

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1532

By: Voskuhl

COMMITTEE SUBSTITUTE

An Act relating to children; amending 10 O.S. 1991, Section 1111, as amended by Section 24, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1992, Section 1111), which relates to hearings in the juvenile court; requiring the notification of certain persons of certain juvenile hearings; amending 19 O.S. 1991, Section 215.33, as amended by Section 1, Chapter 136, O.S.L. 1992 (19 O.S. Supp. 1992, Section 215.33), which relates to victim-witness coordinators; requiring victim-witness coordinators to make certain notifications of certain juvenile hearings; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 1111, as amended by Section 24, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1992, Section 1111), is amended to read as follows:

Section 1111. A. All cases of children shall be heard separately from the trial of cases against adults. The adjudicative hearings shall be conducted according to the rules of evidence, and may be adjourned from time to time.

1. Except as provided by paragraph 2 of this subsection, the hearings shall be private unless specifically ordered by the judge to be conducted in public, but persons having a direct interest in the case shall be admitted. Any victim or relative of a victim of a juvenile criminal act shall be notified of all court hearings involving that particular juvenile criminal act as provided by Section 2 of this act. Stenographic notes or other transcript of the hearings shall be kept as in other cases, but they shall not be open to inspection except by order of the court or as otherwise provided by law.

2. Hearings related to the second or subsequent delinquency adjudication of a child shall be public proceedings. The adjudications relied upon to determine whether a hearing is a public proceeding pursuant to this paragraph shall not have arisen out of the same transaction or occurrence or series of events closely related in time and location. Upon its own motion or the motion of any of the parties to the hearing and for good cause shown, the court may order specific testimony or evidence to be heard in private. For the purposes of this paragraph, "good cause" shall mean a showing that it would be substantially harmful to the mental or physical well-being of the child if such testimony or evidence were presented at a public hearing.

B. The child may remain silent as a matter of right in delinquency hearings and in need of supervision hearings, and before he is interrogated he shall be so advised. A child who is determined to be competent to testify shall not refuse to be a witness in a hearing to determine whether or not said child is deprived, unless the privilege against self-incrimination is invoked. The testimony of said child may be given as provided by Section 1147 or 1148 of this title or as otherwise authorized by law for the protection of child witnesses.

C. A decision determining a child to come within the purview of this chapter must be based on sworn testimony and the child must have the opportunity for cross-examination unless the facts are stipulated. Where a child is alleged to be delinquent and the facts are stipulated, the judge must ascertain from the child if he agrees with the stipulation and if he understands the consequences of stipulating the facts.

SECTION 2. AMENDATORY 19 O.S. 1991, Section 215.33, as amended by Section 1, Chapter 136, O.S.L. 1992 (19 O.S. Supp. 1992, Section 215.33), is amended to read as follows:

Section 215.33 A. The district attorney's office shall inform as far as practical that victims and witnesses of crimes have the following services subject to the discretion of the district attorney with the consent in writing of the presiding judge of the judicial district:

1. To be notified that a court proceeding to which they have been subpoenaed will not go on as scheduled, in order to save the person an unnecessary trip to court;

2. To receive protection from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts, and to be provided with information as to the level of protection available;

3. To be informed of financial assistance and other social services available as a result of being a witness or a victim of a crime, including information on how to apply for the assistance and services;

4. To be informed of the procedure to be followed in order to apply for and receive any witness fee to which they are entitled;

5. To be provided, whenever possible, a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families and friends of defendants;

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

7. To be provided with appropriate employer intercession services to ensure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances; and

8. To have the family members of all homicide victims afforded all of the services under this section, whether or not they are witnesses in any criminal proceedings.

B. Victim-witness coordinators may inform the victim of a crime committed by a juvenile of the name and address of the juvenile found to have committed the crime, and shall notify the victim of a crime listed in Section 1104.2 of this title of all court hearings involving that particular juvenile act. If the

victim is not available, the victim-witness coordinator shall notify an adult relative of the victim of said hearings.

C. Victim-witness coordinators shall inform victims of violent crimes, as defined in Section 7 of this act, and members of the immediate family of such victims of their rights under Sections 8 and 9 of this act and Section 332.2 of Title 57 of the Oklahoma Statutes.

D. In any felony case involving a violent crime or a sex offense, the victim-witness coordinator shall inform the victim, as soon as practicable, or an adult member of the immediate family of the victim if the victim is deceased, incapacitated, or incompetent, of the progress of pretrial proceedings which could substantially delay the prosecution of the case.

E. All victim-witness coordinators appointed to perform the services specified in subsection A of this section shall complete a minimum of fifteen (15) hours in-service training annually. Said training shall be conducted pursuant to the direction of the District Attorneys Council and the Crime Victims Compensation Board.

SECTION 3. This act shall become effective September 1, 1993.

44-1-6511

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