

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 1102

By: Osburn of the House

and

Daniels of the Senate

7
8
9
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to crime victims; amending 21 O.S.
12 2011, Sections 142A-1, as amended by Section 1,
13 Chapter 258, O.S.L. 2014 and 142A-2, as amended by
14 Section 1, Chapter 380, O.S.L. 2017 (21 O.S. Supp.
15 2018, Sections 142A-1 and 142A-2), which relate to
16 the Oklahoma Victim's Rights Act; clarifying scope of
17 certain definition; expanding list of rights for
18 crime victims to include notification requirements
19 and participation in certain proceedings; directing
20 law enforcement officers to provide written copy of
21 constitutional and statutory rights; directing the
22 Attorney General to prepare and post a sample
23 notification card listing victims' rights on the
24 website of the Attorney General; authorizing law
enforcement agencies to download the sample
notification card or prepare another form for use;
allowing crime victims to refuse certain interviews;
providing an exception; directing district attorneys
to inform crime victims of certain information
relating to juvenile offenders; allowing crime
victims to assert and have enforced rights enumerated
in the Oklahoma Victim's Rights Act; and providing an
effective date.

1 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

2 SECTION 1. AMENDATORY 21 O.S. 2011, Section 142A-1, as
3 amended by Section 1, Chapter 258, O.S.L. 2014 (21 O.S. Supp. 2018,
4 Section 142A-1), is amended to read as follows:

5 Section 142A-1. For purposes of the Oklahoma Victim's Rights
6 Act:

7 1. "Crime victim" or "victim" means any person against whom a
8 crime or delinquent act was committed or a person directly and
9 proximately harmed by the commission of a crime or delinquent act,
10 except homicide, in which case the victim may be a surviving family
11 member including a stepbrother, stepsister or stepparent, or the
12 estate when there are no surviving family members other than the
13 defendant, and who, as a direct result of the crime, suffers injury,
14 loss of earnings, out-of-pocket expenses, or loss or damage to
15 property, and who is entitled to restitution from an offender
16 pursuant to an order of restitution imposed by a sentencing court
17 under the laws of this state. The term "victim" does not include
18 the accused or a person whom the court finds would not act in the
19 best interests of a person who is deceased or incompetent, a minor
20 or an incapacitated victim;

21 2. "Injury" means any physical, mental, or emotional harm
22 caused by the conduct of an offender and includes the expenses
23 incurred for medical, psychiatric, psychological, or generally
24 accepted remedial treatment of the actual bodily or mental harm,

1 including pregnancy and death, directly resulting from a crime and
2 aggravation of existing physical injuries, if additional losses can
3 be attributed to the direct result of the crime;

4 3. "Loss of earnings" means the deprivation of earned income or
5 of the ability to earn previous levels of income as a direct result
6 of a crime and the loss of the cash equivalent of Social Security,
7 railroad retirement, pension plan, retirement plan, disability,
8 veteran's retirement, court-ordered child support or court-ordered
9 spousal support, where the payment is the primary source of the
10 victim's income, and where the victim is deprived of the money as a
11 direct result of the crime;

12 4. "Members of the immediate family" means the spouse, a child
13 by birth or adoption, a stepchild, a parent by birth or adoption, a
14 stepparent, a grandparent, a grandchild, a sibling, or a stepsibling
15 of each victim;

16 5. "Out-of-pocket loss" means the unreimbursed and
17 nonreimbursable expenses or indebtedness incurred for medical care,
18 nonmedical care, or other services necessary for the treatment of
19 the actual bodily or mental harm, including pregnancy and funeral
20 expenses, directly resulting from the crime and aggravation of
21 existing physical injuries, if additional losses can be attributed
22 directly to the crime; the unreimbursed and nonreimbursable expenses
23 for damage to real and personal property as a direct result of the
24 crime, and unreimbursed and nonreimbursable economic losses incurred

1 as a consequence of participation in prosecution and proceedings
2 related to the crime;

3 6. "Property" means any real or personal property;

4 7. "Restitution" means the return of property to the crime
5 victim or payments in cash or the equivalent thereof, and payment in
6 cash or the equivalent thereof as reparation for injury, loss of
7 earnings, and out-of-pocket loss ordered by the court in the
8 disposition of a criminal proceeding;

