STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

2ND CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 451

By: Douglass, Herbert and Williams (Penny) of the Senate

and

Bryant (John), Breckinridge, Dunlap, Hamilton (Jeff), Monks, Pope, Reese, Roach, Smith (David), Thornbrugh, Vaughn (Ray), Weaver, Weese and Worthen of the House

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to victims rights and criminal procedures; amending 19 O.S. 1991, Sections 215.33 and 215.39, as amended by Sections 1 and 2, Chapter 136, O.S.L. 1992 (19 O.S. Supp. 1992, Sections 215.33 and 215.39), which relate to victims and witness services; amending 21 O.S. 1991, Sections 142.3, as amended by Section 3, Chapter 136, O.S.L. 1992, 142.5, 142.9, 142.10, 142.13, 142.18, 142.20, as amended by Section 1, Chapter 348, O.S.L. 1992 and 701.10a (21 O.S. Supp. 1992, Sections 142.3 and 142.20), which relate to definitions, power of Crime Victim's Compensation Board, mental and physical examinations, criteria for awards, payment of awards, assessments and Sexual Assault Examination Fund; amending 22 O.S. 1991, Sections 40.2, 40.3, 60.2 and 60.3, as amended by Sections 2 and 3, Chapter 42, O.S.L. 1992, Sections 7 and 8, Chapter 136, O.S.L. 1992, Section 991a, as last amended by Section 3 of Enrolled Senate Bill No. 1 of the 1st Session of the 44th Oklahoma Legislature (22 O.S. Supp. 1992, Sections 60.2, 60.3, 984 and 984.1), which relate to domestic abuse, victims and witness services, definitions, victim impact statement, disclosure of certain information, and sentencing powers of the court; amending 31 O.S. 1991, Section 1.1, which relates to property exempt from execution, attachment or garnishment process; amending 57 O.S. 1991, Sections 332.2, as last amended by Section 1 of Enrolled Senate Bill No. 456 of the 1st Session of the 44th Oklahoma Legislature, and 332.8, as amended by Section 6, Chapter 136, O.S.L. 1992 (57 O.S. Supp. 1992, Section 332.8), which relate to meetings of pardon and parole board, and conditions for parole; modifying sentencing options in certain criminal cases; creating the Victim's Rights Act; providing short title; providing for award of reasonable attorneys fees and other costs in certain civil actions; authorizing court to reduce or limit certain exception; adding certain modifications to definition; adding

definition; authorizing certain awards be handled administratively; granting right of appeal; authorizing certain destruction of records; authorizing use of mental health advisory panel; setting certain compensation limits; reducing the time for reconsideration of decision; removing certain criteria for lump sum awards; authorizing garnishment for child support; requiring municipal courts of record to assess certain victim compensation assessment in certain cases; authorizing certain percentage as administrative costs; directing payments quarterly; modifying definitions; authorizing certain transfer of funds from Crime Victims Compensation Fund to Sexual Assault Examination Fund; removing district attorney discretion; adding information which must be disseminated; conforming statutory references; providing for multiple victim impact statements; providing for right of personal appearance of certain persons at sentencing proceeding; providing for notification to multiple victims and multiple representatives; modifying required statement to certain victims; providing for certain emergency temporary protective orders and requiring certain forms and procedures; authorizing the filing and approval of emergency temporary orders of protection under certain circumstances; providing for procedures; establishing certain limitations; making certain action of the Pardon and Parole Board voidable upon certain condition; requiring certain statements be presented to the jury; restricting certain victim information from release by the Department of Corrections; repealing 21 O.S. 1991, Section 142.14, which relates to advancement on awards; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. 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~~ the victims and witnesses of crimes ~~have~~ of 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;

9. To be informed of any plea bargain and to have victim impact statements filed with the judgment and sentence; and

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

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.

C. Victim-witness coordinators shall inform victims of violent crimes, as defined in Section ~~7~~ 984 of ~~this act~~ Title 22 of the Oklahoma Statutes, and members of the immediate family of

such victims of their rights under Sections ~~8~~ 984.1 and ~~9~~ 984.2 of ~~this act~~ Title 22 of the Oklahoma Statutes 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 2. AMENDATORY 19 O.S. 1991, Section 215.39, as amended by Section 2, Chapter 136, O.S.L. 1992 (19 O.S. Supp. 1992, Section 215.39), is amended to read as follows:

Section 215.39 A. Upon the arrest, conviction and sentencing of any defendant to ~~a term of incarceration in~~ the custody of the Department of Corrections, the district attorney of the county in which the crime was committed shall prepare a written narrative report describing the commission of the offense and any factors which might enhance or diminish the gravity of the offender's conduct.

B. The report shall be provided to the Department of Corrections and the Pardon and Parole Board, together with the judgment and sentence in the case and any victim impact ~~statement~~ statements presented to the court in the case.

C. The form to be used for this report shall be developed and distributed by the District Attorneys Council.

D. The provisions of this section shall not apply to offenders sentenced to terms of incarceration of two (2) years or less.

E. No allegations or recitations of alleged facts contained in any narrative submitted pursuant to the requirements of this

section shall give rise to any cause of action by the defendant against the submitting agency unless the defendant shall first object to such allegation or recitation in writing, with notice to the submitting agency. The submitting agency shall be given thirty (30) days following such notice to withdraw or amend any such allegation or recitation objected to. Nothing contained herein shall be construed as creating a cause of action.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 142A of Title 21, unless there is created a duplication in numbering, reads as follows:

Sections 3 and 4 of this act shall be known and may be cited as the "Victim's Rights Act".

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 142B of Title 21, unless there is created a duplication in numbering, reads as follows:

In any civil action for damages by a victim of a crime against the offender, the court may award a victim who prevails in said civil action reasonable attorney's fees and other costs of litigation. The court granting judgment in such a civil action may reduce or limit the hardship exemption from garnishment provided in Section 1.1 of Title 31 of the Oklahoma Statutes, when such action would be in the interests of justice.

