

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 539

By: Reynolds of the Senate

and

Tibbs of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to crime victims; amending 19 O.S.
11 2001, Section 215.33, as amended by Section 1,
12 Chapter 341, O.S.L. 2003 (19 O.S. Supp. 2008, Section
13 215.33), which relates to victims and witnesses
14 rights; expanding scope of rights afforded to victims
15 and witnesses; stating certain duty of law
16 enforcement officer; providing written victim
17 notification; stating contents of certain
18 notification; defining term; providing for
19 codification; providing an effective date; and
20 declaring an emergency.

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

22 SECTION 1. AMENDATORY 19 O.S. 2001, Section 215.33, as
23 amended by Section 1, Chapter 341, O.S.L. 2003 (19 O.S. Supp. 2008,
24 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 1. To be notified that a court proceeding to which a victim or
2 witness has been subpoenaed will or will not go on as scheduled, in
3 order to save the person an unnecessary trip to court;

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

8 3. To be informed of financial assistance and other social
9 services available as a result of being a witness or a victim,
10 including information on how to apply for the assistance and
11 services;

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

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

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

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

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

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

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

12 11. To have victim impact statements filed with the judgment
13 and sentence;

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

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

18 14. To be informed that when any family member is required to
19 be a witness by a subpoena from the defense, there must be a showing
20 that the witness can provide relevant testimony as to the guilt or
21 innocence of the defendant before the witness may be excluded from
22 the proceeding by invoking the rule to remove potential witnesses;
23 and

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1 15. To be informed that the Oklahoma Constitution allows upon
2 the recommendation of the Pardon and Parole Board and the approval
3 of the Governor the commutation of any sentence, including a
4 sentence of life without parole;

5 16. To receive written notification of how to access victim
6 rights information from the interviewing officer or investigating
7 detective; and

8 17. To a speedy disposition of the charges free from
9 unwarranted delay caused by or at the behest of the defendant or
10 minor. In determining a date for any criminal trial or other
11 important criminal or juvenile justice hearing, the court shall
12 consider the interests of the victim of a crime to a speedy
13 resolution of the charges under the same standards that govern the
14 right to a speedy trial for a defendant or a minor. In ruling on
15 any motion presented on behalf of a defendant or minor to continue a
16 previously established trial or other important criminal or juvenile
17 justice hearing, the court shall inquire into the circumstances
18 requiring the delay and consider the interests of the victim of a
19 crime to a speedy resolution of the case. If a continuance is
20 granted, the court shall enter into the record the specific reason
21 for the continuance and the procedures that have been taken to avoid
22 further delays.

23 B. Victim-witness coordinators may inform the crime victim of
24 an offense committed by a juvenile of the name and address of the

1 juvenile found to have committed the crime, and shall notify the
2 crime victim of any offense listed in Section 7306-1.1 of Title 10
3 of the Oklahoma Statutes of all court hearings involving that
4 particular juvenile act. If the victim is not available, the
5 victim-witness coordinator shall notify an adult relative of the
6 victim of said hearings.

7 C. Victim-witness coordinators shall inform victims of violent
8 crimes, as defined in Section 984 of Title 22 of the Oklahoma
9 Statutes, and members of the immediate family of such victims of
10 their rights under Sections 984.1 and 984.2 of Title 22 of the
11 Oklahoma Statutes and Section 332.2 of Title 57 of the Oklahoma
12 Statutes.

13 D. In any felony case involving a violent crime or a sex
14 offense, the victim-witness coordinator shall inform the victim, as
15 soon as practicable, or an adult member of the immediate family of
16 the victim if the victim is deceased, incapacitated, or incompetent,
17 of the progress of pretrial proceedings which could substantially
18 delay the prosecution of the case.

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

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

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

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

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

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

21 B. For purpose of this section, "violent crime" means the same
22 as provided in paragraph 3 of Section 984 of Title 22 of the
23 Oklahoma Statutes.

24 SECTION 3. This act shall become effective July 1, 2009.

1 SECTION 4. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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