

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1680

By: Wright, Jordan and Biggs of
the House

and

Sykes of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to crime victims; amending 21 O.S. 2011, Sections 142A-2 and 142A-13, which relate to the Oklahoma Victim's Rights Act; directing district attorneys to inform victims of certain right; directing the Department of Corrections to send notification of inmate release to designated service provider; establishing time limitation for providing notice; directing Oklahoma Court of Criminal Appeals to provide notice of opinions prior to publication; directing the Department of Corrections to send notification of inmate release to designated service provider; establishing time limitation for providing notice; amending 57 O.S. 2011, Section 510.9, as last amended by Section 31, Chapter 210, O.S.L. 2016 (57 O.S. Supp. 2016, Section 510.9), which relates to the Electronic Monitoring Program; updating statutory reference; changing agency responsible for disseminating certain notification; establishing time limitation for providing notice; providing for codification; and providing an effective date.

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

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

3 Section 142A-2. A. The district attorney's office shall inform
4 the victims and witnesses of crimes of the following rights:

5 1. To be notified that a court proceeding to which a victim or
6 witness has been subpoenaed will or will not go on as scheduled, in
7 order to save the person an unnecessary trip to court;

8 2. To receive protection from harm and threats of harm arising
9 out of the cooperation of the person with law enforcement and
10 prosecution efforts, and to be provided with information as to the
11 level of protection available and how to access protection;

12 3. To be informed of financial assistance and other social
13 services available as a result of being a witness or a victim,
14 including information on how to apply for the assistance and
15 services;

16 4. To be informed of the procedure to be followed in order to
17 apply for and receive any witness fee to which the victim or witness
18 is entitled;

19 5. To be informed of the procedure to be followed in order to
20 apply for and receive any restitution to which the victim is
21 entitled;

22 6. To be provided, whenever possible, a secure waiting area
23 during court proceedings that does not require close proximity to
24 defendants and families and friends of defendants;

1 7. To have any stolen or other personal property expeditiously
2 returned by law enforcement agencies when no longer needed as
3 evidence. If feasible, all such property, except weapons, currency,
4 contraband, property subject to evidentiary analysis and property
5 the ownership of which is disputed, shall be returned to the person;

6 8. To be provided with appropriate employer intercession
7 services to ensure that employers of victims and witnesses will
8 cooperate with the criminal justice process in order to minimize the
9 loss of pay and other benefits of the employee resulting from court
10 appearances;

11 9. To have the family members of all homicide victims afforded
12 all of the services under this section, whether or not the person is
13 to be a witness in any criminal proceeding;

14 10. To be informed of any plea bargain negotiations;

15 11. To have victim impact statements filed with the judgment
16 and sentence;

17 12. To be informed if a sentence is overturned, remanded for a
18 new trial or otherwise modified by the Oklahoma Court of Criminal
19 Appeals;

20 13. To be informed in writing of all statutory rights;

21 14. To be informed that when any family member is required to
22 be a witness by a subpoena from the defense, there must be a showing
23 that the witness can provide relevant testimony as to the guilt or
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1 innocence of the defendant before the witness may be excluded from
2 the proceeding by invoking the rule to remove potential witnesses;

3 15. To be informed that the Oklahoma Constitution allows, upon
4 the recommendation of the Pardon and Parole Board and the approval
5 of the Governor, the commutation of any sentence, including a
6 sentence of life without parole;

7 16. To receive written notification of how to access victim
8 rights information from the interviewing officer or investigating
9 detective; and

10 17. To a speedy disposition of the charges free from
11 unwarranted delay caused by or at the behest of the defendant or
12 minor. In determining a date for any criminal trial or other
13 important criminal or juvenile justice hearing, the court shall
14 consider the interests of the victim of a crime to a speedy
15 resolution of the charges under the same standards that govern the
16 right to a speedy trial for a defendant or a minor. In ruling on
17 any motion presented on behalf of a defendant or minor to continue a
18 previously established trial or other important criminal or juvenile
19 justice hearing, the court shall inquire into the circumstances
20 requiring the delay and consider the interests of the victim of a
21 crime to a speedy resolution of the case. If a continuance is
22 granted, the court shall enter into the record the specific reason
23 for the continuance and the procedures that have been taken to avoid
24 further delays.

1 B. The district attorney's office may inform the crime victim
2 of an offense committed by a juvenile of the name and address of the
3 juvenile found to have committed the crime, and shall notify the
4 crime victim of any offense listed in Section 2-5-101 of Title 10A
5 of the Oklahoma Statutes of all court hearings involving that
6 particular juvenile act. If the victim is not available, the
7 district attorney's office shall notify an adult relative of the
8 victim of said hearings.

9 C. The district attorney's office shall inform victims of
10 violent crimes and members of the immediate family of such victims
11 of their rights under Sections ~~14~~ 142A-8 and ~~15~~ 142A-9 of this ~~act~~
12 title and Section 332.2 of Title 57 of the Oklahoma Statutes.