SECTION 5. AMENDATORY 21 O.S. 1991, Section 142.3, as amended by Section 3, Chapter 136, O.S.L. 1992 (21 O.S. Supp. 1992, Section 142.3), is amended to read as follows:

Section 142.3 As used in the Oklahoma Crime Victims Compensation Act<u>, Section 142.1 et seq. of this title</u>:

1. "Allowance expense" means charges incurred for needed products, services and accommodations, including, but not limited to, medical care, rehabilitation, rehabilitative occupational training and other remedial treatment and care. It also includes a total charge not in excess of Two Thousand Five Hundred Dollars ($2,500.00) for expenses related to funeral, cremation or burial;

2. "Board" means the Crime Victims Compensation Board created by Section 142.4 of this title;

3. "Claimant" means any of the following persons applying for compensation under this act:

a. a victim,

b. a dependent of a victim who has died because of criminally injurious conduct, or

c. a person authorized to act on behalf of any of the persons enumerated in subparagraphs a and b of this paragraph;

4. "Collateral source" means a source of benefits or advantages for economic loss for which the claimant would otherwise be eligible to receive compensation under this act, and which the claimant has received, or which is readily available to the claimant, from any one or more of the following:

a. the offender,

b. the government of the United States or any agency thereof, in the form of benefits, such as social security, medicare and medicaid, a state or any of its political subdivisions or an instrumentality or two or more states, unless the law providing for the benefits or advantages makes them excessive or secondary to benefits under this act,

c. state-required temporary nonoccupational disability insurance,

d. workers' compensation,

e. wage continuation programs of any employer,

f. proceeds of a contract of insurance payable to the claimant for loss which the victim sustained because of the criminally injurious conduct, ~~or~~

g. a contract providing prepaid hospital and other health care services or benefits for disability,

h. a contract providing prepaid burial expenses or benefits, or

i. concerning payment of burial expenses, a contract for life insurance payable to the claimant in excess of Twenty Thousand Dollars ($20,000.00);

5. "Criminally injurious conduct" means an act which occurs or is attempted in this state, or against a resident of this state in a state that does not have an eligible crime victims compensation program as such term is defined in the federal Victims of Crime Act of 1984, Public Law 98-473, that results in ~~personal~~ bodily injury, threat of bodily injury or death to a victim which:

a. ~~is~~ may be punishable by fine, imprisonment or death, or

b. if the act is committed by a child, ~~results~~ could result in such child being adjudicated a delinquent child.

Such term shall not include acts arising out of the negligent maintenance or use of a motor vehicle unless the vehicle was operated or driven by the offender while under the influence of alcohol or any other intoxicating substance or, unless the vehicle was operated or driven by the offender with the intent to injure or kill the victim or in a manner imminently dangerous to another person and evincing a depraved mind, although without any premeditated design to injure or effect the death of any particular person;

6. "Dependent" means a natural person wholly or partially dependent upon the victim for care or support, and includes a child of the victim born after the death of the victim where the death occurred as a result of criminally injurious conduct;

7. "Economic loss of a dependent" means loss after death of the victim of contributions of things of economic value to the dependent, not including services which would have been received from the victim if he or she had not suffered the fatal injury~~, less expenses of the dependent avoided by reason of death of the victim~~;

8. "Economic loss of a victim due to incarceration of the offender" means loss of economic support which was provided to the victim prior to incarceration of the offender, less any collateral sources;

9. "Replacement services loss of dependent" means the loss reasonably incurred by dependents after death of the victim in obtaining ordinary and necessary services in lieu of those the deceased victim would have performed for their benefit had the deceased victim not suffered the fatal injury, less expenses of the dependent avoided by reason of death of the victim and not subtracted in calculating the economic loss of the dependent;

~~9.~~ 10. "Economic loss" means monetary detriment consisting only of allowable expense, work loss, replacement services loss, economic loss of a victim due to incarceration of the offender, and, if injury causes death, economic loss and replacement services loss of a dependent, but shall not include noneconomic loss;

~~10.~~ 11. "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment and nonpecuniary damage;

~~11.~~ 12. "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the victim would have performed, not for income, but for the benefit of self or family, if the victim had not been injured or died;

~~12.~~ 13. "Traffic offense" means violation of a law relating to the operation of vehicles, but shall not mean negligent homicide due to operation of a motor vehicle, reckless driving, tampering with or damaging a motor vehicle, failure of a driver of a motor vehicle involved in an accident resulting in death or personal injury to stop at the scene of the accident, leaving the scene of an accident resulting in death or personal injury, operating or being in actual physical control of a motor vehicle while intoxicated or impaired due to alcohol or other intoxicating substance, or combination thereof, or operating a motor vehicle with a blood alcohol content in excess of ten-hundredths (0.10);

~~13.~~ 14. "Work loss" means loss of income from work the victim would have performed if such person had not been injured or died, reduced by any income from substitute work actually performed by the victim or by income the victim would have earned in available

appropriate substitute work that he or she was capable of performing but unreasonably failed to undertake; and

~~14.~~ 15. "Victim" means a person who suffers personal injury or death as a result of criminally injurious conduct.

SECTION 6. AMENDATORY 21 O.S. 1991, Section 142.5, is amended to read as follows:

Section 142.5 A. The Crime Victims Compensation Board shall award compensation for economic loss arising from criminally injurious conduct if satisfied by a preponderance of the evidence that the requirements for compensation have been met. The Administrator of the Crime Victims Compensation Board shall determine initial victims' claims and any victim's claim under Two Thousand Five Hundred Dollars ($2,500.00). The Board may delegate any other victim's claim to the Administrator of the Crime Victims Compensation Board at their discretion. The claimant shall have a right of appeal to the Board for any claim in dispute.

B. The Board shall hear and determine all matters relating to claims for compensation, and shall be able to reinvestigate or reopen claims without regard to statutes of limitation. However, claims that have been inactive for a period of more than three (3) years from the date of the last action by the Board shall be deemed closed and any further action forever barred. Claim files may be destroyed after a claim is closed. Destruction of such files may begin immediately after November 1, 1990, for claims that have remained inactive for more than three (3) years from the date of the last action by the Board. Claims which have been declined may be destroyed after nine (9) months, following the last Board action, provided the claimant has not notified the Board of any intentions to request reconsideration of the claim. Destruction of such files may begin on or after July 1, 1993.

C. The Board shall have the power to subpoena witnesses, compel their attendance, require the production of records and other evidence, administer oaths or affirmations, conduct hearings and receive relevant evidence.

D. The Board shall be provided such office, support, staff and secretarial services as necessary by the District Attorneys Council.

SECTION 7. AMENDATORY 21 O.S. 1991, Section 142.9, is amended to read as follows:

Section 142.9 A. Any person filing a claim under the provisions of this act shall be deemed to have waived any physician-patient privilege as to communications or records relevant to an issue of the physical, mental or emotional conditions of the claimant.

