

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2964 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Jason Nelson

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2964

By: Nelson

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to victims rights; amending 19 O.S.
9 2001, Section 215.33, as last amended by Section 113,
10 Chapter 234, O.S.L. 2009 (19 O.S. Supp. 2009, Section
11 215.33), which relates to victims and witnesses
12 rights; deleting list of rights and certain duties of
13 the district attorney and victim-witness
14 coordinators; amending 21 O.S. 2001, Sections 142A
15 and 142A-1, which relate to the Victim's Rights Act;
16 updating statutory references; modifying name of
17 certain act; adding definitions; directing district
18 attorneys and victim-witness coordinators to inform
19 victims of certain rights; requiring peace officers
20 to provide written notification of rights to victims
21 of certain crimes; providing procedures for victim
22 restitution; requiring victims to have a priority
23 interest in certain proceeds received by an offender;
24 stating victims right to participate in the Address
Confidentiality Program; declaring victims right to
wear buttons during certain criminal trial; providing
for the return of certain property used in criminal
actions or proceedings; stating victims right to
contest parole for an offender; stating guidelines
for providing written notification to victims;
directing Pardon and Parole Board to give written
notification to victims when granting a pardon or
parole; requiring designated area be provided to
victims and certain persons to witness executions in
person or by other means; defining terms; amending 22
O.S. 2001, Sections 984.1, as last amended by Section
1, Chapter 100, O.S.L. 2008 and 984.2, as amended by
Section 1, Chapter 197, O.S.L. 2006 (22 O.S. Supp.
2009, Sections 984.1 and 984.2), which relate to use
of victim impact statements and disclosure of
personal information of victims and witnesses;

1 clarifying language; repealing 22 O.S. 2001, Section
2 40.1, as last amended by Section 7, Chapter 171,
3 O.S.L. 2007 (22 O.S. Supp. 2009, Section 40.1), which
4 relates to notice of rights to certain victims;
5 repealing Section 5, Chapter 466, O.S.L. 2002 (22
6 O.S. Supp. 2009, Section 60.15), which relates to the
7 Protection from Domestic Abuse Act; repealing 22 O.S.
8 2001, Section 984, as amended by Section 2, Chapter
9 163, O.S.L. 2009 and Section 2, Chapter 165, O.S.L.
10 2009 (22 O.S. Supp. 2009, Sections 984 and 984.4),
11 which relate to definitions and notification rights
12 of certain crime victims; providing for codification;
13 providing for recodification; and providing an
14 effective date.

15
16
17
18
19
20
21
22
23
24
BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 19 O.S. 2001, Section 215.33, as
last amended by Section 113, Chapter 234, O.S.L. 2009 (19 O.S. Supp.
2009, 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 rights:~~

~~1. To be notified that a court proceeding to which 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 the cooperation of the person 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 victim;~~

1 ~~including information on how to apply for the assistance and~~
2 ~~services;~~

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

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

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

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

17 ~~8. To be provided with appropriate employer intercession~~
18 ~~services to ensure that employers of victims and witnesses will~~
19 ~~cooperate with the criminal justice process in order to minimize the~~
20 ~~loss of pay and other benefits of the employee resulting from court~~
21 ~~appearances;~~

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

1 ~~10. To be informed of any plea bargain negotiations;~~

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

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

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

8 ~~14. To be informed that when any family member is required to~~
9 ~~be a witness by a subpoena from the defense, there must be a showing~~
10 ~~that the witness can provide relevant testimony as to the guilt or~~
11 ~~innocence of the defendant before the witness may be excluded from~~
12 ~~the proceeding by invoking the rule to remove potential witnesses;~~

13 ~~15. To be informed that the Oklahoma Constitution allows upon~~
14 ~~the recommendation of the Pardon and Parole Board and the approval~~
15 ~~of the Governor the commutation of any sentence, including a~~
16 ~~sentence of life without parole;~~

17 ~~16. To receive written notification of how to access victim~~
18 ~~rights information from the interviewing officer or investigating~~
19 ~~detective; and~~

20 ~~17. To a speedy disposition of the charges free from~~
21 ~~unwarranted delay caused by or at the behest of the defendant or~~
22 ~~minor. In determining a date for any criminal trial or other~~
23 ~~important criminal or juvenile justice hearing, the court shall~~
24 ~~consider the interests of the victim of a crime to a speedy~~

