An Act

ENROLLED SENATE
BILL NO. 539

By: Reynolds of the Senate

and

Tibbs, Nelson and Kern of the House

An Act relating to crime victims; amending 19 O.S. 2001, Section 215.33, as amended by Section 1, Chapter 341, O.S.L. 2003 (19 O.S. Supp. 2008, Section 215.33), which relates to victims and witnesses rights; expanding scope of rights afforded to victims and witnesses; stating certain duty of law enforcement officer; providing written victim notification; stating contents of certain notification; defining term; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 19 O.S. 2001, Section 215.33, as amended by Section 1, Chapter 341, O.S.L. 2003 (19 O.S. Supp. 2008, Section 215.33), is amended to read as follows:

Section 215.33 A. The district attorney's office shall inform the victims and witnesses of crimes of the following rights:

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

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

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

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

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

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

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

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

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

10. To be informed of any plea bargain negotiations;

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

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

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

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

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

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

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

B. Victim-witness coordinators may inform the crime victim of an offense committed by a juvenile of the name and address of the juvenile found to have committed the crime, and shall notify the

crime victim of any offense listed in Section 7306-1.1 of Title 10 of the Oklahoma Statutes of all court hearings involving that particular juvenile act. If the victim is not available, the victim-witness coordinator shall notify an adult relative of the victim of said hearings.

C. Victim-witness coordinators shall inform victims of violent crimes, as defined in Section 984 of Title 22 of the Oklahoma Statutes, and members of the immediate family of such victims of their rights under Sections 984.1 and 984.2 of Title 22 of the Oklahoma Statutes and Section 332.2 of Title 57 of the Oklahoma Statutes.

D. In any felony case involving a violent crime or a sex offense, the victim-witness coordinator shall inform the victim, as soon as practicable, or an adult member of the immediate family of the victim if the victim is deceased, incapacitated, or incompetent, of the progress of pretrial proceedings which could substantially delay the prosecution of the case.

E. All victim-witness coordinators appointed to perform the services specified in subsection A of this section shall complete a minimum of twelve (12) hours in-service training annually. Said training shall be conducted pursuant to the direction of the District Attorneys Council and the Crime Victims Compensation Board.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 984.4 of Title 22, unless there is created a duplication in numbering, reads as follows:

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

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

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

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

B. For purposes of this section, "violent crime" means the same as provided in paragraph 3 of Section 984 of Title 22 of the Oklahoma Statutes.

SECTION 3. This act shall become effective July 1, 2009.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 4th day of May, 2009.

Presiding Officer of the Senate

Passed the House of Representatives the 13th day of April, 2009.

Presiding Officer of the House of Representatives

OFFICE OF THE GOVERNOR

Received by the Governor this 5th

day of May, 2009,

at 4:03 o'clock P M.

By: [illegible]

Approved by the Governor of the State of Oklahoma the 11th day of

May, 2009, at 2:58 o'clock P M.

[illegible]

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this

11th day of May, 2009,

at 3:51 o'clock P. M.

By: M. Susan Savage