HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1824

By: Brooks and Ivester of the Senate

and

Jordan of the House

COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Victim's Rights Act; amending 21 O.S. 2011, Sections 142A-1, 142A-8 and 142A-14, which relate to definitions, victim impact statements, and witnessing executions; modifying definitions; modifying specific authority for inclusion of certain references; prohibiting inclusion of certain recommendations; modifying definition; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 142A-1, is amended to read as follows:

Section 142A-1. For purposes of the Oklahoma 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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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. "Members of the immediate family" means the spouse, a child by birth or adoption, a stepchild, a parent <u>by birth or adoption, a</u>

<u>UNDERLINED</u> language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

stepparent, a grandparent, ~~or~~ a grandchild, a sibling, or a stepsibling of each victim;

5. "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;

6. "Property" means any real or personal property;

7. "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;

8. "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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

surrounding the crime, and the manner in which the crime was perpetrated~~, and the opinion of the victim of a recommended sentence~~; and

9. "Violent crime" means any crime listed in paragraph 2 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 21 O.S. 2011, Section 142A-8, is amended to read as follows:

Section 142A-8. 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, which may include religious invocations or references, but which may not invoke religious belief or obligation in the context of a capital sentence recommendation, or may 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, the person shall have the absolute right to do so. Any victim or any member of the immediate family or person designated by the victim or by family

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

members of a victim who appears personally at the formal sentence proceeding shall not be cross-examined by opposing counsel; provided, however, such cross-examination shall not be prohibited in a proceeding before a jury or a judge acting as a finder of fact. A written victim impact statement introduced at a formal sentence proceeding shall not be amended by any person other than the author, nor shall the statement be excluded in whole or in part from the court record. The court shall allow the victim impact statement to be read into the record.

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 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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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 parole, shall consider any victim impact statements submitted to the jury, or the judge in the event a jury was waived.

F. A victim impact statement shall not include a recommendation of punishment.

SECTION 3. AMENDATORY 21 O.S. 2011, Section 142A-14, is amended to read as follows:

Section 142A-14. A. A judgment of death must be executed at the Oklahoma State Penitentiary at McAlester, Oklahoma, said prison to be designated by the court by which judgment is to be rendered. A place shall be provided at the 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 of Corrections shall not be required to provide separate areas for each family of each deceased victim. If facilities are not capable or sufficient to provide all immediate family members with a direct view of the execution, the

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

Department may broadcast the execution by means of a closed circuit television system to an area in which other immediate family members may be located.

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

C. 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.

D. As used in this section:

1. "Members of the immediate family" means the spouse, a child by birth or adoption, a stepchild, a parent <u>by birth or adoption, a</u>

<u>UNDERLINED</u> language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

stepparent, a grandparent, a grandchild, a sibling, or a stepsibling of a deceased victim, or the spouse of any immediate family member; and

2. "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 4. This act shall become effective November 1, 2014.

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 04/02/2014 - DO PASS, As Amended and Coauthored.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.