1 ~~resolution of the charges under the same standards that govern the~~
2 ~~right to a speedy trial for a defendant or a minor. In ruling on~~
3 ~~any motion presented on behalf of a defendant or minor to continue a~~
4 ~~previously established trial or other important criminal or juvenile~~
5 ~~justice hearing, the court shall inquire into the circumstances~~
6 ~~requiring the delay and consider the interests of the victim of a~~
7 ~~crime to a speedy resolution of the case. If a continuance is~~
8 ~~granted, the court shall enter into the record the specific reason~~
9 ~~for the continuance and the procedures that have been taken to avoid~~
10 ~~further delays.~~

11 ~~B. Victim witness coordinators may inform the crime victim of~~
12 ~~an offense committed by a juvenile of the name and address of the~~
13 ~~juvenile found to have committed the crime, and shall notify the~~
14 ~~crime victim of any offense listed in Section 2-5-101 of Title 10A~~
15 ~~of the Oklahoma Statutes of all court hearings involving that~~
16 ~~particular juvenile act. If the victim is not available, the~~
17 ~~victim witness coordinator shall notify an adult relative of the~~
18 ~~victim of said hearings.~~

19 ~~C. Victim witness coordinators shall inform victims of violent~~
20 ~~crimes, as defined in Section 984 of Title 22 of the Oklahoma~~
21 ~~Statutes, and members of the immediate family of such victims of~~
22 ~~their rights under Sections 984.1 and 984.2 of Title 22 of the~~
23 ~~Oklahoma Statutes and Section 332.2 of Title 57 of the Oklahoma~~
24 ~~Statutes.~~

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

7 E. All victim-witness coordinators appointed to perform the
8 services specified in subsection A of Section 4 of this section act
9 shall complete a minimum of twelve (12) hours in-service training
10 annually. ~~Said~~ The training shall be conducted pursuant to the
11 direction of the District Attorneys Council and the Crime Victims
12 Compensation Board.

13 SECTION 2. AMENDATORY 21 O.S. 2001, Section 142A, is
14 amended to read as follows:

15 Section 142A. ~~Section Sections~~ Sections 142A et seq., 142A-1 and 142B of
16 this title and Sections 4 through 11 of this act shall be known and
17 may be cited as the "Oklahoma Victim's Rights Act".

18 SECTION 3. AMENDATORY 21 O.S. 2001, Section 142A-1, is
19 amended to read as follows:

20 Section 142A-1. For purposes of the Oklahoma Victim's Rights
21 Act:

22 1. "Crime victim" or "victim" means any person against whom a
23 crime was committed, except homicide, in which case the victim may
24 be a surviving family member including a stepbrother, stepsister or

1 stepparent, or the estate when there are no surviving family members
2 other than the defendant, and who, as a direct result of the crime,
3 suffers injury, loss of earnings, out-of-pocket expenses, or loss or
4 damage to property, and who is entitled to restitution from an
5 offender pursuant to an order of restitution imposed by a sentencing
6 court under the laws of this state;

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

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

22 4. "Members of the immediate family" means the spouse, a child
23 by birth or adoption, a stepchild, a parent, a grandparent, or a
24 sibling of each victim;

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

12 ~~5.~~ 6. "Property" means any real or personal property; ~~and~~

13 ~~6.~~ 7. "Restitution" means the return of property to the crime
14 victim or payments in cash or the equivalent thereof, and payment in
15 cash or the equivalent thereof as reparation for injury, loss of
16 earnings, and out-of-pocket loss ordered by the court in the
17 disposition of a criminal proceeding;

18 8. "Victim impact statements" means information about the
19 financial, emotional, psychological, and physical effects of a
20 violent crime on each victim and members of their immediate family,
21 or person designated by the victim or by family members of the
22 victim and includes information about the victim, circumstances
23 surrounding the crime, the manner in which the crime was

24

1 perpetrated, and the opinion of the victim of a recommended
2 sentence; and

3 9. "Violent crime" means any crime listed in paragraph 2 of
4 Section 571 of Title 57 of the Oklahoma Statutes or any attempt,
5 conspiracy or solicitation to commit any such crime or the crime of
6 negligent homicide pursuant to Section 11-903 of Title 47 of the
7 Oklahoma Statutes or the crime of causing great bodily injury while
8 driving under the influence of intoxicating substance pursuant to
9 Section 11-904 of Title 47 of the Oklahoma Statutes.

