

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)
CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 610

By: Douglass of the Senate

and

Bryant and Satterfield of
the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to victims' rights and criminal procedure; amending Section 3, Chapter 325, O.S.L. 1993 (21 O.S. Supp. 1996, Section 142A), which relates to the Victim's Rights Act; modifying statutory reference; creating certain definitions for the Victim's Rights Act; amending Section 4, Chapter 325, O.S.L. 1993 (21 O.S. Supp. 1996, Section 142B), which relates to civil actions for damages; clarifying provisions; amending 21 O.S. 1991, Section 142.3, as last amended by Section 2, Chapter 292, O.S.L. 1996 (21 O.S. Supp. 1996, Section 142.3), which relates to definitions for the Oklahoma Crime Victims Compensation Act; clarifying certain exceptions under definition of collateral source; amending 19 O.S. 1991, Section 215.33, as last amended by Section 1, Chapter 292, O.S.L. 1996 (19 O.S. Supp. 1996, Section 215.33), which relates to certain duties to inform victims; clarifying language; authorizing certain written information; requiring certain showing before invoking certain rule; amending 22 O.S. 1991, Section 991f, which relates to certain definition; modifying certain definition; making certain orders a continuing obligation and nondischargeable in bankruptcy; making certain restitution mandatory; requiring certain consideration for court ordered restitution; providing methods and manner of restitution; setting priority of victims for restitution; establishing procedure for presenting restitution claims; providing court procedures to order, amend and determine restitution; requiring the District Attorneys Council to promulgate certain restitution form; amending 57 O.S. 1991, Section 332.2, as last amended by Section 21, Chapter 325, O.S.L. 1993 (57 O.S. Supp. 1996, Section 332.2), which relates to notice to victims of parole eligibility of offender; modifying definition of immediate family; amending 22 O.S. 1991, Section 1015, as last amended by Section 1 of Enrolled Senate Bill No. 656 of the 1st Session of the 46th Oklahoma Legislature, which relates to persons who may witness an execution; clarifying language; authorizing the cabinet secretary of public safety to witness execution; providing for execution where multiple death sentences are issued; authorizing certain other persons to view execution; authorizing Department of Corrections to limit the number of witnesses within

certain limits; authorizing certain victims to view execution; adding certain definition; amending 57 O.S. 1991, Section 510.1, which relates to Oklahoma corrections; deleting and adding terms to the definition of relative; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 3, Chapter 325, O.S.L. 1993 (21 O.S. Supp. 1996, Section 142A), is amended to read as follows:

Section 142A. ~~Sections 3 and 4~~ Section 142A et seq. of this ~~act~~ title shall be known and may be cited as the "Victim's Rights Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 142A-1 of Title 21, unless there is created a duplication in numbering, reads as follows:

For purposes of the Victim's Rights Act:

1. "Crime victim" or "victim" means any person against whom a crime was committed, except homicide, in which case the victim may be a surviving family member including a stepbrother, stepsister or stepparent, or the estate when there are no surviving family members other than the defendant, and who, as a direct result of the crime, suffers injury, loss of earnings, out-of-pocket expenses, or loss or damage to property, and who is entitled to restitution from an offender pursuant to an order of restitution imposed by a sentencing court under the laws of this state;

2. "Injury" means any physical, mental, or emotional harm caused by the conduct of an offender and includes the expenses incurred for medical, psychiatric, psychological, or generally accepted remedial treatment of the actual bodily or mental harm, including pregnancy and death, directly resulting from a crime and aggravation of existing physical injuries, if additional losses can be attributed to the direct result of the crime;

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

4. "Out-of-pocket loss" means the unreimbursed and nonreimbursable expenses or indebtedness incurred for medical care, nonmedical care, or other services necessary for the treatment of the actual bodily or mental harm, including pregnancy and funeral expenses, directly resulting from the crime and aggravation of existing physical injuries, if additional losses can be attributed directly to the crime; the unreimbursed and nonreimbursable expenses for damage to real and personal property as a direct result of the crime, and unreimbursed and nonreimbursable economic losses incurred as a consequence of participation in prosecution and proceedings related to the crime;

5. "Property" means any real or personal property; and

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

SECTION 3. AMENDATORY Section 4, Chapter 325, O.S.L. 1993 (21 O.S. Supp. 1996, Section 142B), is amended to read as follows:

Section 142B. In any civil action against an offender for damages by a victim of a felony crime ~~against~~ committed by the offender, the court may award a victim who prevails in ~~said~~ the civil action reasonable attorney's fees and other costs of litigation; provided, there has been a felony conviction of the defendant for the crime which caused the damage and the claim in the civil action was an uninsured claim. The court granting judgment in ~~such~~ a civil action pursuant to the provisions of this

section may reduce or limit the hardship exemption from garnishment provided in Section 1.1 of Title 31 of the Oklahoma Statutes, when ~~such action~~ limitation or reduction would be in the interests of justice.