13 D. In any felony case involving a violent crime or a sex
14 offense, the district attorney's office shall inform the victim, as
15 soon as practicable, or an adult member of the immediate family of
16 the victim if the victim is deceased, incapacitated, or incompetent,
17 of the progress of pretrial proceedings which could substantially
18 delay the prosecution of the case.

19 E. The district attorney's office shall inform the crime victim
20 that he or she has the right to utilize the automated notification
21 system provided by the designated Oklahoma victim notification
22 service provider for purposes of receiving information regarding the
23 location of the defendant following an arrest, during a prosecution
24 of the criminal case, during a sentence to probation or confinement,

1 and when there is any release or escape of the defendant from
2 confinement.

3 SECTION 2. AMENDATORY 21 O.S. 2011, Section 142A-13, is
4 amended to read as follows:

5 Section 142A-13. A. Upon the granting of a parole by the
6 Governor, and release of the inmate to the community, the Pardon and
7 Parole Board shall provide written notification to any victim of the
8 crime for which the parolee was convicted by mailing the
9 notification to the last-known address of the victim, if such
10 information is requested by the victim. The Pardon and Parole Board
11 shall not give the address of the parolee to any victim of the crime
12 for which the parolee was convicted.

13 B. Upon the granting of a pardon by the Governor, the Pardon
14 and Parole Board shall provide written notification to any victim of
15 the crime for which the person receiving the pardon was convicted by
16 mailing the notification to the last-known address of the victim, if
17 such information is requested by the victim. The Pardon and Parole
18 Board shall not give the address of the person receiving the pardon
19 to any victim of the crime for which the person receiving the pardon
20 was convicted.

21 C. The notification requirements provided for in subsections A
22 and B of this section shall be made on a monthly basis by the tenth
23 day of the month following the granting of the pardon or parole.

1 D. The Department of Corrections shall provide notice of the
2 projected date of release of an inmate to the designated Oklahoma
3 victim notification service provider within sixty (60) days but not
4 less than seven (7) days prior to the projected date of release of
5 the inmate.

6 SECTION 3. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 1071.1 of Title 22, unless there
8 is created a duplication in numbering, reads as follows:

9 Opinions of the Oklahoma Court of Criminal Appeals designated
10 for official publication shall be published on the Oklahoma State
11 Courts Network website. The Oklahoma Court of Criminal Appeals is
12 hereby requested to provide notice of release of its opinion to all
13 subscribers of record who have requested copies of opinions not less
14 than two (2) business days prior to publication of the opinion on
15 the website. Notice to the parties shall be made via electronic
16 mail or on the website of the Oklahoma State Courts Network.

17 SECTION 4. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 360.1 of Title 57, unless there
19 is created a duplication in numbering, reads as follows:

20 The Department of Corrections shall provide notice of the
21 projected date of release of an inmate to the designated Oklahoma
22 victim notification service provider within sixty (60) days but not
23 less than seven (7) days prior to the projected date of release of
24 the inmate.

1 SECTION 5. AMENDATORY 57 O.S. 2011, Section 510.9, as
2 last amended by Section 31, Chapter 210, O.S.L. 2016 (57 O.S. Supp.
3 2016, Section 510.9), is amended to read as follows:

4 Section 510.9 A. There is hereby created the Electronic
5 Monitoring Program for inmates in the custody of the Department of
6 Corrections who are sentenced for a nonviolent offense not included
7 as a violent offense defined in Section 571 of this title. The
8 Department is authorized to use an electronic monitoring global
9 positioning device to satisfy its custody duties and
10 responsibilities.

11 B. After an inmate has been processed and received through a
12 Department Assessment and Reception Center, has been incarcerated
13 for a minimum of ninety (90) days, and has met the criteria
14 established in subsection C of Section 521 of this title, the
15 Director of the Department of Corrections may assign the inmate, if
16 eligible, to the Electronic Monitoring Program. Nothing shall
17 prohibit the Director from assigning an inmate to the Electronic
18 Monitoring Program while assigned to the accredited halfway house or
19 transitional living facility. The following inmates, youthful
20 offenders, and juveniles shall not be eligible for assignment to the
21 program:

22 1. Any inmate serving a sentence of more than five (5) years
23 who has eleven (11) months or more left on the sentence or any
24 inmate serving a sentence of five (5) years or less whose initial

1 custody assessment requires placement above the minimum security
2 level;

3 2. Inmates convicted of a violent offense within the previous
4 ten (10) years pursuant to Section 571 of this title;

5 3. Inmates convicted of any violation of the provisions of the
6 Trafficking in Illegal Drugs Act, Section 2-414 et seq. of Title 63
7 of the Oklahoma Statutes;

8 4. Inmates denied parole within the previous twelve (12) months
9 pursuant to Section 332.7 of this title;

10 5. Inmates convicted pursuant to Section 11-902 of Title 47 of
11 the Oklahoma Statutes who are not receptive to substance abuse
12 treatment and follow-up treatment;

13 6. Inmates removed from the Electronic Monitoring Program or
14 any other alternative to incarceration authorized by law for
15 violation of any rule or condition of the program and reassigned to
16 imprisonment in a correctional facility;

