

1 **SENATE FLOOR VERSION**

2 February 6, 2014

3 SENATE BILL NO. 1824

By: Brooks of the Senate

4 and

5 Jordan of the House

6
7
8 An Act relating to the Oklahoma Victim's Rights Act;
9 amending 21 O.S. 2011, Sections 142A-1, 142A-8 and
10 142A-14, which relate to definitions, victim impact
11 statements, and witnessing executions; modifying
12 definitions; deleting specific authority for
13 inclusion of certain references; prohibiting
14 inclusion of certain recommendations; modifying
15 definition; and providing an effective date.

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

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

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

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

1 damage to property, and who is entitled to restitution from an
2 offender pursuant to an order of restitution imposed by a sentencing
3 court under the laws of this state;

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

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

19 4. "Members of the immediate family" means the spouse, a child
20 by birth or adoption, a stepchild, a parent by birth or adoption, a
21 stepparent, a grandparent, ~~or~~ a grandchild, a sibling, or a
22 stepsibling of each victim;

23 5. "Out-of-pocket loss" means the unreimbursed and
24 nonreimbursable expenses or indebtedness incurred for medical care,

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

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

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

16 8. "Victim impact statements" means information about the
17 financial, emotional, psychological, and physical effects of a
18 violent crime on each victim and members of their immediate family,
19 or person designated by the victim or by family members of the
20 victim and includes information about the victim, circumstances
21 surrounding the crime, and the manner in which the crime was
22 perpetrated, ~~and the opinion of the victim of a recommended~~
23 ~~sentence;~~ and
24

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

8 SECTION 2. AMENDATORY 21 O.S. 2011, Section 142A-8, is
9 amended to read as follows:

10 Section 142A-8. A. Each victim, or members of the immediate
11 family of each victim or person designated by the victim or by
12 family members of the victim, may present a written victim impact
13 statement, ~~which may include religious invocations or references,~~ or
14 may appear personally at the sentence proceeding and present the
15 statements orally. Provided, however, if a victim or any member of
16 the immediate family or person designated by the victim or by family
17 members of a victim wishes to appear personally, the person shall
18 have the absolute right to do so. Any victim or any member of the
19 immediate family or person designated by the victim or by family
20 members of a victim who appears personally at the formal sentence
21 proceeding shall not be cross-examined by opposing counsel;
22 provided, however, such cross-examination shall not be prohibited in
23 a proceeding before a jury or a judge acting as a finder of fact. A
24 written victim impact statement introduced at a formal sentence

1 proceeding shall not be amended by any person other than the author,
2 nor shall the statement be excluded in whole or in part from the
3 court record. The court shall allow the victim impact statement to
4 be read into the record.

5 B. If a presentence investigation report is prepared, the
6 person preparing the report shall consult with each victim or
7 members of the immediate family or a designee of members of the
8 immediate family if the victim is deceased, incapacitated or
9 incompetent, and include any victim impact statements in the
10 presentence investigation report. If the individual to be consulted
11 cannot be located or declines to cooperate, a notation to that
12 effect shall be included.

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

15 D. In any case which is plea bargained, victim impact
16 statements shall be presented at the time of sentencing or attached
17 to the district attorney narrative report. In determining the
18 appropriate sentence, the court shall consider among other factors
19 any victim impact statements if submitted to the jury, or the judge
20 in the event a jury was waived.

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

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

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

5 Section 142A-14. A. A judgment of death must be executed at
6 the Oklahoma State Penitentiary at McAlester, Oklahoma, said prison
7 to be designated by the court by which judgment is to be rendered.
8 A place shall be provided at the Oklahoma State Penitentiary at
9 McAlester so that individuals who are eighteen (18) years of age or
10 older and who are members of the immediate family of any deceased
11 victim of the defendant may witness the execution. The immediate
12 family members shall be allowed to witness the execution from an
13 area that is separate from the area to which other nonfamily member
14 witnesses are admitted, provided, however, if there are multiple
15 deceased victims, the Department of Corrections shall not be
16 required to provide separate areas for each family of each deceased
17 victim. If facilities are not capable or sufficient to provide all
18 immediate family members with a direct view of the execution, the
19 Department may broadcast the execution by means of a closed circuit
20 television system to an area in which other immediate family members
21 may be located.

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

1 immediate family member, including, but not limited to, a minister
2 or licensed counselor. The warden in consultation with the Director
3 of the Department of Corrections shall approve or disapprove such
4 requests. Provided further, the Department may set a limit on the
5 number of witnesses or viewers within occupancy limits.

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

16 D. As used in this section:

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

22 2. "Surviving victim" means any person who suffered serious
23 harm or injury due to the criminal acts of the defendant of which
24

1 the defendant has been convicted in a court of competent
2 jurisdiction.

3 SECTION 4. This act shall become effective November 1, 2014.

4 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
5 February 6, 2014 - DO PASS
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