SECTION 4. AMENDATORY 21 O.S. 1991, Section 142.3, as last amended by Section 2, Chapter 292, O.S.L. 1996 (21 O.S. Supp. 1996, Section 142.3), is amended to read as follows:

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

1. "Allowable 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. Allowable expenses also includes a total charge not in excess of One Thousand Dollars (\$1,000.00) for counseling family members of a homicide victim;

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 the Crime Victims Compensation 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 any contract of insurance payable to the claimant for loss which the victim sustained because of the criminally injurious conduct, except:
 - (1) life insurance proceeds in an amount of Fifty Thousand Dollars (\$50,000.00) or less shall not be considered a collateral source when computing loss of support, and
 - (2) life insurance proceeds of any amount shall not be considered a collateral source for computing burial expenses,
- g. a contract providing prepaid hospital and other health care services or benefits for disability, or
- h. a contract providing prepaid burial expenses or benefits;

5. "Criminally injurious conduct" means a misdemeanor or felony 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 bodily injury, threat of bodily injury or death to a victim which:

- a. may be punishable by fine, imprisonment or death, or
- b. if the act is committed by a child, 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, but such term shall include an act of terrorism, as defined in Section 2331 of Title 18, United States Code, committed outside the United States;

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;

8. "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. "Economic loss" means monetary detriment consisting only of allowable expense, work loss, replacement services loss and, if injury causes death, economic loss and replacement services loss of a dependent, but shall not include noneconomic loss;

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

11. "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. "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. "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. "Victim" means a person who suffers personal injury or death as a result of criminally injurious conduct and shall include a resident of this state who is injured or killed by an act of terrorism committed outside of the United States.

SECTION 5. AMENDATORY 19 O.S. 1991, Section 215.33, as last amended by Section 1, Chapter 292, O.S.L. 1996 (19 O.S. Supp. 1996, Section 215.33), is amended to read as follows:

Section 215.33 A. The district attorney's office shall inform the victims and witnesses of crimes of the following ~~services~~ rights:

1. To be notified that a court proceeding to which ~~they have~~ a victim or witness has been subpoenaed will or 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 and how to access protection;

3. To be informed of financial assistance and other social services available as a result of being a witness or a crime

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~~ the victim or witness is entitled;

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

6. 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.~~ 7. 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.~~ 8. 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;

~~8.~~ 9. To have the family members of all homicide victims afforded all of the services under this section, whether or not ~~they are witnesses~~ the person is to be a witness in any criminal proceedings;

~~9.~~ 10. To be informed of any plea bargain ~~and to~~ negotiations;

~~10.~~ 11. To have victim impact statements filed with the judgment and sentence; ~~and~~

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

13. To be informed in writing of all statutory rights; and

14. To be informed that when any family member is required to be a witness by a subpoena from the defense, there must be a

showing that the witness can provide relevant testimony as to the guilt or innocence of the defendant before the witness may be excluded from the proceeding by invoking the rule to remove potential witnesses.

B. Victim-witness coordinators may inform the crime victim ~~of a crime~~ of an offense committed by a juvenile of the name and address of the juvenile found to have committed the crime, and shall notify the crime victim ~~of a crime~~ of any offense listed in Section ~~1104.2~~ 7306-1.1 of Title 10 of the Oklahoma Statutes 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 984 of Title 22 of the Oklahoma Statutes, and members of the immediate family of such victims of their rights under Sections 984.1 and 984.2 of 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 twelve (12) 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 6. AMENDATORY 22 O.S. 1991, Section 991f, is amended to read as follows:

Section 991f. A. For the purposes of ~~this act~~ any provision of Title 22 of the Oklahoma Statutes relating to criminal sentencing:

1. "~~Monetary restitution~~ Restitution" shall mean the sum to be paid by the defendant to the victim of ~~his~~ the criminal act to compensate that victim for the economic loss suffered as a direct result of the criminal act of the ~~defender~~ defendant;

2. "Victim" means any person, partnership or corporation that suffers an economic loss as a direct result of the criminal act of another person; and

3. "Economic loss" means actual economic detriment suffered by the victim consisting of medical expenses actually incurred, damage to real and personal property and any other out-of-pocket expenses reasonably incurred as the direct result of the criminal act of the defendant. No other elements of damage shall be included.