9 8. "Victim impact statements" means information about the
10 financial, emotional, psychological, and physical effects of a
11 violent crime on each victim and members of their immediate family,
12 or person designated by the victim or by family members of the
13 victim and includes information about the victim, circumstances
14 surrounding the crime, the manner in which the crime was
15 perpetrated, and the opinion of the victim of a recommended
16 sentence; and

17 9. "Violent crime" means any crime listed in paragraph 2 of
18 Section 571 of Title 57 of the Oklahoma Statutes or any attempt,
19 conspiracy or solicitation to commit any such crime or the crime of
20 negligent homicide pursuant to Section 11-903 of Title 47 of the
21 Oklahoma Statutes or the crime of causing great bodily injury while
22 driving under the influence of intoxicating substance pursuant to
23 Section 11-904 of Title 47 of the Oklahoma Statutes.

24

1 SECTION 2. AMENDATORY 21 O.S. 2011, Section 142A-2, as
2 amended by Section 1, Chapter 380, O.S.L. 2017 (21 O.S. Supp. 2018,
3 Section 142A-2), is amended to read as follows:

4 Section 142A-2. A. The office of the district attorney's
5 ~~office attorney~~ shall inform the victims and witnesses of crimes of
6 their rights under the Oklahoma Victim's Rights Act, which shall
7 include the following rights:

8 1. ~~To~~ Upon request, to be notified and to be present at all
9 proceedings involving the criminal or delinquent conduct, to be
10 heard in any proceeding involving release, plea, sentencing,
11 disposition, parole and any proceeding during which a right of the
12 victim is implicated and to be notified that a court proceeding to
13 which a victim or witness has been subpoenaed will or will not go on
14 as scheduled, in order to save the person an unnecessary trip to
15 court;

16 2. To be treated with fairness and respect for the safety,
17 dignity and privacy of the victim, to receive protection from harm
18 and threats of harm arising out of the cooperation of the person
19 with law enforcement and prosecution efforts, ~~and~~ to be provided
20 with information as to the level of protection available and how to
21 access protection and, upon request, to be notified of any release
22 or escape of an accused;

23 3. To be informed of financial assistance and other social
24 services available as a result of being a witness or a victim,

1 including information on how to apply for the assistance and
2 services;

3 4. To be informed of the procedure to be followed in order to
4 apply for and receive any witness fee to which the victim or witness
5 is entitled;

6 5. To be informed of the procedure to be followed in order to
7 apply for and receive any restitution to which the victim is
8 entitled;

9 6. To be provided, whenever possible, a secure waiting area
10 during court proceedings that does not require close proximity to
11 defendants and families and friends of defendants;

12 7. To have any stolen or other personal property expeditiously
13 returned by law enforcement agencies when no longer needed as
14 evidence. If feasible, all such property, except weapons, currency,
15 contraband, property subject to evidentiary analysis and property
16 the ownership of which is disputed, shall be returned to the person;

17 8. To be provided with appropriate employer intercession
18 services to ensure that employers of victims and witnesses will
19 cooperate with the criminal justice process in order to minimize the
20 loss of pay and other benefits of the employee resulting from court
21 appearances;

22 9. To have the family members of all homicide victims afforded
23 all of the services under this section, whether or not the person is
24 to be a witness in any criminal proceeding;

1 10. To be informed of any plea bargain negotiations and, upon
2 request, to confer with the attorney for the state;

3 11. To have victim impact statements filed with the judgment
4 and sentence;

5 12. To be informed if a sentence is overturned, remanded for a
6 new trial or otherwise modified by the Oklahoma Court of Criminal
7 Appeals;

8 13. To be informed in writing of all constitutional and
9 statutory rights. Upon initial contact with a victim, a municipal,
10 county or state law enforcement officer shall provide the victim
11 with a written copy of the constitutional and statutory rights of
12 the victim unless, in the judgment of the law enforcement officer
13 making the initial contact, the circumstances of the criminal
14 offense or delinquent act and condition of the victim indicates that
15 the victim, family of the victim or dependents of the victim will
16 not be able to understand the significance of the constitutional and
17 statutory rights. If a written copy of the constitutional and
18 statutory rights is not provided upon initial contact with the
19 victim, a written copy of the rights shall be provided on the next
20 contact with the victim by a law enforcement officer with the same
21 law enforcement agency no later than twenty-four (24) hours after
22 the initial contact. The Attorney General shall prepare and place
23 on the official website of the Attorney General a sample
24 notification card listing all constitutional and statutory