10 SECTION 4. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 142A-2 of Title 21, unless there
12 is created a duplication in numbering, reads as follows:

13 A. The district attorney's office shall inform the victims and
14 witnesses of crimes of the following rights:

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

18 2. To receive protection from harm and threats of harm arising
19 out of the cooperation of the person with law enforcement and
20 prosecution efforts, and to be provided with information as to the
21 level of protection available and how to access protection;

22 3. To be informed of financial assistance and other social
23 services available as a result of being a witness or a victim,
24

1 including information on how to apply for the assistance and
2 services;

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

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

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

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

17 8. To be provided with appropriate employer intercession
18 services to ensure that employers of victims and witnesses will
19 cooperate with the criminal justice process in order to minimize the
20 loss of pay and other benefits of the employee resulting from court
21 appearances;

22 9. To have the family members of all homicide victims afforded
23 all of the services under this section, whether or not the person is
24 to be a witness in any criminal proceeding;

- 1 10. To be informed of any plea bargain negotiations;
- 2 11. To have victim impact statements filed with the judgment
- 3 and sentence;
- 4 12. To be informed if a sentence is overturned, remanded for a
- 5 new trial or otherwise modified by the Oklahoma Court of Criminal
- 6 Appeals;
- 7 13. To be informed in writing of all statutory rights;
- 8 14. To be informed that when any family member is required to
- 9 be a witness by a subpoena from the defense, there must be a showing
- 10 that the witness can provide relevant testimony as to the guilt or
- 11 innocence of the defendant before the witness may be excluded from
- 12 the proceeding by invoking the rule to remove potential witnesses;
- 13 15. To be informed that the Oklahoma Constitution allows, upon
- 14 the recommendation of the Pardon and Parole Board and the approval
- 15 of the Governor, the commutation of any sentence, including a
- 16 sentence of life without parole;
- 17 16. To receive written notification of how to access victim
- 18 rights information from the interviewing officer or investigating
- 19 detective; and
- 20 17. To a speedy disposition of the charges free from
- 21 unwarranted delay caused by or at the behest of the defendant or
- 22 minor. In determining a date for any criminal trial or other
- 23 important criminal or juvenile justice hearing, the court shall
- 24 consider the interests of the victim of a crime to a speedy

1 resolution of the charges under the same standards that govern the
2 right to a speedy trial for a defendant or a minor. In ruling on
3 any motion presented on behalf of a defendant or minor to continue a
4 previously established trial or other important criminal or juvenile
5 justice hearing, the court shall inquire into the circumstances
6 requiring the delay and consider the interests of the victim of a
7 crime to a speedy resolution of the case. If a continuance is
8 granted, the court shall enter into the record the specific reason
9 for the continuance and the procedures that have been taken to avoid
10 further delays.

11 B. The district attorney's office may inform the crime victim
12 of an offense committed by a juvenile of the name and address of the
13 juvenile found to have committed the crime, and shall notify the
14 crime victim of any offense listed in Section 2-5-101 of Title 10A
15 of the Oklahoma Statutes of all court hearings involving that
16 particular juvenile act. If the victim is not available, the
17 district attorney's office shall notify an adult relative of the
18 victim of said hearings.

19 C. The district attorney's office shall inform victims of
20 violent crimes and members of the immediate family of such victims
21 of their rights under Sections 14 and 15 of this act and Section
22 332.2 of Title 57 of the Oklahoma Statutes.

23 D. In any felony case involving a violent crime or a sex
24 offense, the district attorney's office shall inform the victim, as

1 soon as practicable, or an adult member of the immediate family of
2 the victim if the victim is deceased, incapacitated, or incompetent,
3 of the progress of pretrial proceedings which could substantially
4 delay the prosecution of the case.

5 SECTION 5. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 142A-3 of Title 21, unless there
7 is created a duplication in numbering, reads as follows:

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

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

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

22 3. The website address where victims can access a full list of
23 their rights, additional information, and how to apply for crime
24 victim compensation assistance.

1 B. A victim of domestic abuse has the right to be informed by
2 the first peace officer who interviews the victim of domestic abuse
3 of the twenty-four-hour statewide telephone communication service
4 established by Section 18p-5 of Title 74 of the Oklahoma Statutes
5 and to give notice to the victim of certain rights. The notice
6 shall consist of handing such victim the following statement:

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

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

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

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

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

21 C. The victim of rape or forcible sodomy has the right to be
22 informed by the officer who interviews the victim of the rape or
23 forcible sodomy, or a responsible adult if the victim is a minor
24 child or an incompetent person, of the twenty-four-hour statewide

