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February 11, 2020

By: Floyd

An Act relating to victim notification; amending 21 O.S. 2011, Section 142A-2, as last amended by Section 2, Chapter 438, O.S.L. 2019 (21 O.S. Supp. 2019, Section 142A-2), which relates to victims rights; requiring reasonable and timely notice; requiring notification to victim of certain motion and proceedings; updating statutory language; 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-2, as last amended by Section 2, Chapter 438, O.S.L. 2019 (21 O.S. Supp. 2019, Section 142A-2), is amended to read as follows:

Section 142A-2. A. The office of the district attorney shall inform the victims and witnesses of crimes of their rights under the Oklahoma Victim's Rights Act in a reasonable and timely manner, which shall include the following rights:

1. Upon request, to be notified and to be present at all proceedings involving the criminal or delinquent conduct, to be heard in any proceeding involving release, plea, sentencing, disposition, parole and any proceeding during which a right of the victim is implicated and to be notified that a court proceeding to

1 which a victim or witness has been subpoenaed will or will not go on  
2 as scheduled, in order to save the person an unnecessary trip to  
3 court;

4 2. To be treated with fairness and respect for the safety,  
5 dignity and privacy of the victim, to receive protection from harm  
6 and threats of harm arising out of the cooperation of the person  
7 with law enforcement and prosecution efforts, to be provided with  
8 information as to the level of protection available and how to  
9 access protection and, upon request, to be notified of any release  
10 or escape of an accused;

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

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

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

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

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 and, upon  
15 request, to confer with the attorney for the state;

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

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

21       13. To be informed in writing of all constitutional and  
22 statutory rights. Upon initial contact with a victim, a municipal,  
23 county or state law enforcement officer shall provide the victim  
24 with a written copy of the constitutional and statutory rights of

1 the victim unless, in the judgment of the law enforcement officer  
2 making the initial contact, the circumstances of the criminal  
3 offense or delinquent act and condition of the victim indicates that  
4 the victim, family of the victim or dependents of the victim will  
5 not be able to understand the significance of the constitutional and  
6 statutory rights. If a written copy of the constitutional and  
7 statutory rights is not provided upon initial contact with the  
8 victim, a written copy of the rights shall be provided on the next  
9 contact with the victim by a law enforcement officer with the same  
10 law enforcement agency no later than twenty-four (24) hours after  
11 the initial contact. The Attorney General shall prepare and place  
12 on the official website of the Attorney General a sample  
13 notification card listing all constitutional and statutory  
14 provisions relative to the rights of victims. The card shall be  
15 suitable for law enforcement agencies to download for the purpose of  
16 providing the cards to victims in printed form. Law enforcement  
17 agencies may use the form prepared by the Attorney General or may  
18 prepare and use any other written notification form they see fit as  
19 long as all rights under the Oklahoma Victim's Rights Act are  
20 included;

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  
24 innocence of the defendant before the witness may be excluded from

1 the proceeding by invoking the rule to remove potential witnesses  
2 and to refuse an interview or other request made by the accused or  
3 any person acting on behalf of the accused, other than a refusal to  
4 appear if subpoenaed by defense counsel;

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

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

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

1 for the continuance and the procedures that have been taken to avoid  
2 further delays; ~~and~~

3 18. To be informed in writing of a motion for expungement filed  
4 by or on behalf of the offender pursuant to Section 18 of Title 22  
5 of the Oklahoma Statutes related to the criminal offense or  
6 delinquent act and any court proceedings related to such motion; and

7 19. To any other rights enumerated in Section 34 of Article II  
8 of the Oklahoma Constitution.

9 B. The office of the district attorney shall inform the crime  
10 victim of an offense committed by a juvenile of the name and address  
11 of the juvenile found to have committed the crime, and shall notify  
12 the crime victim of all court hearings involving that particular  
13 juvenile act. If the victim is not available, the office of the  
14 district attorney shall notify an adult relative of the victim of  
15 ~~said~~ the hearings.

16 C. The office of the district attorney shall inform victims of  
17 violent crimes and members of the immediate family of such victims  
18 of their rights under Sections 142A-8 and 142A-9 of this title and  
19 Section 332.2 of Title 57 of the Oklahoma Statutes.

20 D. In any felony case involving a violent crime or a sex  
21 offense, the office of the district attorney shall inform the  
22 victim, as soon as practicable, or an adult member of the immediate  
23 family of the victim if the victim is deceased, incapacitated, or  
24

1 incompetent, of the progress of pretrial proceedings which could  
2 substantially delay the prosecution of the case.

3 E. The office of the district attorney shall inform the crime  
4 victim that he or she has the right to utilize the automated  
5 notification system provided by the designated Oklahoma victim  
6 notification service provider for purposes of receiving information  
7 regarding the location of the defendant following an arrest, during  
8 a prosecution of the criminal case, during a sentence to probation  
9 or confinement, and when there is any release or escape of the  
10 defendant from confinement.

11 F. The victim, the attorney for the victim or other lawful  
12 representative, or the attorney for the state upon request of the  
13 victim may assert in any trial or appellate court or before any  
14 other authority with jurisdiction over the case and have enforced  
15 all the rights enumerated in this section and any other right  
16 afforded to the victim by law. The court or other authority shall  
17 act promptly on such a request. The rights afforded victims under  
18 the Oklahoma Victim's Rights Act shall be protected in a manner no  
19 less vigorous than the rights afforded the accused.

20 SECTION 2. This act shall become effective November 1, 2020.

21 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
22 February 11, 2020 - DO PASS  
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