B. If the mental, physical or emotional condition of a claimant is material to a claim, the Board upon good cause shown may order the claimant to submit to a mental or physical examination and may order an autopsy of a deceased victim. The order shall specify the time, place, manner, conditions and scope of the examination or autopsy and the person by whom it is to be made. The order shall also require the person to file with the Board a detailed written report of the examination or autopsy. The report shall set out the findings of the person making the report, including results of all tests made, diagnoses, prognoses and other conclusions and reports of earlier examinations of the same conditions.

C. The Board shall furnish a copy of the report examined. If the victim is deceased, the Board, on request, shall furnish a copy of the report to the claimant.

D. The Board may require the claimant to supply any additional medical or psychological reports available relating to the injury or death for which compensation is claimed.

<u>E. In certain cases wherein mental health expenses are being claimed, the Board and Administrator may request assistance from a panel of professionals in the mental health field. The panel of professionals may only act in an advisory capacity to the Board.</u>

<u>F. The Board shall have the authority to set limits of compensation on any medical or mental health treatment, and require that providers of medical or mental health treatments be licensed prior to compensating for said treatment.</u>

SECTION 8. AMENDATORY 21 O.S. 1991, Section 142.10, is amended to read as follows:

Section 142.10 A. Compensation shall not be awarded:

1. Unless the claim has been filed with the Board within one (1) year after the injury or death upon which the claim is based. The Board may, at its discretion, waive this requirement, if the Board finds there was good cause for failure to file the claim within one (1) year, but in no event shall the filing of a claim be permitted after two (2) years from the date of the injury or death upon which the claim is based. The good cause exception shall be permitted only for injury or death occurring on or after November 1, 1989. If the victim is mentally handicapped or is a child under eighteen (18) years of age, the Board may use the date the criminal incident was disclosed to a responsible adult, when establishing whether or not the claim was timely filed;

2. To a claimant who was the offender, or an accomplice of the offender;

3. To another person if the award would unjustly benefit the offender or accomplice; or

4. Unless the criminally injurious conduct resulting in injury or death was reported to a law enforcement officer within seventy-two (72) hours after its occurrence or the Board finds there was good cause for the failure to report within that time.

B. Compensation otherwise payable to a claimant shall be diminished to the extent:

1. That the economic loss is recouped from collateral sources; or

2. Of the degree of responsibility for the cause of the injury or death attributable to the victim as determined by the Board.

C. The Board, upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies, may deny, withdraw or reduce an award of compensation.

D. The Board, on its own motion or on request of the claimant, may reconsider a decision granting or denying an award or determining its amount. The motion or request to reconsider a

decision shall be made within ~~three (3) years~~ six (6) months from the date of the last action by the Board on the claim at issue. An order on reconsideration of an award shall not require a refund of amounts previously paid, unless the award was obtained by fraud. The right of reconsideration does not affect the finality of a Board decision for the purpose of judicial review. On claims which are denied by the Board, reconsideration may only be granted within six (6) months of the last Board action.

SECTION 9. AMENDATORY 21 O.S. 1991, Section 142.13, is amended to read as follows:

Section 142.13 A. Compensation for work loss, replacement services loss, dependent's economic loss and dependent's replacement service loss may not exceed Two Hundred Dollars ($200.00) per week.

B. Compensation payable to a victim and to all other claimants sustaining economic loss because of injury to or death of that victim may not exceed Ten Thousand Dollars ($10,000.00) in the aggregate.

C. The Board may provide for the payment to a claimant in a lump sum or in installments. At the request of the claimant, the Board may convert future economic loss, other than allowable expense, to a lump sum~~, but only upon a finding by the Board of either of the following:~~

~~1. That the award in a lump sum will promote the interests of the claimant; or~~

~~2. That the present value of all future economic loss, other than allowable expense, does not exceed One Thousand Dollars ($1,000.00)~~.

D. An award payable in a lump sum or installments for ~~future economic~~ loss of support may be made only for a period as to which the Board can reasonably determine ~~future economic~~ loss of support. An award payable in installments for future economic loss may be modified by the Board upon its findings that a material and substantial change of circumstances has occurred.

E. An award shall not be subject to execution, attachment, garnishment or other process, except for child support and except

that an award for allowable expense shall not be exempt from a claim of a creditor to the extent that such creditor has provided products, services or accommodations, the costs of which are included in the award.

F. An assignment by the claimant to any future award under the provisions of this act is unenforceable, except:

1. An assignment of any award for work loss to assure payment of court ordered alimony, maintenance or child support; or

2. An assignment of any award for allowable expense to the extent that the benefits are for the cost of products, services or accommodations necessitated by the injury or death on which the claim is based and are provided or to be provided by the assignee.

SECTION 10. AMENDATORY 21 O.S. 1991, Section 142.18, is amended to read as follows:

Section 142.18 A. In addition to the imposition of any costs, penalties or fines imposed pursuant to law, any person convicted of, pleading guilty to or agreeing to a deferred judgment procedure under the provisions of Section 991c of Title 22 of the Oklahoma Statutes for a felony involving criminally injurious conduct shall be ordered to pay a victim compensation assessment of at least Thirty Dollars ($30.00), but not to exceed Ten Thousand Dollars ($10,000.00), for each crime for which he was convicted or for which he agreed to a deferred judgment procedure. In imposing this penalty, the court shall consider factors such as the severity of the crime, the prior criminal record, and the ability of the defendant to pay, as well as the economic impact of the victim compensation assessment on the dependents of the defendant.

B. In addition to the imposition of any costs, penalties or fines imposed pursuant to law, any person convicted of, pleading guilty to or agreeing to a deferred judgment procedure under the provisions of Section 991c of Title 22 of the Oklahoma Statutes for a felony or misdemeanor offense, not including traffic offenses and not including misdemeanor offenses of the Oklahoma Wildlife Conservation Code or statutes relating to water safety, not described in subsection A of this section, the court shall

levy a victim compensation assessment of at least Twenty-five Dollars ($25.00), but not to exceed One Thousand Dollars ($1,000.00) for each felony and at least Ten Dollars ($10.00), but not to exceed Three Hundred Dollars ($300.00) for each misdemeanor upon every fine, penalty, and forfeiture imposed and collected. When a cash bond is posted for any offense included in this subsection, the bond shall also include a sufficient amount to cover the minimum amount for victim compensation assessment.

C. The victim compensation assessment levied by the court pursuant to Section 1116 of Title 10 of the Oklahoma Statutes shall not exceed Two Thousand Dollars ($2,000.00) for each criminally injurious act committed on a victim by the delinquent child.

