

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 539

By: Reynolds of the Senate

3 and

4 Tibbs of the House

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7
8 (criminal procedure - violent crimes - duties -
9 codification - effective date -

10 emergency)

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13 AUTHORS: Add the following House Coauthors: Nelson and Kern

14 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
15 entire bill and insert

16 "An Act relating to crime victims; amending 19 O.S.
17 2001, Section 215.33, as amended by Section 1,
18 Chapter 341, O.S.L. 2003 (19 O.S. Supp. 2008,
19 Section 215.33), which relates to victims and
20 witnesses rights; expanding scope of rights afforded
21 to victims and witnesses; stating certain duty of
law enforcement officer; providing written victim
notification; stating contents of certain
notification; defining term; providing for
codification; providing an effective date; and
declaring an emergency.

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

1 SECTION 1. AMENDATORY 19 O.S. 2001, Section 215.33, as
2 amended by Section 1, Chapter 341, O.S.L. 2003 (19 O.S. Supp. 2008,
3 Section 215.33), is amended to read as follows:

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

6 1. To be notified that a court proceeding to which a victim or
7 witness has been subpoenaed will or will not go on as scheduled, in
8 order to save the person an unnecessary trip to court;

9 2. To receive protection from harm and threats of harm arising
10 out of the ~~person's~~ cooperation of the person with law enforcement
11 and prosecution efforts, and to be provided with information as to
12 the level of protection available and how to access protection;

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

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

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

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

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

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

14 9. To have the family members of all homicide victims afforded
15 all of the services under this section, whether or not the person is
16 to be a witness in any criminal proceedings;

17 10. To be informed of any plea bargain negotiations;

18 11. To have victim impact statements filed with the judgment
19 and sentence;

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

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

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1 14. To be informed that when any family member is required to
2 be a witness by a subpoena from the defense, there must be a showing
3 that the witness can provide relevant testimony as to the guilt or
4 innocence of the defendant before the witness may be excluded from
5 the proceeding by invoking the rule to remove potential witnesses;
6 and

7 15. To be informed that the Oklahoma Constitution allows upon
8 the recommendation of the Pardon and Parole Board and the approval
9 of the Governor the commutation of any sentence, including a
10 sentence of life without parole;

11 16. To receive written notification of how to access victim
12 rights information from the interviewing officer or investigating
13 detective; and

14 17. To a speedy disposition of the charges free from
15 unwarranted delay caused by or at the behest of the defendant or
16 minor. In determining a date for any criminal trial or other
17 important criminal or juvenile justice hearing, the court shall
18 consider the interests of the victim of a crime to a speedy
19 resolution of the charges under the same standards that govern the
20 right to a speedy trial for a defendant or a minor. In ruling on
21 any motion presented on behalf of a defendant or minor to continue a
22 previously established trial or other important criminal or juvenile
23 justice hearing, the court shall inquire into the circumstances
24 requiring the delay and consider the interests of the victim of a

1 crime to a speedy resolution of the case. If a continuance is
2 granted, the court shall enter into the record the specific reason
3 for the continuance and the procedures that have been taken to avoid
4 further delays.

5 B. Victim-witness coordinators may inform the crime victim of
6 an offense committed by a juvenile of the name and address of the
7 juvenile found to have committed the crime, and shall notify the
8 crime victim of any offense listed in Section 7306-1.1 of Title 10
9 of the Oklahoma Statutes of all court hearings involving that
10 particular juvenile act. If the victim is not available, the
11 victim-witness coordinator shall notify an adult relative of the
12 victim of said hearings.

13 C. Victim-witness coordinators shall inform victims of violent
14 crimes, as defined in Section 984 of Title 22 of the Oklahoma
15 Statutes, and members of the immediate family of such victims of
16 their rights under Sections 984.1 and 984.2 of Title 22 of the
17 Oklahoma Statutes and Section 332.2 of Title 57 of the Oklahoma
18 Statutes.

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

1 E. All victim-witness coordinators appointed to perform the
2 services specified in subsection A of this section shall complete a
3 minimum of twelve (12) hours in-service training annually. Said
4 training shall be conducted pursuant to the direction of the
5 District Attorneys Council and the Crime Victims Compensation Board.

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 984.4 of Title 22, unless there
8 is created a duplication in numbering, reads as follows:

9 A. Upon the preliminary investigation of a violent crime, it
10 shall be the duty of the officer who interviews the victim of such
11 crime to inform the victim, or a responsible adult if the victim is
12 a minor child or an incompetent person, or the family member who
13 receives death notification in the case of a homicide, in writing,
14 of their rights as a crime victim. Written notification shall
15 consist of handing the victim, responsible adult, if the victim is a
16 minor child or an incompetent person, or family member receiving
17 death notification, a preprinted card or brochure that, at a
18 minimum, includes the following information:

19 1. A statement that, "As a victim of crime, you have certain
20 rights";

21 2. Telephone and address information for the local District
22 Attorney Victim-Witness Coordinator; and

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