1 provisions relative to the rights of victims. The card shall be
2 suitable for law enforcement agencies to download for the purpose of
3 providing the cards to victims in printed form. Law enforcement
4 agencies may use the form prepared by the Attorney General or may
5 prepare and use any other written notification form they see fit as
6 long as all rights under the Oklahoma Victim's Rights Act are
7 included;

8 14. To be informed that when any family member is required to
9 be a witness by a subpoena from the defense, there must be a showing
10 that the witness can provide relevant testimony as to the guilt or
11 innocence of the defendant before the witness may be excluded from
12 the proceeding by invoking the rule to remove potential witnesses
13 and to refuse an interview or other request made by the accused or
14 any person acting on behalf of the accused, other than a refusal to
15 appear if subpoenaed by defense counsel;

16 15. To be informed that the Oklahoma Constitution allows, upon
17 the recommendation of the Pardon and Parole Board and the approval
18 of the Governor, the commutation of any sentence, including a
19 sentence of life without parole;

20 16. To receive written notification of how to access victim
21 rights information from the interviewing officer or investigating
22 detective; ~~and~~

23 17. To a speedy disposition of the charges free from
24 unwarranted delay caused by or at the behest of the defendant or

1 minor. In determining a date for any criminal trial or other
2 important criminal or juvenile justice hearing, the court shall
3 consider the interests of the victim of a crime to a speedy
4 resolution of the charges under the same standards that govern the
5 right to a speedy trial for a defendant or a minor. In ruling on
6 any motion presented on behalf of a defendant or minor to continue a
7 previously established trial or other important criminal or juvenile
8 justice hearing, the court shall inquire into the circumstances
9 requiring the delay and consider the interests of the victim of a
10 crime to a speedy resolution of the case. If a continuance is
11 granted, the court shall enter into the record the specific reason
12 for the continuance and the procedures that have been taken to avoid
13 further delays; and

14 18. To any other rights enumerated in Section 34 of Article II
15 of the Oklahoma Constitution.

16 B. The office of the district attorney's office ~~may~~ attorney
17 shall inform the crime victim of an offense committed by a juvenile
18 of the name and address of the juvenile found to have committed the
19 crime, and shall notify the crime victim ~~of any offense listed in~~
20 ~~Section 2-5-101 of Title 10A of the Oklahoma Statutes~~ of all court
21 hearings involving that particular juvenile act. If the victim is
22 not available, the office of the district attorney's office attorney
23 shall notify an adult relative of the victim of said hearings.

24

1 C. The office of the district attorney's office attorney shall
2 inform victims of violent crimes and members of the immediate family
3 of such victims of their rights under Sections 142A-8 and 142A-9 of
4 this title and Section 332.2 of Title 57 of the Oklahoma Statutes.

5 D. In any felony case involving a violent crime or a sex
6 offense, the office of the district attorney's office attorney shall
7 inform the victim, as soon as practicable, or an adult member of the
8 immediate family of the victim if the victim is deceased,
9 incapacitated, or incompetent, of the progress of pretrial
10 proceedings which could substantially delay the prosecution of the
11 case.

12 E. The office of the district attorney's office attorney shall
13 inform the crime victim that he or she has the right to utilize the
14 automated notification system provided by the designated Oklahoma
15 victim notification service provider for purposes of receiving
16 information regarding the location of the defendant following an
17 arrest, during a prosecution of the criminal case, during a sentence
18 to probation or confinement, and when there is any release or escape
19 of the defendant from confinement.

20 F. The victim, the attorney for the victim or other lawful
21 representative, or the attorney for the state upon request of the
22 victim may assert in any trial or appellate court or before any
23 other authority with jurisdiction over the case and have enforced
24 all of the rights enumerated in this section and any other right

1 afforded to the victim by law. The court or other authority shall
2 act promptly on such a request. The rights afforded victims under
3 the Oklahoma Victim's Rights Act shall be protected in a manner no
4 less vigorous than the rights afforded the accused.

5 SECTION 3. This act shall become effective November 1, 2019.

6

7 57-1-8903 GRS 05/08/19

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24