B. In all criminal prosecutions and juvenile proceedings in this state, when the court enters an order directing the offender to pay restitution to any victim for economic loss or to pay to the state any fines, fees or assessments, the order, for purposes of validity and collection, shall not be limited to the maximum term of imprisonment for which the offender could have been sentenced, nor limited to any term of probation, parole, or extension thereof, nor expire until fully satisfied. The court order for restitution, fines, fees or assessments shall remain a continuing obligation of the offender until fully satisfied, and the obligation shall not be considered a debt, nor shall the obligation be dischargeable in any bankruptcy proceeding. The court order shall continue in full force and effect with the supervision of the state until fully satisfied, and the state shall use all methods of collection authorized by law.

C. 1. Upon conviction for any crime wherein property has been stolen, converted or otherwise unlawfully obtained, or its value substantially decreased as a direct result of the crime, or wherein the crime victim suffered injury, loss of income, or out-of-pocket loss, the individuals criminally responsible shall be sentenced to make restitution in addition to the punishments prescribed by law.

2. The court shall order full restitution based upon the following considerations:

- a. the nature and amount of restitution shall be sufficient to restore the crime victim to the equivalent economic status existing prior to the losses sustained as a direct result of the crime, but shall not allow the crime victim to receive payment in excess of the losses sustained, and
- b. the amount of restitution shall be established regardless of the financial resources of the offender.

3. The court:

- a. may direct the return of property to be made as soon as practicable and make an award of restitution in the amount of the loss of value to the property itself as a direct result of the crime, including out-of-pocket expenses incurred for loss of use of the property, the cost to return the property to the victim or to restore the property to its pre-crime condition whichever may be appropriate under the circumstances,
- b. may order restitution in a lump sum or by such schedules as may be established and adjusted by the court clerk consistent with the order of the court,
- c. shall have the authority to amend or alter any order of restitution made pursuant to this section providing that the court of minor judiciary state its reasons and conclusions as a matter of record for any change or amendment to any previous order, and
- d. shall consider any pre-existing orders imposed on the defendant, including, but not limited to, orders imposed under civil and criminal proceedings.

D. If restitution to more than one person, agency or entity is set at the same time, the court shall establish the following priorities of payment:

1. The crime victim or victims; and

2. Any other government agency which has provided reimbursement to the victim as a result of the offender's criminal conduct.

E. 1. The district attorney's office shall present the crime victim's restitution claim to the court following the conviction of the offender or the restitution provisions shall be included in the written plea agreement presented to the court in which case the restitution claim shall be reviewed by the judge prior to acceptance of the plea agreement.

2. At the initiation of the prosecution of the defendant, the district attorney's office shall provide all identifiable crime victims with written and oral information explaining their rights and responsibilities established under this section.

3. The district attorney's office shall provide all crime victims, regardless of whether the crime victim makes a specific request, with an official request for restitution form to be completed and signed by the crime victim, and to include all invoices, bills, receipts, and other evidence of injury, loss of earnings and out-of-pocket loss. This form shall be filed with any victim impact statement to be included in the judgment and sentence. Every crime victim receiving the restitution claim form shall be provided assistance and direction to properly complete the form.

4. The official restitution request form shall be presented in all cases regardless of whether the case is brought to trial. In a plea bargain, the district attorney in every case where the victim has suffered economic loss, shall, as a part of the plea bargain, require that the offender pay restitution to the crime victim.

F. The crime victim shall provide all documentation and evidence of compensation or reimbursement from insurance companies or agencies of this state, any other state, or the federal government received as a direct result of the crime for injury, loss of earnings or out-of-pocket loss.

G. The court shall, upon motion by the crime victim, redact from the submitted documentation all personal information relating to the crime victim that does not directly and necessarily establish the authenticity of any document or substantiate the asserted amount of the restitution claim.

H. The unexcused failure or refusal of the crime victim to provide all or part of the requisite information prior to the sentencing, unless disclosure is deferred by the court, shall constitute a waiver of any grounds to appeal or seek future amendment or alteration of the restitution order predicated on the undisclosed available information. The court shall order the offender to submit either as part of the pre-sentence investigation or, if no pre-sentence investigation is conducted, in advance of the sentencing proceeding such information as the court may direct and finds necessary to be disclosed for the purpose of ascertaining the type and manner of restitution to be ordered.

