a long and arduous battle to get where they are and there remains vast ground to cover. While Arizona continues to blaze trails regarding victims' rights, the Federal level is now paving its own way for victims. In 1982, President Reagan appointed the Task Force on Victims of Crime, which led to the passing of the first federal law for crime victims, the Victim Witness Protection Act of 1982. This federal law was the first attempt to outline specific rights that federal crime victims should be offered. Sporadically, over the years, victims of crime have been granted an increasing number of rights within the Federal criminal process. It was not until 1994 when President Clinton signed the Violent Crime Control and Law Enforcement Act did the country see more definitive and comprehensive legislation on federal victims' rights.

Since 1996, both houses of Congress, with bipartisan support, have attempted to pass a Federal Victims' Rights Constitutional Amendment to no avail. These efforts continued until 2003 when the Senate Judiciary Committee passed the Federal Victims' Rights Constitutional Amendment. However, the House failed to take action. In 2004, after failing to approve the Federal Constitutional Amendment, US Congress passed the H.R. 5107, the Justice for All Act of 2004. In general, it strengthens the rights of federal crime victims and provides enforcement and remedies when there is failure to comply. "We have succeeded in getting 33 states to adopt victim rights amendments," said Roberta Roper, President of the Maryland Crime Victim Resource Center and mother of murder victim, Stephanie Roper, "but few have enacted the enforcement mechanisms of this law. To us, the 'great laboratory of the states' continues to be a disappointment in not keeping its promises to crime victims. Now we can see if the Federal criminal justice system can be the laboratory we need to make victim rights a universally-honored standard."

This month's Brief is dedicated to the victim specific provisions within the Act. For a look at the text in full access <http://thomas.loc.gov/cgi-bin/query/D?c108:5:./temp/~c108ypf7qJ::>

TITLE I- Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims' Rights Act.

Section 102. Crime Victims' Rights:

Enhances the rights afforded to victims of Federal crimes, including but not limited to:

- The right to be reasonably protected from the accuser
- The right to be notified of public hearings related to the case in a timely and reasonable fashion
- The right to be heard
- The reasonable right to confer with the attorney for the Government
- The right to restitution
- The right to proceedings free of unreasonable delay
- The right to be treated with dignity, fairness, and respect

Government employees shall make best efforts to ensure that victims are notified of and accorded these rights. The victim shall be advised by the prosecutor of their right to seek the advice of an attorney with respect to the aforementioned rights. An enforcement provision is a key part of the new act. If a victim feels that his or her rights are being violated, they can request an immediate review by the appropriate Appeals Court. **A failure to afford a right shall not provide grounds for a new trial, and may only be used to re-open and plea, or sentence in limited circumstances.**

Section 103. Increased Resources for Enforcement of Crime Victims' Rights:

Authorizes grant funds assisting State and local authorities in implementing and enforcing crime victims' rights laws, by amending The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.). This allows agencies to further develop, establish, and maintain programs for the enforcement of crime victims' rights.

The increase in resources also provides grants for the development and implementation of state-of-the-art systems for victim notification of important dates and developments relating to the criminal proceedings in a timely and efficient manner.

Please Note: A special thanks to Marc Tetzlaff with the United States Attorney's Office in Arizona and Roberta Roper for their assistance with the information provided in this article.

OVS Announces:

The Office of Victim Services is proud to announce the launching of the Victims' Rights Online Complaint Form. Accessible through our website at www.azag.gov/victim_rights/ the form allows individuals yet one more opportunity to have statute violations addressed. We have also added an e-mail address, victimrights@azag.gov to assist agencies and victims alike the opportunity to pose questions, concerns, etc. to the Victims' Rights Enforcement Officer.

Advanced Victims' Rights Training Announcement:

The 2006 Advanced Victims' Rights training will be starting January 26th in Phoenix. We will be looking at case law, legislative update as well a panel discussion on Restitution aimed at promoting interagency collaboration with a focus on problem-solving and local issues. Other Advanced trainings are scheduled in Yuma, Tempe, Prescott and Tucson. There is no fee for the training but prior registration is required. For more information please contact Crystal Reidy at OVSTraining@azag.gov



The Victims' Rights Brief is published by the Arizona Attorney General's Office of Victim Services, which remains wholly responsible for its content. The goal in generating the Brief is to promote justice and healing for crime victims by sharing information and fostering sensitivity within the justice system. Questions regarding content can be directed to Mel Burton at (602) 542-8409. To learn more about victims' rights via the internet, email us at victimrights@azag.gov or visit us at www.azag.gov