1 telephone communication service established by the Office of the
2 Attorney General for victims of sexual assault pursuant to Section
3 18p-5 of Title 74 of the Oklahoma Statutes and to give notice to the
4 victim or such responsible adult of certain rights of the victim.
5 The notice shall consist of handing such victim or responsible adult
6 a written statement in substantially the following form:

7 "As a victim of the crime of rape or forcible sodomy, you have
8 certain rights. These rights are as follows:

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

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

15 3. The right to be informed of financial assistance and other
16 social services available to victims, including information on how
17 to apply for the assistance and services;

18 4. The right to a free forensic medical examination; and

19 5. The right to be informed by the district attorney of other
20 victim's rights available pursuant to Section 142A-2 of Title 21 of
21 the Oklahoma Statutes."

22 SECTION 6. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 142A-4 of Title 21, unless there
24 is created a duplication in numbering, reads as follows:

1 A victim of domestic abuse, a victim of stalking, a victim of
2 harassment, a victim of rape, any adult or emancipated minor
3 household member on behalf of any other family or household member
4 who is a minor or incompetent, or any minor age sixteen (16) or
5 seventeen (17) years may seek relief under the provisions of the
6 Protection from Domestic Abuse Act. The person seeking relief shall
7 prepare the petition for a protective order or, at the request of
8 the plaintiff, the court clerk or the victim-witness coordinator,
9 victim support person, or court case manager shall prepare or assist
10 the plaintiff in preparing the petition.

11 SECTION 7. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 142A-5 of Title 21, unless there
13 is created a duplication in numbering, reads as follows:

14 The district attorney's office shall provide all victims,
15 regardless of whether the crime victim makes a specific request,
16 with an official request for restitution form to be completed and
17 signed by the crime victim, and to include all invoices, bills,
18 receipts, and other evidence of injury, loss of earnings and out-of-
19 pocket loss. The crime victim shall provide all documentation and
20 evidence of compensation or reimbursement from insurance companies
21 or agencies of this state, any other state, or the federal
22 government received as a direct result of the crime for injury, loss
23 of earnings or out-of-pocket loss. The unexcused failure or refusal
24 of the crime victim to provide all or part of the requisite

1 information prior to the sentencing, unless disclosure is deferred
2 by the court, shall constitute a waiver of any grounds to appeal or
3 seek future amendment or alteration of the restitution order
4 predicated on the undisclosed available information.

5 SECTION 8. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 142A-6 of Title 21, unless there
7 is created a duplication in numbering, reads as follows:

8 The victims and the legal representative of a victim of a crime
9 shall have a priority interest in any proceeds or profits received
10 by a district court from an offender or any other person with the
11 cooperation of the offender, who is required to forfeit any proceeds
12 or profits from any source, as a direct or indirect result of the
13 crime or sentence, or the notoriety which the crime or sentence has
14 conferred upon the offender pursuant to the provisions of Section 17
15 of Title 22 of the Oklahoma Statutes.

16 SECTION 9. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 124A-7 of Title 21, unless there
18 is created a duplication in numbering, reads as follows:

19 An adult person, a parent or guardian acting on behalf of a
20 minor, or a guardian acting on behalf of an incapacitated person, as
21 defined by Section 1-111 of Title 30 of the Oklahoma Statutes, may
22 apply to the Attorney General to have an address designated by the
23 Attorney General serve as the address of the person or the address
24 of the minor or incapacitated person pursuant to the Address

1 Confidentiality Program established in Section 60.14 of Title 22 of
2 the Oklahoma Statutes.

3 SECTION 10. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 142A-11 of Title 21, unless
5 there is created a duplication in numbering, reads as follows:

6 If the owner of an exhibit that has been introduced, filed, or
7 held in custody of the state in any criminal action or proceeding is
8 the victim of the offense for which such exhibit is held, the victim
9 may make application to the court at any time prior to the final
10 disposition of the action or proceeding for the return of the
11 exhibit.

12 SECTION 11. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 142A-12 of Title 21, unless
14 there is created a duplication in numbering, reads as follows:

15 A. Any victim or representative of a victim of a violent crime
16 as provided in paragraph 2 of Section 571 of Title 57 of the
17 Oklahoma Statutes may contest the granting of parole as provided in
18 Section 332.7 of Title 57 of the Oklahoma Statutes.