D. All monies collected pursuant to this section shall be forwarded monthly by the court clerk to the Victims Compensation Revolving Fund.

E. In any municipal court of record in which the defendant is convicted of a crime involving violence, the threat of violence, or sexual assault, the court shall levy and collect a victims compensation assessment of Twenty-five Dollars ($25.00). The municipal court clerk collecting said assessment is authorized to deduct ten percent (10%) of the amount collected from said Twenty-five Dollars ($25.00) for administrative costs. In any municipal court of record in which the defendant is convicted of driving under the influence of alcohol or other intoxicating substance, or both alcohol and other intoxicating substance, the court shall levy and collect a victims compensation assessment of Fifteen Dollars ($15.00). The municipal court clerk collecting said assessment is authorized to deduct ten percent (10%) of the amount collected from said Fifteen Dollars ($15.00) for administrative costs. All victims compensation assessments collected by the municipal court clerk shall be forwarded to the Crime Victims Compensation Fund on a quarterly basis.

SECTION 11. AMENDATORY 21 O.S. 1991, Section 142.20, as amended by Section 1, Chapter 348, O.S.L. 1992 (21 O.S. Supp. 1992, Section 142.20), is amended to read as follows:

Section 142.20 A. A Sexual Assault Examination Fund shall be established for the purpose of providing to a victim of a sexual assault a medical examination by a qualified licensed health care professional for the procurement of evidence to aid in the investigation and prosecution of a sexual assault offense and to provide to the victim medications as directed by said health care professional. Pursuant to this subsection, medications provided to the victim by said health care professional shall only be provided to said victim on a one-time basis for the immediate trauma and medical examination of the victim.

B. As used in this section:

1. "Sexual assault" means:

a. Rape, or rape by instrumentation, as defined in Sections 1111, 1111.1 and 1114 of this title, or

b. Forcible sodomy, as defined in Section 888 of this title; and

2. "Qualified licensed health care professional" means a physician, registered nurse, or other licensed health care professional qualified by training and experience~~, as determined by the Crime Victims Compensation Board,~~ to perform sexual assault examinations.

C. The Crime Victims Compensation Board is authorized to pay for this examination and the medications directed by the qualified licensed health care professional upon application submitted by the victim of a sexual assault and approved by the district attorney who has jurisdiction over the prosecution of the sexual assault offense.

D. The Crime Victims Compensation Board shall establish the procedures for disbursement of the Sexual Assault Examination Fund, but in no event shall the Crime Victims Compensation Board pay an amount to exceed:

1. One Hundred Fifty Dollars ($150.00) for a sexual assault examination; and

2. Twenty-five Dollars ($25.00) for medications which are related to the sexual assault and directed and deemed necessary by said health care professional.

Such payments shall not exceed the amounts specified by this subsection regardless of the amount of any individual bills comprising the claim. Payments shall be made only upon claims submitted by the victim and approved by the district attorney.

E. Effective July 1, 1993, the District Attorneys Council is hereby authorized to transfer up to One Hundred Fifty Thousand Dollars ($150,000.00) from the Crime Victims Compensation Fund to the Sexual Assault Examination Fund for the payment of sexual assault forensic examinations and medications, pursuant to this section.

SECTION 12. AMENDATORY 21 O.S. 1991, Section 701.10a, is amended to read as follows:

Section 701.10a Notwithstanding subsection A of Section 701.10 of ~~Title 21 of the Oklahoma Statutes~~ this title, which requires that the same jury sit in the sentencing phase of a capital murder trial, the following shall apply:

1. Upon any appeal by the defendant where the sentence is of death, the appellate court, if it finds prejudicial error in the sentencing proceeding only, may set aside the sentence of death and remand the case to the trial court in the jurisdiction in which the defendant was originally sentenced. No error in the sentencing proceeding shall result in the reversal of the conviction for a capital felony. When a capital case is remanded after vacation of a death sentence, the prosecutor may:

a. move the trial court to impose ~~a~~ any sentence ~~of life imprisonment or life imprisonment without parole, one of~~ authorized by law at the time of the commission of the crime, which the trial court shall impose after a non-jury sentencing proceeding, provided, the original sentencing proceeding was conducted before the court or the original sentencing proceeding was conducted before a jury and both the defendant and the state waive jury sentencing after remand; or

b. move the trial court to impanel a new sentencing jury~~, and the sentencing jury~~ who shall determine

~~whether the defendant should be sentenced to life imprisonment, life imprisonment without parole or death~~ the sentence of the defendant, which may be any sentence authorized by law at the time of the commission of the crime, provided, the original sentencing proceeding was conducted before a jury;

2. If the prosecutor elects to utilize the procedure provided in paragraph b of subsection 1 of this section, the trial court shall impanel a new jury for the purpose of conducting new sentencing proceedings;

3. Resentencing proceedings shall be governed by the provisions of Sections 701.10, 701.11 and 701.12 of ~~Title 21 of the Oklahoma Statutes~~ this title;

4. All exhibits and a transcript of all testimony and other evidence properly admitted in the prior trial and sentencing shall be admissible in the new sentencing proceeding; additional relevant evidence may be admitted including testimony of witnesses who testified at the previous trial;

5. The provisions of this section are procedural and shall apply retroactively to any defendant sentenced to death;

6. This section shall not be construed to amend the provisions of Section 701.10 of ~~Title 21 of the Oklahoma Statutes~~ this title, requiring the same jury to sit in both the guilt and sentencing phases of the original trial.

SECTION 13. AMENDATORY 22 O.S. 1991, Section 40.2, is amended to read as follows:

Section 40.2 Upon the preliminary investigation of any crime involving domestic abuse, it shall be the duty of the first peace officer who interviews the victim of the domestic abuse to inform the victim of the twenty-four-hour statewide telephone communication service established by Section ~~5~~ 3-314 of ~~this act~~ Title 43A of the Oklahoma Statutes and to give notice to the victim of certain rights. The notice shall consist of handing such victim the following statement:

"As a victim of domestic abuse, you have certain rights. These rights are as follows:

1. The right to request that charges be pressed against your assailant;

2. The right to request protection from any harm or threat of harm arising out of your cooperation with law enforcement and prosecution efforts as far as facilities are available and to be provided with information on the level of protection available; ~~and~~

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

4. The right to file a petition for a protective order or, when the domestic abuse occurs when the court is not open for business, to request an emergency temporary protective order."

