

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 SENATE BILL 1824

By: Brooks

4  
5  
6 AS INTRODUCED

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

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

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

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

20 1. "Crime victim" or "victim" means any person against whom a  
21 crime was committed, except homicide, in which case the victim may  
22 be a surviving family member including a stepbrother, stepsister or  
23 stepparent, or the estate when there are no surviving family members  
24 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

1 offender pursuant to an order of restitution imposed by a sentencing  
2 court under the laws of this state;

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

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

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

22 5. "Out-of-pocket loss" means the unreimbursed and  
23 nonreimbursable expenses or indebtedness incurred for medical care,  
24 nonmedical care, or other services necessary for the treatment of

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

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

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

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

23 9. "Violent crime" means any crime listed in paragraph 2 of  
24 Section 571 of Title 57 of the Oklahoma Statutes or any attempt,

1 conspiracy or solicitation to commit any such crime or the crime of  
2 negligent homicide pursuant to Section 11-903 of Title 47 of the  
3 Oklahoma Statutes or the crime of causing great bodily injury while  
4 driving under the influence of intoxicating substance pursuant to  
5 Section 11-904 of Title 47 of the Oklahoma Statutes.

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

8 Section 142A-8. A. Each victim, or members of the immediate  
9 family of each victim or person designated by the victim or by  
10 family members of the victim, may present a written victim impact  
11 statement, ~~which may include religious invocations or references,~~ or  
12 may appear personally at the sentence proceeding and present the  
13 statements orally. Provided, however, if a victim or any member of  
14 the immediate family or person designated by the victim or by family  
15 members of a victim wishes to appear personally, the person shall  
16 have the absolute right to do so. Any victim or any member of the  
17 immediate family or person designated by the victim or by family  
18 members of a victim who appears personally at the formal sentence  
19 proceeding shall not be cross-examined by opposing counsel;  
20 provided, however, such cross-examination shall not be prohibited in  
21 a proceeding before a jury or a judge acting as a finder of fact. A  
22 written victim impact statement introduced at a formal sentence  
23 proceeding shall not be amended by any person other than the author,  
24 nor shall the statement be excluded in whole or in part from the

1 court record. The court shall allow the victim impact statement to  
2 be read into the record.

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

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

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

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

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

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

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

20 B. Immediate family members may request individuals not  
21 directly related to the deceased victim but who serve a close  
22 supporting role or professional role to the deceased victim or an  
23 immediate family member, including, but not limited to, a minister  
24 or licensed counselor. The warden in consultation with the Director

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

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

14 D. As used in this section:

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

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

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