19 B. The Pardon and Parole Board shall notify all victims or
20 representatives of a victim, if requested, in writing at least
21 twenty (20) days before an inmate is considered for parole by the
22 Board. The notice shall include the date, time and place of the
23 scheduled meeting and the rules for attendance and providing
24 information. The victim or representative of the victim shall be

1 allowed at least five (5) minutes to address the Board. The Board
2 shall notify all victims or representatives of a victim of the
3 decision of the Board within twenty (20) days after the inmate is
4 considered for parole by the Board.

5 C. It is the responsibility of the victim or representative of
6 the victim to provide the Pardon and Parole Board a current mailing
7 address. The district attorney's office shall assist the victim or
8 representative of the victim with supplying the address of the
9 victim to the Board if the victim wishes to be notified. Upon
10 failure of the Pardon and Parole Board to notify a victim who has
11 requested notification and has provided a current mailing address,
12 the final decision of the Board may be voidable, provided the victim
13 who failed to receive notification requests a reconsideration
14 hearing within thirty (30) days of the recommendation by the Board
15 for parole.

16 D. If requested by the victim of a crime, the Pardon and Parole
17 Board shall provide written notification of the placement of the
18 inmate on specialized parole within the county or incorporated city
19 or town to any victim of the crime for which the inmate was
20 convicted by mailing the notification to the last-known address of
21 the victim. The Board shall not give the address of the inmate to
22 any victim of the crime for which the inmate was convicted.

23

24

1 SECTION 12. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 142A-13 of Title 21, unless
3 there is created a duplication in numbering, reads as follows:

4 A. Upon the granting of a parole by the Governor, and release
5 of the inmate to the community, the Pardon and Parole Board shall
6 provide written notification to any victim of the crime for which
7 the parolee was convicted by mailing the notification to the last-
8 known address of the victim, if such information is requested by the
9 victim. The Pardon and Parole Board shall not give the address of
10 the parolee to any victim of the crime for which the parolee was
11 convicted.

12 B. Upon the granting of a pardon by the Governor, the Pardon
13 and Parole Board shall provide written notification to any victim of
14 the crime for which the person receiving the pardon was convicted by
15 mailing the notification to the last-known address of the victim, if
16 such information is requested by the victim. The Pardon and Parole
17 Board shall not give the address of the person receiving the pardon
18 to any victim of the crime for which the person receiving the pardon
19 was convicted.

20 C. The notification shall be made on a monthly basis by the
21 tenth day of the month following the granting of the pardon or
22 parole.

23
24

1 SECTION 13. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 142A-14 of Title 21, unless
3 there is created a duplication in numbering, reads as follows:

4 A. A judgment of death must be executed at the Oklahoma State
5 Penitentiary at McAlester, Oklahoma, said prison to be designated by
6 the court by which judgment is to be rendered. A place shall be
7 provided at the Oklahoma State Penitentiary at McAlester so that
8 individuals who are eighteen (18) years of age or older and who are
9 members of the immediate family of any deceased victim of the
10 defendant may witness the execution. The immediate family members
11 shall be allowed to witness the execution from an area that is
12 separate from the area to which other nonfamily member witnesses are
13 admitted, provided, however, if there are multiple deceased victims,
14 the Department of Corrections shall not be required to provide
15 separate areas for each family of each deceased victim. If
16 facilities are not capable or sufficient to provide all immediate
17 family members with a direct view of the execution, the Department
18 may broadcast the execution by means of a closed circuit television
19 system to an area in which other immediate family members may be
20 located.

21 B. Immediate family members may request individuals not
22 directly related to the deceased victim but who serve a close
23 supporting role or professional role to the deceased victim or an
24 immediate family member, including, but not limited to, a minister

1 or licensed counselor. The warden in consultation with the Director
2 of the Department of Corrections shall approve or disapprove such
3 requests. Provided further, the Department may set a limit on the
4 number of witnesses or viewers within occupancy limits.

5 C. Any surviving victim of the defendant who is eighteen (18)
6 years of age or older may view the execution by closed circuit
7 television with the approval of both the Director of the Department
8 of Corrections and the warden. The Director and warden shall
9 prioritize persons to view the execution, including immediate family
10 members, surviving victims, and supporting persons, and may set a
11 limit on the number of viewers within occupancy limits. Any
12 surviving victim approved to view the execution of their perpetrator
13 may have an accompanying support person as provided for members of
14 the immediate family of a deceased victim.

15 D. As used in this section:

16 1. "Members of the immediate family" means the spouse, a child
17 by birth or adoption, a stepchild, a parent, a grandparent, a
18 grandchild, a sibling of a deceased victim, or the spouse of any
19 immediate family member; and

20 2. "Surviving victim" means any person who suffered serious
21 harm or injury due to the criminal acts of the defendant of which
22 the defendant has been convicted in a court of competent
23 jurisdiction.

