

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

HOUSE BILL 2522

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. 2015, 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; 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. 2015, 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 notification shall consist of handing the victim, responsible adult,

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

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

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

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

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

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

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

21 2. The right to request protection from any harm or threat of
22 harm arising out of your cooperation with law enforcement and
23 prosecution efforts as far as facilities are available and to be
24 provided with information on the level of protection available;

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

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

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

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

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

21 2. The right to request protection from any harm or threat of
22 harm arising out of your cooperation with law enforcement and
23 prosecution efforts as far as facilities are available and to be
24 provided with information on the level of protection available;

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

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

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

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

14 1. Has the person ever used a weapon against the victim or
15 threatened the victim with a weapon?

16 2. Has the person threatened to kill the victim or children of
17 the victim?

18 3. Does the victim think the person will try to kill the
19 victim?

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

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

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

1 7. Is the person unemployed?

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

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

5 10. Does the person follow or spy on the victim or leave the
6 victim threatening messages?

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

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

12 E. In the event the lethality assessment required in subsection
13 D of this section establishes probable cause for the peace officer
14 to believe the victim is in imminent risk of death or serious bodily
15 harm, the peace officer shall contact a district court judge or
16 magistrate and seek intervention of the court. Upon ample
17 opportunity for review of the determination of probable cause by the
18 peace officer, the court, in its sound discretion, may order the
19 person responsible for creating the imminent risk of death or
20 serious bodily harm to appear before the court within twenty-four
21 (24) hours and show cause why the person should not be ordered to
22 immediately relinquish all firearms or other dangerous weapons owned
23 or under his or her control for safekeeping.
24

1 F. The court shall determine at a hearing ordered pursuant to
2 subsection E of this section whether to issue its order to
3 immediately relinquish all firearms or other dangerous weapons and
4 pronounce a decision before adjourning the hearing. Before the
5 court issues an order to relinquish all the firearms or other
6 dangerous weapons of the person until further order of the court,
7 the court shall find that the person has a history that demonstrates
8 an intent to commit violence against the victim including, but not
9 limited to, a prior conviction for an offense under the Protection
10 from Domestic Abuse Act or any other violent offense or evidence
11 that shows by a preponderance of the evidence that the person is
12 likely to commit violence against the victim. Any subsequent
13 hearing before the court regarding retention of the firearms or
14 other dangerous weapons may be held in conjunction with any other
15 proceedings related to the domestic violence crime resulting in the
16 lethality assessment.

17 G. To ensure compliance with an order to immediately relinquish
18 all firearms and other dangerous weapons, the court shall authorize
19 a peace officer or law enforcement agency to accompany the person to
20 his or her place of residence, business, vehicle and any other place
21 the court finds appropriate to conduct an inventory and retrieval of
22 firearms or other dangerous weapons owned or under the control of
23 the person in such places. The inventory of relinquished weapons
24 shall include a description of the firearm or weapon, name of

1 manufacturer, caliber or gauge of weapon and the serial number,
2 where applicable. A copy of the inventory shall be provided to the
3 person and filed with the court with a return of service of the
4 order of the court. The law enforcement agency taking possession of
5 the firearm or weapon shall be responsible for the safekeeping of
6 the firearm or weapon and liable for any loss of or damage to the
7 firearm or weapon occurring while in the possession of the law
8 enforcement agency.

9 H. Any victim who makes false statements or representations to
10 any peace officer investigating the alleged crime or conducting the
11 lethality assessment shall be subject to prosecution for the false
12 reporting of a crime pursuant to the provisions of Section 589 of
13 this title and shall, upon conviction, be guilty of a misdemeanor
14 punishable by imprisonment in the county jail for not more than
15 ninety (90) days, or by a fine of not more than Five Hundred Dollars
16 (\$500.00), or by both such fine and imprisonment.

17 SECTION 2. This act shall become effective November 1, 2016.

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