STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 631 By: Douglass of the Senate

and

Bryant of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to criminal procedure; amending Section 7, Chapter 136, O.S.L. 1992, as last amended by Section 4, Chapter 410, O.S.L. 1998, Section 8, Chapter 136, O.S.L. 1992, as amended by Section 18, Chapter 325, O.S.L. 1993, and Section 9, Chapter 136, O.S.L. 1992 (22 O.S. Supp. 1998, Sections 984, 984.1 and 984.2), which relate to victim impact statements, stating application of certain definitions; requiring presentation of victim impact statement in plea bargain proceedings; deleting obsolete language; expanding type of information not to be disclosed; amending Section 3, Chapter 297, O.S.L. 1995, as amended by Section 3 of Enrolled House Bill No. 1612 of the 1st Session of the 47th Oklahoma Legislature, which relates to language to be printed on protective orders; adding statement regarding possession of firearms and ammunition by protective order defendants; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 7, Chapter 136, O.S.L. 1992, as last amended by Section 4, Chapter 410, O.S.L. 1998 (22 O.S. Supp. 1998, Section 984), is amended to read as follows:

Section 984. As used in ~~this act~~ Titles 21, 22 and 57 of the Oklahoma Statutes:

1. "Victim impact statements" means information about the financial, emotional, psychological, and physical effects of a violent crime on each victim and members of 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. “Members of the immediate family” means the spouse, a child by birth or adoption, a stepchild, a parent, or a sibling of 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 or the crime of negligent homicide pursuant to Section 11-903 of Title 47 of the Oklahoma Statutes or the crime of causing great bodily injury while driving under the influence of intoxicating substance, pursuant to Section 11-904 of Title 47 of the Oklahoma Statutes.

SECTION 2. AMENDATORY Section 8, Chapter 136, O.S.L. 1992, as amended by Section 18, Chapter 325, O.S.L. 1993 (22 O.S. Supp. 1998, Section 984.1), is amended to read as follows:

Section 984.1 A. Each victim, or members of the immediate family of each victim or person designated by the victim or by family members of the victim, may present a written victim impact statement or appear personally at the sentence proceeding and present the 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 each victim or 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 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 judge shall make available to the parties copies of any victim impact statements.

D. In any case which is plea bargained, victim impact statements ~~may~~ shall 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 statements if submitted to the 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 statements submitted to the jury, or the judge in the event a jury was waived.

SECTION 3. AMENDATORY Section 9, Chapter 136, O.S.L. 1992 (22 O.S. Supp. 1998, Section 984.2), is amended to read as follows:

Section 984.2 The court, upon the request of a victim or the district attorney, may order that the victim's address, telephone number, place of employment, or other personal information shall not be disclosed in any law enforcement record or any court document, other than the transcript of a court proceeding, if it is determined by the court to be necessary to protect the victim or immediate family of the victim from harassment or physical harm and if the court determines that the information is immaterial to the defense.

SECTION 4. AMENDATORY Section 3, Chapter 297, O.S.L. 1995, as amended by Section 3 of Enrolled House Bill No. 1612 of the 1st Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 60.11 In addition to any other provisions required by the Protection from Domestic Abuse Act, or otherwise required by law, each ex parte or final protective order issued pursuant to the

Protection from Domestic Abuse Act shall have the following statement printed in bold-faced type or in capital letters:

"THE FILING OR NONFILING OF CRIMINAL CHARGES AND THE PROSECUTION OF THE CASE SHALL NOT BE DETERMINED BY A PERSON WHO IS PROTECTED BY THIS ORDER, BUT SHALL BE DETERMINED BY THE PROSECUTOR. NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER. THIS ORDER SHALL BE IN EFFECT FOR THREE (3) YEARS UNLESS EXTENDED, MODIFIED, VACATED OR RESCINDED BY THE COURT. A VIOLATION OF THIS ORDER IS PUNISHABLE BY A FINE OF UP TO ONE THOUSAND DOLLARS ($1,000.00) OR UP TO ONE (1) YEAR IN THE COUNTY JAIL, OR BY BOTH SUCH FINE AND IMPRISONMENT. A VIOLATION OF THIS ORDER WHICH CAUSES INJURY SHALL BE PUNISHABLE BY TWENTY (20) DAYS TO ONE (1) YEAR IN THE COUNTY JAIL OR A FINE OF UP TO FIVE THOUSAND DOLLARS ($5,000.00), OR BY BOTH SUCH FINE AND IMPRISONMENT. <u>POSSESSION OF A FIREARM OR AMMUNITION BY A DEFENDANT WHILE THIS ORDER IS IN EFFECT MAY SUBJECT THE DEFENDANT TO PROSECUTION FOR A VIOLATION OF FEDERAL LAW EVEN IF THIS ORDER DOES NOT SPECIFICALLY PROHIBIT THE DEFENDANT FROM POSSESSING A FIREARM OR AMMUNITION.</u>"

SECTION 5. 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.

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