SECTION 14. AMENDATORY 22 O.S. 1991, Section 40.3, is amended to read as follows:

Section 40.3 A. A peace officer shall not discourage a victim of rape, forcible sodomy or domestic abuse from pressing charges against the assailant of the victim.

B. A peace officer may arrest without a warrant a person anywhere, including his place of residence, if the peace officer has probable cause to believe the person within the preceding four (4) hours has committed an act of domestic abuse as defined by Section 60.1 of this title, although the assault did not take place in the presence of the peace officer. A peace officer may not arrest a person pursuant to this section without first observing a recent physical injury to, or an impairment of the physical condition of, the alleged victim.

C. When an arrest has been made pursuant to subsection B of this section and the court is not open for business, the victim of domestic abuse may request a petition for an emergency temporary order of protection. The peace officer making the preliminary investigation shall:

1. Provide the victim with a petition for an emergency temporary order of protection and, if necessary, assist the victim in completing the petition form. The petition shall be in

substantially the same form as provided by Section 60.2 of this title for a petition for protective order;

2. Immediately notify, by telephone or otherwise, a judge of the district court of the request for an emergency temporary order of protection and describe the circumstances. The judge shall inform the peace officer of his decision to approve or disapprove the emergency temporary order;

3. Inform the victim whether the judge has approved or disapproved an emergency temporary order. If an emergency temporary order has been approved, the officer shall provide the victim with a copy of the petition and a statement signed by the officer that the judge has approved the emergency temporary order of protection and notify said victim that the emergency temporary order shall be effective only until the close of business on the next day that the court is open for business;

4. Notify the person subject to the emergency temporary protection order of the issuance and conditions of the order. Notification pursuant to this paragraph may be made personally by the officer or through telephone communication. A copy of the petition and the statement of the officer attesting to the order of the judge shall be made available to said person; and

5. File a copy of the petition and the statement of the officer with the district court of the county immediately upon the opening of the court on the next day the court is open for business.

D. The forms utilized by law enforcement agencies in carrying out the provisions of this section may be substantially similar to those used under Section 60.2 of Title 22 of the Oklahoma Statutes.

SECTION 15. AMENDATORY 22 O.S. 1991, Section 60.2, as amended by Section 2, Chapter 42, O.S.L. 1992 (22 O.S. Supp. 1992, Section 60.2), is amended to read as follows:

Section 60.2 A. A victim of domestic abuse, a victim of stalking, a victim of harassment, any adult or emancipated minor household member on behalf of any other family or household member who is a minor or incompetent, or any minor age sixteen (16) or

seventeen (17) years may seek relief under the provisions of this act.

1. Such person may seek relief by filing a petition for protective order with the district court in either the county in which the victim resides or the county in which the defendant resides.

2. When the abuse occurs when the court is not open for business, such person may request an emergency temporary order of protection as provided by Section 40.3 of this title.

B. The petition forms shall be provided by the clerk of the court and shall be in substantially the following form:

IN THE DISTRICT COURT IN AND FOR _____ COUNTY

STATE OF OKLAHOMA

_____	)	
Plaintiff	)	
	)	
vs.	)	Case No._____
	)	
_____	)	
Defendant	)	

PETITION FOR PROTECTIVE ORDER

Plaintiff, being sworn, states:

1. (Check one or more)

/___/ The defendant caused or attempted to cause serious physical harm to _____.

/___/ The defendant threatened _____ with imminent serious physical harm.

/___/ The defendant has stalked or harassed _____.

2. The incident causing the filing of this petition occurred on or about _____.

(date)

(Describe what happened:)

_____

_____

_____

_____

_____

_____

_____

3. The victim and the defendant are related as follows: (check one)

/___/ married

/___/ divorced

/___/ parent and child

/___/ persons related by blood

/___/ persons related by marriage

/___/ present spouse of an ex-spouse

/___/ persons living in the same household

/___/ persons formerly living in the same household

/___/ biological parents of the same child

/___/ not related

4. (Answer this question only if the plaintiff is filing on behalf of someone else, minor or incompetent)
The plaintiff and the victim are related as follows:

/___/ married

/___/ divorced

/___/ parent and child

/___/ persons related by blood

/___/ persons related by marriage

/___/ present spouse of an ex-spouse

/___/ persons living in the same household

/___/ persons formerly living in the same household

/___/ biological parents of the same child

5. (Check A or B)

(A) /___/ The victim is in immediate and present danger of abuse from

the defendant and an emergency ex parte order is necessary to protect the victim from serious harm. The plaintiff requests the following relief in the emergency ex parte order: (check one or more)

/___/ order the defendant not to abuse or injure the victim.

/___/ order the defendant not to visit, assault, molest or otherwise interfere with the victim.

/___/ order the defendant not to threaten the victim.

/___/ order the defendant to cease stalking the victim.

/___/ order the defendant to cease harassment of the victim.

/___/ order the defendant to leave the residence located at _____ on or before _____.

/___/ _____
(describe other relief that plaintiff requests)

(B) /___/ The plaintiff does not request an emergency ex parte order.

6. Plaintiff requests the following order to be made by the court following notice to the defendant and a hearing: (check one or more)

/___/ order the defendant not to abuse or injure the victim.

/___/ order the defendant not to visit, assault, molest or otherwise interfere with the victim.

/___/ order the defendant not to threaten the victim.

/___/ order the defendant to cease stalking the victim.

/___/ order the defendant to cease harassment of the victim.

/___/ order the defendant to leave the residence located at _____ on or before _____.

/___/ _____

(describe other relief that plaintiff requests)

/___/ order the defendant to pay attorney fees of the plaintiff in the sum of _____ on or before _____.

/___/ order the defendant to pay the court costs of this action in the sum of _____ on or before _____.

7. /___/ Victim is a resident of the county wherein this petition is filed.

/___/ Defendant is a resident of the county wherein this petition is filed.

8. Plaintiff has stated the truth, the whole truth and nothing but the truth in this petition.

_____

Plaintiff

Witness my hand and seal,

affixed on the ___ day of _____, 19__.

_____

Court Clerk, Deputy Court Clerk,

or Notary Public

C. No filing fee shall be charged the plaintiff at the time the petition is filed. The court may assess court costs and filing fees to either party at the hearing on the petition.

D. The plaintiff shall prepare the petition as set forth above or, at the request of the plaintiff, the clerk of the court or the victim-witness coordinator shall prepare or assist the plaintiff in preparing the same.