I. The willful failure or refusal of the offender to provide all or part of the requisite information prior to the sentencing, unless disclosure is deferred by the court shall not deprive the court of the authority to set restitution or the schedule of payment. The willful failure or refusal of the offender to provide all or part of the requisite information prior to the sentencing, unless disclosure is deferred by the court, shall constitute a waiver of any grounds to appeal or seek future amendment or alteration of the restitution order predicated on the undisclosed information. The willful failure or refusal of the offender to provide all or part of the requisite information prior to sentencing, unless disclosure is deferred by the court, shall constitute an act of contempt.

J. The court shall conduct such hearings or proceedings as it deems necessary to set restitution and payment schedules at the time of sentencing or may bifurcate the sentencing and defer the hearing or proceedings relating to the imposition of restitution as justice may require. Amendments or alterations to the

restitution order may be made upon the court's own motion, petition by the crime victim or petition by the offender.

K. An offender who files a meritless or frivolous petition for amendment or alteration to the restitution order shall pay the costs of the proceeding on the petition and shall have added to the existing restitution order the additional loss of earnings and out-of-pocket loss incurred by the crime victim in responding to the petition.

L. The restitution request form shall be promulgated by the District Attorneys Council and provided to all district attorney offices.

SECTION 7. AMENDATORY 57 O.S. 1991, Section 332.2, as last amended by Section 21, Chapter 325, O.S.L. 1993 (57 O.S. Supp. 1996, Section 332.2), 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 all victims or victim's 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 representatives for notice. The board shall provide 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 all victims or victim's 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 victims or the victim's representatives shall be mailed by first-class mail to the last-known address of the victim or victim's representatives. It is the responsibility of the victims or victim's representatives to provide the Pardon and Parole Board a current mailing address. The district attorney's victim-witness coordinator shall assist the victims or victim's 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 all persons who have suffered direct or threatened physical, or emotional harm, or financial ~~harm~~ loss as the result of the commission or attempted commission of criminally injurious conduct, and "victim's representatives" shall mean those persons who are members of a victim's immediate family, including stepparents, stepbrothers, stepsisters, and stepchildren.

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, Req. No. 1706Page 15

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 8. AMENDATORY 22 O.S. 1991, Section 1015, as last amended by Section 1 of Enrolled Senate Bill No. 656 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 1015. A. A judgment of death must be executed within the walls of the ~~state prison~~ Oklahoma State Penitentiary at McAlester, Oklahoma, said prison to be designated by the court by which judgment is to be rendered.

B. The judgment of execution shall take place ~~at~~ under the ~~direction~~ authority of the ~~warden of said state prison~~ Director of the Oklahoma Department of Corrections and the warden must be present along with other necessary prison and corrections officials ~~at~~ to carry out the execution ~~and~~. The warden must invite the presence of a physician and the district attorney of the county in which the crime occurred, the judge who presided at the trial issuing the sentence of death, the chief of police of the municipality in which the crime occurred, if applicable, and the sheriff of the county wherein the conviction was had, to witness the execution; in addition, the cabinet secretary of public safety must be invited and the warden shall, at the request of the defendant, permit the presence of such ministers of the defendant's choice, not exceeding two, and any persons, relatives

or friends, not to exceed five, as the defendant may name; provided, reporters from recognized members of the news media will be admitted upon proper identification, application and approval of the warden.

C. In the event the defendant has been sentenced to death in one or more criminal proceedings in this state, or has been sentenced to death in this state and by one or more courts of competent jurisdiction in another state or pursuant to federal authority, or any combination thereof, and this state has priority to execute the defendant, the warden must invite the prosecuting attorney, the judge, and the chief law enforcement official from each jurisdiction where any death sentence has issued. The above mentioned officials shall be allowed to witness the execution or view the execution by closed circuit television as determined by the Director of the Department of Corrections.

D. A place shall be provided within the walls of the ~~state prison~~ Oklahoma State Penitentiary at McAlester so that individuals who are eighteen (18) years of age or older and who are members of the immediate family of any deceased victim of the defendant may witness the execution. The immediate family members shall be allowed to witness the execution from an area that is separate from the area to which other nonfamily member witnesses are admitted, provided, however, if there are multiple deceased victims, the Department shall not be required to provide separate areas for each family of each deceased victim. If facilities are not ~~available~~ capable or sufficient to provide all immediate family members with a direct view of the execution, the Department of Corrections may broadcast the execution by means of a closed circuit television system to ~~the~~ an area in which ~~the~~ other immediate family members ~~are~~ may be located.

