

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

HOUSE BILL 1329

By: Coody (Ann)

AS INTRODUCED

An Act relating to crimes and punishments; amending 21 O.S. 2011, Section 142A-3, as amended by Section 1, Chapter 196, O.S.L. 2014 (21 O.S. Supp. 2014, Section 142A-3), which relates to the Oklahoma Victim's Rights Act; providing for the relinquishment of firearms or weapons under certain circumstances; providing procedures for the inventory and safekeeping of weapons; directing court to hold hearing and make certain determination; making certain conduct unlawful; providing penalty; 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-3, as amended by Section 1, Chapter 196, O.S.L. 2014 (21 O.S. Supp. 2014, Section 142A-3), is amended to read as follows:

Section 142A-3. A. Upon the preliminary investigation of a violent crime, it shall be the duty of the officer who interviews the victim of such crime to inform the victim, or a responsible adult if the victim is a minor child or an incompetent person, or the family member who receives death notification in the case of a homicide, in writing, of their rights as a crime victim. Written

1 notification shall consist of handing the victim, responsible adult,
2 if the victim is a minor child or an incompetent person, or family
3 member receiving death notification, a preprinted card or brochure
4 that, at a minimum, includes the following information:

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

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

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

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

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

20 1. The right to request that charges be pressed against your
21 assailant;

22 2. The right to request protection from any harm or threat of
23 harm arising out of your cooperation with law enforcement and
24

1 prosecution efforts as far as facilities are available and to be
2 provided with information on the level of protection available;

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

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

9 C. The victim of rape or forcible sodomy has the right to be
10 informed by the officer who interviews the victim of the rape or
11 forcible sodomy, or a responsible adult if the victim is a minor
12 child or an incompetent person, of the twenty-four-hour statewide
13 telephone communication service established by the Office of the
14 Attorney General for victims of sexual assault pursuant to Section
15 18p-5 of Title 74 of the Oklahoma Statutes and to give notice to the
16 victim or such responsible adult of certain rights of the victim.
17 The notice shall consist of handing such victim or responsible adult
18 a written statement in substantially the following form:

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

21 1. The right to request that charges be pressed against your
22 assailant;

23 2. The right to request protection from any harm or threat of
24 harm arising out of your cooperation with law enforcement and

1 prosecution efforts as far as facilities are available and to be
2 provided with information on the level of protection available;

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

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

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

10 D. Upon the preliminary investigation of a domestic violence
11 crime involving intimate partner violence, the first peace officer
12 who interviews the victim of domestic abuse shall assess the
13 potential for danger by asking a series of questions provided on a
14 lethality assessment form. The lethality assessment form shall
15 include, but not be limited to, the following questions:

16 1. Has the person ever used a weapon against the victim or
17 threatened the victim with a weapon?

18 2. Has the person threatened to kill the victim or children of
19 the victim?

20 3. Does the victim think the person will try to kill the
21 victim?

22 4. Has the person ever tried to choke the victim?

23 5. Is the person violently or constantly jealous or does the
24 person control most of the daily activities of the victim?

1 6. Has the victim left or separated from the person after
2 living together or being married?

3 7. Is the person unemployed?

4 8. Has the person ever tried to kill himself or herself?

5 9. Does the victim have a child that the person knows is not
6 his or her own child?

7 10. Does the person follow or spy on the victim or leave the
8 victim threatening messages?

9 11. Is there anything else that worries the victim about his or
10 her safety and if so, what worries the victim?

11 Based upon the results of the lethality assessment, referrals to
12 shelters, domestic violence intervention programs and other social
13 services shall be provided to the victim.

14 E. In the event the lethality assessment required in subsection
15 D of this section establishes probable cause for the peace officer
16 to believe the victim is in imminent risk of death or serious bodily
17 harm, the peace officer shall contact a district court judge or
18 magistrate and seek intervention of the court. Upon ample
19 opportunity for review of the determination of probable cause by the
20 peace officer the court, in its sound discretion, may order the
21 person responsible for creating the imminent risk of death or
22 serious bodily harm to immediately relinquish all firearms or other
23 dangerous weapons owned or under his or her control for safekeeping
24 until such time as the court holds a hearing which shall be held

1 within a period not to exceed five (5) calendar days. To ensure
2 compliance with its order, the court shall authorize the peace
3 officer or law enforcement agency to accompany the person to his or
4 her place of residence, business, vehicle and any other place the
5 court finds appropriate to conduct an inventory and retrieval of
6 firearms or other dangerous weapons owned or under the control of
7 the person in such places. The inventory of relinquished weapons
8 shall include a description of the firearm or weapon, name of
9 manufacturer, caliber or gauge of weapon and the serial number,
10 where applicable. A copy of the inventory shall be provided to the
11 person and filed with the court with a return of service of the
12 order of the court. The law enforcement agency taking possession of
13 the firearm or weapon shall be responsible for the safekeeping of
14 the firearm or weapon and liable for any loss of or damage to the
15 firearm or weapon occurring while in the possession of the law
16 enforcement agency.

17 F. The court shall determine at the hearing required in
18 subsection E of this section whether the order will remain in effect
19 and pronounce a decision before adjourning the hearing. Before the
20 court extends its order to retain possession of all the firearms or
21 other dangerous weapons until further order of the court, the court
22 shall find that the person has a history that demonstrates an intent
23 to commit violence against the victim including, but not limited to,
24 a prior conviction for an offense under the Protection from Domestic

1 Abuse Act or any other violent offense or evidence that shows by a
2 preponderance of the evidence that the person is likely to commit
3 violence against the victim. The hearing before the court regarding
4 retention of the firearms or other dangerous weapons may be held in
5 conjunction with any other proceedings related to the domestic
6 violence crime resulting in the lethality assessment.

7 G. Any victim who makes false statements or representations to
8 any peace officer investigating the alleged crime or conducting the
9 lethality assessment shall be subject to prosecution for the false
10 reporting of a crime pursuant to the provisions of Section 589 of
11 this title and shall, upon conviction, be guilty of a misdemeanor
12 punishable by imprisonment in the county jail for not more than
13 ninety (90) days, or by a fine of not more than Five Hundred Dollars
14 (\$500.00), or by both such fine and imprisonment.

15 SECTION 2. This act shall become effective November 1, 2015.

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