SECTION 16. AMENDATORY 22 O.S. 1991, Section 60.3, as amended by Section 3, Chapter 42, O.S.L. 1992 (22 O.S. Supp. 1992, Section 60.3), is amended to read as follows:

Section 60.3 A. If a plaintiff requests an emergency ex parte order pursuant to Section 60.2 of this title, the court shall hold an ex parte hearing on the same day the petition is filed. The court may, for good cause shown at the hearing, issue any emergency ex parte order that it finds necessary to protect the victim from immediate and present danger of domestic abuse,

stalking, or harassment. The emergency ex parte order shall be in effect until after the full hearing is conducted. An emergency ex parte order authorized by this section may include the following:

1. An order to the defendant not to abuse or injure the victim;

2. An order to the defendant not to visit, assault, molest, harass or otherwise interfere with the victim;

3. An order to the defendant not to threaten the victim;

4. An order to the defendant not to stalk the victim;

5. An order to the defendant not to harass the victim; or

6. An order to the defendant to leave the residence.

B. If a plaintiff requests an emergency temporary ex parte order of protection as provided by Section 40.3 of this title, the judge who is notified of the request by a peace officer may issue such order verbally to the officer or in writing when there is reasonable cause to believe that the order is necessary to protect the victim from immediate and present danger of domestic abuse. When the order is issued verbally the judge shall direct the officer to complete and sign a statement attesting to the order. The emergency temporary ex parte order shall be in effect until the close of business on the next day the court is open for business after the order is issued.

SECTION 17. AMENDATORY Section 7, Chapter 136, O.S.L. 1992 (22 O.S. Supp. 1992, Section 984), is amended to read as follows:

Section 984. As used in this act:

1. "Victim impact ~~statement~~ statements" means information about the financial, emotional, psychological, and physical effects of a violent crime on ~~a victim or member~~ each victim and members of ~~the~~ their immediate family, or person designated by the victim or by family members of the victim and includes information about the victim, circumstances surrounding the crime, the manner in which the crime was perpetrated, and the victim's opinion of a recommended sentence;

2. "~~Member~~ Members of the immediate family" means the spouse, a child by birth or adoption, a stepchild, a parent, or a sibling of ~~the~~ each victim; and

3. "Violent crime" means any crime listed in paragraph 5 of Section 571 of Title 57 of the Oklahoma Statutes or any attempt, conspiracy or solicitation to commit any such crime.

SECTION 18. AMENDATORY Section 8, Chapter 136, O.S.L. 1992 (22 O.S. Supp. 1992, Section 984.1), is amended to read as follows:

Section 984.1 A. ~~A~~ Each victim, or ~~a member~~ members of the immediate family of ~~the~~ each victim or person designated by the victim or by family members of the victim, may present a written victim impact statement or~~, at the court's option,~~ appear personally at the sentence proceeding and present the ~~statement~~ statements orally. Provided, however, if a victim or any member of the immediate family or person designated by the victim or by family members of a victim wishes to appear personally, such person shall have the absolute right to do so.

B. If a presentence investigation report is prepared, the person preparing the report shall consult with ~~the~~ each victim or ~~member~~ members of the immediate family or a designee of members of the immediate family if the victim is deceased, incapacitated or incompetent, and include any victim impact ~~statement~~ statements in the presentence investigation report. If the individual to be consulted cannot be located or declines to cooperate, a notation to that effect shall be included.

C. The ~~court~~ judge shall make available to the parties copies of any victim impact ~~statement~~ statements.

D. In any case which is plea bargained, victim impact statements may be presented at the time of sentencing or attached to the district attorney narrative report. In determining the appropriate sentence, the court shall consider among other factors any victim impact ~~statement~~ statements if submitted to the ~~court~~ jury, or the judge in the event a jury was waived.

E. The Department of Corrections and the Pardon and Parole Board, in deciding whether to release an individual on the

Preparole Conditional Supervision Program or parole, shall consider any victim impact ~~statement~~ statements submitted to the ~~court~~ jury, or the judge in the event a jury was waived.

SECTION 19. AMENDATORY 22 O.S. 1991, Section 991a, as last amended by Section 3 of Enrolled Senate Bill No. 1 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 991a. A. Except as otherwise provided in the Elderly and Incapacitated Victims Protection Program, Section 991a-5 et seq. of this title, when a defendant is convicted of a crime and no death sentence is imposed, the court shall either:

1. Suspend the execution of sentence in whole or in part, with or without probation. The court, in addition, may order the convicted defendant at the time of sentencing or at any time during the suspended sentence to do one or more of the following:

a. to provide restitution to the victim according to a schedule of payments established by the sentencing court, together with interest upon any pecuniary sum at the rate of twelve percent (12%) per annum, if the defendant agrees to pay such restitution or, in the opinion of the court, if he is able to pay such restitution without imposing manifest hardship on the defendant or his immediate family and if the extent of the damage to the victim is determinable with reasonable certainty,

b. to reimburse any state agency for amounts paid by the state agency for hospital and medical expenses incurred by the victim or victims, as a result of the criminal act for which such person was convicted, which reimbursement shall be made directly to the state agency, with interest accruing thereon at the rate of twelve percent (12%) per annum,

c. to engage in a term of community service without compensation, according to a schedule consistent

with the employment and family responsibilities of the person convicted,

d. to pay a reasonable sum into any trust fund, established pursuant to the provisions of Sections 176 through 180.4 of Title 60 of the Oklahoma Statutes, and which provides restitution payments by convicted defendants to victims of crimes committed within the State of Oklahoma wherein such victim has incurred a financial loss,

e. to confinement in the county jail for a period not to exceed six (6) months,

f. to reimburse the court fund for amounts paid to court-appointed attorneys for representing the defendant in the case in which he is being sentenced, or

g. to repay the reward or part of the reward paid by a certified local crimestoppers program and the Oklahoma Reward System. In determining whether the defendant shall repay the reward or part of the reward, the court shall consider the ability of the defendant to make the payment, the financial hardship on the defendant to make the required payment, and the importance of the information to the prosecution of the defendant as provided by the arresting officer or the district attorney with due regard for the confidentiality of the records of the certified local crimestoppers program and the Oklahoma Reward System. The court shall assess this repayment against the defendant as a cost of prosecution. "Certified local crimestoppers program" means a crimestoppers program certified by the Office of the Attorney General pursuant to Section 991g of this title. The "Oklahoma General Reward System" means the reward program established by Section 150.18 of Title 74 of the Oklahoma Statutes;