24

1 SECTION 14. AMENDATORY 22 O.S. 2001, Section 984.1, as
2 last amended by Section 1, Chapter 100, O.S.L. 2008 (22 O.S. Supp.
3 2009, Section 984.1), is amended to read as follows:

4 Section 984.1 A. Each victim, or members of the immediate
5 family of each victim or person designated by the victim or by
6 family members of the victim, may present a written victim impact
7 statement, which may include religious invocations or references, or
8 may appear personally at the sentence proceeding and present the
9 statements orally. Provided, however, if a victim or any member of
10 the immediate family or person designated by the victim or by family
11 members of a victim wishes to appear personally, ~~such~~ the person
12 shall have the absolute right to do so. Any victim or any member of
13 the immediate family or person designated by the victim or by family
14 members of a victim who appears personally at the formal sentence
15 proceeding shall not be cross-examined by opposing counsel;
16 provided, however, such cross-examination shall not be prohibited in
17 a proceeding before a jury or a judge acting as a finder of fact. A
18 written victim impact statement introduced at a formal sentence
19 proceeding shall not be amended by any person other than the author,
20 nor shall ~~such~~ the statement be excluded in whole or in part from
21 the court record. The court shall allow the victim impact statement
22 to be read into the record.

23 B. If a presentence investigation report is prepared, the
24 person preparing the report shall consult with each victim or

1 members of the immediate family or a designee of members of the
2 immediate family if the victim is deceased, incapacitated or
3 incompetent, and include any victim impact statements in the
4 presentence investigation report. If the individual to be consulted
5 cannot be located or declines to cooperate, a notation to that
6 effect shall be included.

7 C. The judge shall make available to the parties copies of any
8 victim impact statements.

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

15 E. The Department of Corrections and the Pardon and Parole
16 Board, in deciding whether to release an individual on parole, shall
17 consider any victim impact statements submitted to the jury, or the
18 judge in the event a jury was waived.

19 SECTION 15. AMENDATORY 22 O.S. 2001, Section 984.2, as
20 amended by Section 1, Chapter 197, O.S.L. 2006 (22 O.S. Supp. 2009,
21 Section 984.2), is amended to read as follows:

22 Section 984.2 The court, upon the request of a victim, witness,
23 or the district attorney, may order that the residential address,
24 telephone number, place of employment, or other personal information

1 of the victim or witness shall not be disclosed in any law
2 enforcement record or any court document, other than the transcript
3 of a court proceeding, if it is determined by the court to be
4 necessary to protect the victim, witness, or immediate family of the
5 victim or witness from harassment or physical harm and if the court
6 determines that the information is immaterial to the defense.

7 SECTION 16. RECODIFICATION 22 O.S. 2001, Section 984.1,
8 as last amended by Section 14 of this act, shall be recodified as
9 Section 142A-8 of Title 21 of the Oklahoma Statutes, unless there is
10 created a duplication in numbering.

11 SECTION 17. RECODIFICATION 22 O.S. 2001, Section 984.2,
12 as last amended by Section 15 of this act, shall be recodified as
13 Section 142A-9 of Title 21 of the Oklahoma Statutes, unless there is
14 created a duplication in numbering.

15 SECTION 18. RECODIFICATION Section 2, Chapter 119,
16 O.S.L. 2007 (22 O.S. Supp. 2009, Section 984.3), shall be recodified
17 as Section 142A-10 of Title 21 of the Oklahoma Statutes, unless
18 there is created a duplication in numbering.

19 SECTION 19. REPEALER 22 O.S. 2001, Section 40.1, as
20 last amended by Section 7, Chapter 171, O.S.L. 2007 (22 O.S. Supp.
21 2009, Section 40.1), is hereby repealed.

22 SECTION 20. REPEALER Section 5, Chapter 466, O.S.L. 2002
23 (22 O.S. Supp. 2009, Section 60.15), is hereby repealed.

24

1 SECTION 21. REPEALER 22 O.S. 2001, Section 984, as
2 amended by Section 2, Chapter 163, O.S.L. 2009 and Section 2,
3 Chapter 165, O.S.L. 2009 (22 O.S. Supp. 2009, Sections 984 and
4 984.4), are hereby repealed.

5 SECTION 22. This act shall become effective November 1, 2010.

6

7 52-2-9757 GRS 02/11/10

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24