

Urgent Notice to Victim Service Providers

United States District Court Rules A.R.S. § 13-4433(B) Unconstitutional

Effective 11/02/2022

Please Be Aware:

On November 2, 2022, the United States District Court for the District of Arizona (USDC), issued a judgment that ruled A.R.S. § 13-4433(B) violates the First Amendment of the United States Constitution. This statute required defense attorneys or someone working on their behalf to only initiate contact with crime victims through the prosecutor's office.

Immediate Changes:

The ruling means that defense attorneys or someone working on their behalf may initiate contact with victims directly, unless that victim is represented by legal counsel. Defense attorneys and their team no longer have to go through the prosecutor's office to initiate contact with the victim.

Please Note:

1. The defense attorney and those working on their behalf still must continue to communicate requests for victim interviews, depositions, or other discovery to the prosecutor, not the victim.
2. The defendant cannot make direct contact with the victim.
3. The victim still retains all rights as noted in the Arizona Constitution Article II, § 2.1(A)(5), Arizona Rule of Criminal Procedure, Rule 39(b)(12)(13)(14) and A.R.S. § 13-4433 with the exception of (B).

Clarification:

Initiating contact with the victim and requesting an interview are two distinct acts. The defense team's contact with the victim should not be an interview request.

Remember!

Do not disclose a victim's identifying and/or locating information to a defense attorney or the defense team. While defense may now initiate contact with the victim, pursuant to A.R.S. § 13-4434, victims' right to privacy still stands.

Action:

Consult with your legal advisor to ensure staff is aware of this ruling. We recommend revising your notification letters to include notice to the victim that they may be contacted by the defense.

Links:

Arizona Attorneys for Criminal Justice et al. vs. Doug Ducey, et al. [Findings of Fact and Conclusion of Law](#) No. CV-17-01422-PHX-SPL

Arizona Attorneys for Criminal Justice et al. vs. Doug Ducey, et al. [Order](#) No. CV-17-01422-PHX-SPL