However, any such order for restitution, community service, payment to a certified local crimestoppers program, payment to the Oklahoma Reward System, or confinement in the county jail, or a combination thereof, shall be made in conjunction with probation and shall be made a condition of the suspended sentence;

2. Impose a fine prescribed by law for the offense, with or without probation or commitment and with or without restitution or service as provided for in this section, Section 991a-4 of this title or Section 227 of Title 57 of the Oklahoma Statutes;

3. Commit such person for confinement provided for by law with or without restitution as provided for in this section;

4. In the case of nonviolent felony offenses, sentence such person to the Community Service Sentencing Program created pursuant to Section 991a-4 of this title;

5. In addition to the other sentencing powers of the court, in the case of a person convicted of operating or being in control of a motor vehicle while the person was under the influence of alcohol, other intoxicating substance, or a combination of alcohol or another intoxicating substance, or convicted of operating a motor vehicle while the ability of the person to operate such vehicle was impaired due to the consumption of alcohol, require such person:

a. to participate in an alcohol and drug substance abuse course or treatment program, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes,

b. to attend a victims impact panel program, if such a program is offered in the county where the judgment is rendered, and to pay a fee, not less than Five Dollars ($5.00) nor more than Fifteen Dollars ($15.00) as set by the governing authority of the program and approved by the court, to the program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee,

c. to both participate in the alcohol and drug substance abuse course or treatment program, pursuant to subparagraph a of this paragraph and attend a victims impact panel program, pursuant to subparagraph b of this paragraph,

d. to install an ignition interlock device, at the person's own expense, approved by the Department of Public Safety, upon every motor vehicle operated by such person and to require that a notation of this restriction be affixed to the person's driver's license at the time of reinstatement of the license. Said restriction shall remain on the driver's license for such period as the court shall determine. The restriction may be modified or removed by order of the court and notice of said order shall be given to the Department of Public Safety. Upon the expiration of the period for the restriction, the Department of Public Safety shall remove the restriction without further court order. Failure to comply with the order to install an ignition interlock device or operating any vehicle without such device during the period of restriction shall be a violation of the sentence and may be punished as deemed proper by the sentencing court, or

e. beginning January 1, 1993, to submit to electronically monitored home detention administered and supervised by the Department of Corrections, and to pay to the Department a monitoring fee, not to exceed Seventy-five Dollars ($75.00) a month, to the Department of Corrections, if in the opinion of the court the defendant has the ability to pay such fee. Any fees collected pursuant to this subparagraph shall be deposited in the Department of Corrections Revolving Fund. Any order by the court for the payment of the monitoring fee, if willfully

disobeyed, may be enforced as an indirect contempt of court;

6. In addition to the other sentencing powers of the court, in the case of a person convicted of prostitution pursuant to Section 1029 of Title 21 of the Oklahoma Statutes, require such person to receive counseling for the behavior which may have caused such person to engage in prostitution activities. Such person may be required to receive counseling in areas including but not limited to alcohol and substance abuse, sexual behavior problems, or domestic abuse or child abuse problems; or

7. In addition to the other sentencing powers of the court, in the case of a person convicted of any crime related to domestic abuse, as defined in Section 60.1 of this title, the court may require the defendant to undergo the treatment or participate in the counseling services necessary to bring about the cessation of domestic abuse against the victim. The defendant may be required to pay all or part of the cost of the treatment or counseling services.

B. When sentencing a person convicted of a crime, the court shall first consider a program of restitution for the victim, as well as imposition of a fine or incarceration of the offender. The provisions of paragraph 1 of subsection A of this section shall not apply to defendants being sentenced upon their third or subsequent to their third conviction of a felony or, beginning January 1, 1993, to defendants being sentenced for their second or subsequent felony conviction for violation of Section 11-902 of Title 47 of the Oklahoma Statutes, except as otherwise provided in this subsection. In the case of a person being sentenced for their second or subsequent felony conviction for violation of Section 11-902 of Title 47 of the Oklahoma Statutes, the court may sentence the person pursuant to the provisions of paragraph 1 of subsection A of this section if the court orders the person to submit to electronically monitored home detention administered and supervised by the Department of Corrections pursuant to subparagraph e of paragraph 5 of subsection A of this section.

C. When sentencing a person convicted of a crime, the ~~court~~ judge shall consider any victim impact ~~statement~~ statements if submitted to the ~~court~~ jury, or the judge in the event a jury is waived.

D. Probation, for purposes of subsection A of this section, is a procedure by which a defendant found guilty of a crime is released by the court subject to conditions imposed by the court and subject to the supervision of the Department of Corrections. Such supervision shall be initiated upon an order of probation from the court, and shall not exceed two (2) years. However, such supervision may be extended for a period not to exceed the expiration of the maximum term or terms of the sentence upon a determination by the Division of Probation and Parole of the Department of Corrections that the best interests of the public and the releasee will be served by an extended period of supervision.

E. The Department of Corrections, or such other agency as the court may designate, shall be responsible for the monitoring and administration of the restitution and service programs provided for by subparagraphs a, c, and d of paragraph 1 of subsection A of this section, and shall ensure that restitution payments are forwarded to the victim and that service assignments are properly performed.

F. 1. The Division of Probation and Parole of the Department of Corrections is hereby authorized, subject to funds available through appropriation by the Legislature, to contract with counties for the administration of county Community Service Sentencing Programs;

2. Any offender eligible to participate in the Program pursuant to this act shall be eligible to participate in a county Program; provided, participation in county-funded Programs shall not be limited to offenders who would otherwise be sentenced to confinement with the Department of Corrections;

3. The Division shall establish criteria and specifications for contracts with counties for such Programs. A county may apply to the Division for a contract for a county-funded Program for a

specific period of time. The Department shall be responsible for ensuring that any contracting county complies in full with specifications and requirements of the contract. The contract shall set appropriate compensation to the county for services to the Division;

4. The Division is hereby authorized to provide technical assistance to any county in establishing a Program, regardless of whether the county enters into a contract pursuant to this subsection. Technical assistance shall include appropriate staffing, development of community resources, sponsorship, supervision and any other requirements set forth in this act; and

5. The Department shall annually make a report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House on the number of such Programs, the number of participating offenders, the success rates of each Program according to criteria established by the Department and the costs of each Program.

G. As used in this section:

1. "Ignition interlock device" means a device that, without tampering or intervention by another person, would prevent the defendant from operating a motor vehicle if the defendant has a blood or breath alcohol concentration of five-hundredths (0.05) or greater.