17 7. Inmates deemed by the Department to be a security risk or
18 threat to the public;

19 8. Inmates requiring educational, medical or other services or
20 programs not available in a community setting as determined by the
21 Department;

22 9. Inmates convicted of any violation of subsection C of
23 Section 644 of Title 21 of the Oklahoma Statutes or who have an
24 active protection order that was issued under the Protection from

1 Domestic Abuse Act, ~~Sections 60 through 60.16 of Title 22 of the~~
2 ~~Oklahoma Statutes;~~

3 10. Inmates who have outstanding felony warrants or detainers
4 from another jurisdiction;

5 11. Inmates convicted of a sex offense who, upon release from
6 incarceration, would be required by law to register pursuant to the
7 Sex Offender Registration Act;

8 12. Inmates convicted of racketeering activity as defined in
9 Section 1402 of Title 22 of the Oklahoma Statutes;

10 13. Inmates convicted pursuant to subsection F of Section 2-401
11 of Title 63 of the Oklahoma Statutes;

12 14. Inmates convicted pursuant to Section 650 of Title 21 of
13 the Oklahoma Statutes;

14 15. Inmates who have escaped from a penal or correctional
15 institution within the previous ten (10) years; or

16 16. Inmates who currently have active misconduct actions on
17 file with the Department of Corrections.

18 C. Every eligible inmate assigned to the Electronic Monitoring
19 Program shall remain in such program until one of the following
20 conditions has been met:

21 1. The inmate discharges the term of the sentence;

22 2. The inmate is removed from the Electronic Monitoring Program
23 for violation of any rule or condition of the program and reassigned
24 to imprisonment in a correctional facility; or

1 3. The inmate is paroled by the Governor pursuant to Section
2 332.7 of this title.

3 D. After an inmate has been assigned to the Electronic
4 Monitoring Program, denial of parole pursuant to Section 332.7 of
5 this title, shall not be cause for removal from the program,
6 provided the inmate has not violated the rules or conditions of the
7 program. The inmate may remain assigned to the program, if
8 otherwise eligible, until the completion of the sentence.

9 E. The Electronic Monitoring Program shall require active
10 supervision of the inmate in a community setting by a correctional
11 officer or other employee of the Department of Corrections with
12 monitoring by a global positioning device approved by the Department
13 under such rules and conditions as may be established by the
14 Department. If an inmate violates any rule or condition of the
15 program, the Department may take necessary disciplinary action
16 consistent with the rules established pursuant to this section,
17 including reassignment to a higher level of security or removing the
18 inmate from the program with reassignment to imprisonment in a
19 correctional facility. Any inmate who escapes from the Electronic
20 Monitoring Program shall be subject to the provisions of Section 443
21 of Title 21 of the Oklahoma Statutes.

22 F. Upon an inmate assigned to the Electronic Monitoring Program
23 becoming eligible for parole consideration, pursuant to Section
24 332.7 of this title, the Department of Corrections shall deliver the

1 inmate, in person, to a correctional facility for interview,
2 together with any Department records necessary for the Pardon and
3 Parole Board's investigation. Inmates assigned to the Electronic
4 Monitoring Program shall not be allowed to waive consideration or
5 recommendation for parole.

6 G. Prior to placement of any eligible inmate assigned to the
7 Electronic Monitoring Program being placed in a community setting,
8 the Department of Corrections shall deliver a written notification
9 to the sheriff and district attorney of the county, and the chief
10 law enforcement officer of any incorporated city or town in which
11 the inmate is to be monitored and supervised under the program. The
12 ~~district attorney~~ Department of Corrections shall ~~disseminate such~~
13 ~~information to victims of the crime for which the inmate is serving~~
14 ~~sentence, if any, when the victims are known to live in the same~~
15 ~~city, town or county~~ provide notice of the projected date of release
16 of an inmate to the designated Oklahoma victim notification service
17 provider within sixty (60) days but not less than seven (7) days
18 prior to the projected date of release of the inmate.

19 H. An inmate assigned to the Electronic Monitoring Program may
20 be required to pay the Department of Corrections for all or part of
21 any monitoring equipment or fee, substance abuse treatment program
22 or follow-up treatment expense, supervision cost, or other costs
23 while assigned to the program. The Department shall determine
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1 whether the inmate has the ability to pay all or part of such fee or
2 costs.

3 I. The Department of Corrections shall promulgate and adopt
4 rules and procedures necessary to implement the Electronic
5 Monitoring Program, including but not limited to methods of
6 monitoring and supervision, disciplinary action, reassignment to
7 higher and lower security levels, removal from the program, and
8 costs of monitoring and supervision to be paid by the inmate, if
9 any.

10 J. An inmate assigned to the Electronic Monitoring Program
11 shall, within thirty (30) days of being placed in a community
12 setting, report to the court clerk and the district attorney of the
13 county from which the judgment and sentence resulting in
14 incarceration arose to address payment of any fines, costs,
15 restitution and assessments owed by the inmate, if any.

16 SECTION 6. This act shall become effective November 1, 2017.

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