~~D. No other person than those mentioned in this section can be present at the execution.~~ Immediate family members may request individuals not directly related to the deceased victim but who serve a close supporting role or professional role to the deceased victim or an immediate family member, including, but not limited to, a minister or licensed counselor. The warden in consultation

with the Director shall approve or disapprove such requests.
Provided further, the Department may set a limit on the number of
witnesses or viewers within occupancy limits.

~~E.~~ As used in this section, "members of the immediate family" means the spouse, a child by birth or adoption, a stepchild, a parent, a grandparent, a grandchild, a sibling of ~~the~~ a deceased victim, or the spouse of any immediate family member specified in this subsection.

E. Any surviving victim of the defendant who is eighteen (18) years of age or older may view the execution by closed circuit television with the approval of both the Director of the Department of Corrections and the warden. The Director and warden shall prioritize persons to view the execution, including immediate family members, surviving victims, and supporting persons, and may set a limit on the number of viewers within occupancy limits. Any surviving victim approved to view the execution of their perpetrator may have an accompanying support person as provided for members of the immediate family of a deceased victim. As used in this subsection, "surviving victim" means any person who suffered serious harm or injury due to the criminal acts of the defendant of which the defendant has been convicted in a court of competent jurisdiction.

SECTION 9. AMENDATORY 57 O.S. 1991, Section 510.1, is amended to read as follows:

Section 510.1 A. The Department of Corrections may extend the limits of the place of confinement of a committed offender at any of the state correctional facilities by authorizing such committed offender under special conditions to be away from such correctional facility but within the state. Such authority may be granted for any of the following purposes:

1. To attend the funeral of a relative;
2. To visit a critically ill relative;
3. To obtain medical, psychiatric, sociological or social services in the community; or
4. To participate in public works projects.

B. Except as provided in subsection C of this section, the Department of Corrections may extend the limits of the place of confinement of a committed offender at any of the state correctional facilities by granting the offender a pass authorizing the committed offender to be away from the correctional facility, but within the state, for any of the following purposes:

1. To contact prospective employers;
2. To secure a suitable residence for use upon release on parole or discharge;
3. To participate in work, educational and training programs in the community; or
4. For any other reasons consistent with the reintegration of a committed offender into the community, if authorized by law.

C. Offenders whose controlling, concurrent, or consecutive sentence is for a sex or incest related offense or a drug distribution or drug trafficking offense or who have a prior conviction for a sex or incest offense or a drug distribution or drug trafficking offense shall not be eligible for passes authorized by subsection B of this section at minimum security facilities. Offenders assigned to a community treatment center or a community security facility whose controlling, concurrent, or consecutive sentence is for a sex or incest related offense or a drug distribution or drug trafficking offense or who have a prior conviction for a sex or incest offense or a drug distribution or drug trafficking offense shall not be eligible for passes authorized by subsection B of this section until they are within eleven (11) months of current release date or on a parole stipulation for work release of one hundred eighty (180) days or less, except that offenders with a conviction for forcible sodomy, rape in the first degree, rape by instrumentation, or lewd or indecent act with a child shall not be eligible for passes until they are within six (6) months of current release date or in the final ninety (90) days of a parole stipulation.

D. For the purpose of this section, "relative" means the ~~committed~~ offender's father, mother, child, stepchild or adopted

child, brother, sister, current spouse, or grandparents, uncle, aunt or foster parents acting as his parents and upon acceptable documentation, any person who served a parental capacity. Any approved visit may be considered a cost of incarceration reimbursable to the Department.

E. A person away from a correctional facility, pursuant to this section, and who is classified in medium or higher security shall be accompanied by an officer or other employee of the Department.

F. A committed offender is, during his absence, to be considered as in the custody of the correctional facility and the time of such absence is to be considered as part of the term of sentence. Failure to return to the facility shall be deemed an escape and subject to such penalty as provided by law.

G. Except as provided in subsection C of this section and subject to the approval of the Department, the administrator of a county or municipal jail or correctional facility may grant leave authority to a committed offender in such jail or facility for the purposes specified in subsections A or B of this section.

SECTION 10. 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.

46-1-1706

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