2. "Electronically monitored home detention" means incarceration of the defendant within a specified location or locations with monitoring by means of a device approved by the Department of Corrections that detects if the person leaves the confines of any specified location.

SECTION 20. AMENDATORY 31 O.S. 1991, Section 1.1, is amended to read as follows:

Section 1.1 A. Following the issuing of an execution, attachment or garnishment process, except process to collect judgment or order for child support or maintenance of children <u>or cases in which the court has limited or reduced the application of this section pursuant to Section 4 of this act</u>, the debtor may file with the court an application requesting a hearing to exempt

from such process by reason of undue hardship that portion of his earnings from personal services necessary for the maintenance of a family supported wholly or partially by the labor of the debtor. A hearing on the application shall be set and conducted in the manner provided by Section 1172.2 of Title 12 of the Oklahoma Statutes and subsection D of Section 1174 of Title 12 of the Oklahoma Statutes.

B. In determining the existence of an undue hardship, the court should consider the family income, and expenses, and the standard of living created by the income and expenses. The court should also consider the standard of living in relationship to the minimal subsistence needs of the debtor, with comparison to the minimal subsistence standards in the community, in regard to basic shelter, food, clothing, personal property and transportation. The court should then determine if the lack of the funds sought to be exempt would be an undue hardship by creating less than a minimal subsistence level of family living. If deprivation of said earnings would create an undue hardship on the debtor and the family the debtor supports, the court may:

1. Order all or a portion of the personal wages exempt; or

2. In the case of a continuing wage garnishment pursuant to Section 1173.4 of Title 12 of the Oklahoma Statutes, modify or stay the garnishment.

SECTION 21. AMENDATORY 57 O.S. 1991, Section 332.2, as last amended by Section 1 of Enrolled Senate Bill No. 456 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 332.2 A. The Pardon and Parole Board, which shall meet only on the call of the Chairman, is authorized, if and when an application made to the Governor for a reprieve, commutation, parole, pardon, or other act of clemency is certified thereto by the Governor, to examine into the merits of said application and make recommendations to the Governor in relation thereto, said recommendation being advisory to the Governor and not binding thereon.

B. The Pardon and Parole Board shall provide a copy of their regular docket to each district attorney in this state at least twenty (20) days before such docket is considered by the board, or in the case of a supplemental, addendum or special docket, at least ten (10) days before such docket is considered by the board, and shall notify the district attorney of any recommendations for commutations or paroles no later than twenty (20) days after the docket is considered by the board.

C. The Pardon and Parole Board shall notify ~~the victim~~ all victims or victim's ~~representative~~ representatives in writing at least twenty (20) days before an inmate is considered by the board provided the board has received a request from the victim or victim's ~~representative~~ representatives for notice. The board shall provide ~~the victim~~ all victims or victim's representative with the date, time and place of the scheduled meeting and rules for attendance and providing information or input to the board regarding the inmate or the crime. If requested by the victim or victim's representative, the board shall allow the victim or victim's representative to testify at the parole hearing of the inmate for at least five (5) minutes.

D. The Pardon and Parole Board shall notify ~~the victim~~ all victims or victim's ~~representative~~ representatives in writing of the board's decision no later than twenty (20) days after the inmate is considered by the board.

E. Any notice required to be provided to the ~~victim~~ victims or the victim's ~~representative~~ representatives shall be mailed by first-class mail to the last-known address of the victim or victim's ~~representative~~ representatives. It is the responsibility of the ~~victim~~ victims or victim's ~~representative~~ representatives to provide the Pardon and Parole Board a current mailing address. The district attorney's victim-witness coordinator shall assist the ~~victim~~ victims or victim's ~~representative~~ representatives with supplying their address to the board if they wish to be notified. Upon failure of the Pardon and Parole Board to notify a victim who has requested notification and has provided a current mailing address, the final decision of the Board may be voidable,

provided, the victim who failed to receive notification requests a reconsideration hearing within thirty (30) days of the Board's recommendation for parole. The Pardon and Parole Board may reconsider previous action and may rescind a recommendation if deemed appropriate as determined by the Board.

F. For purposes of this section, "victim" shall mean ~~a person~~ all persons who ~~has~~ have suffered direct or threatened physical, emotional, or financial harm as the result of the commission or attempted commission of criminally injurious conduct, and "victim's ~~representative~~ representatives" shall mean ~~a person~~ those persons who ~~is a member~~ are members of ~~the~~ a victim's immediate family.

G. All meetings of the Pardon and Parole Board shall comply with Section 301 et seq. of Title 25 of the Oklahoma Statutes; provided that the board shall have the authority to limit the number of persons attending in support of, or in opposition to, any inmate being considered for parole and shall have the authority to exclude persons from attendance in accordance with prison security regulations and the capacity of the meeting room. Persons excluded from attending the meeting under this provision shall be informed of their right to be informed of the board's vote in accordance with Section 312 of Title 25 of the Oklahoma Statutes. Provided further, nothing in this section shall be construed to prevent any member of the press or any public official from attending any meeting of the Pardon and Parole Board, except as provided by the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes.

H. All victim information maintained by the Department of Corrections and the Pardon and Parole Board shall be confidential and shall not be released.

SECTION 22. AMENDATORY 57 O.S. 1991, Section 332.8, as amended by Section 6, Chapter 136, O.S.L. 1992 (57 O.S. Supp. 1992, Section 332.8), is amended to read as follows:

Section 332.8 No recommendations to the Governor for parole shall be made in relation to any inmate in a penal institution in the State of Oklahoma unless the Pardon and Parole Board considers

the victim impact ~~statement~~ statements if presented to the ~~court~~ jury, or the judge in the event a jury was waived, at the time of sentencing and, in every appropriate case, as a condition of parole, monetary restitution of economic loss as defined by Section 991f of Title 22 of the Oklahoma Statutes, incurred by a victim of the crime for which the inmate was imprisoned. In every case, the Pardon and Parole Board shall first consider the number of previous felony convictions and the type of criminal violations leading to any such felony convictions, and then shall consider either suitable employment or a suitable residence as a condition for release on parole. The probation and parole officer shall render every reasonable assistance to any person making application for parole, in helping to obtain suitable employment or a suitable residence.

SECTION 23. REPEALER 21 O.S. 1991, Section 142.14, is hereby repealed.

SECTION 24. Sections 13, 14, 15 and 16 of this act shall become effective September 1, 1993.

SECTION 25. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-1-1209 NP