

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 202

By: Bergstrom

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5
6 AS INTRODUCED

7 An Act relating to sexual assault victims' rights;
8 amending 21 O.S. 2011, Section 142A-3, as amended by
9 Section 1, Chapter 196, O.S.L. 2014 (21 O.S. Supp.
10 2020, Section 142A-3), which relates to informing
11 victims of rights; providing for certain rights;
12 stating location of certain assessment; providing
13 protocol referral process; and providing an effective
14 date.

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

16 SECTION 1. AMENDATORY 21 O.S. 2011, Section 142A-3, as
17 amended by Section 1, Chapter 196, O.S.L. 2014 (21 O.S. Supp. 2020,
18 Section 142A-3), is amended to read as follows:

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

1 member receiving death notification, a preprinted card or brochure
2 that, at a minimum, includes the following information:

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

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

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

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

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

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

20 2. The right to request protection from any harm or threat of
21 harm arising out of your cooperation with law enforcement and
22 prosecution efforts as far as facilities are available and to be
23 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 5. The right to not have evidence be destroyed before the
8 statute of limitations;

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

10 7. The right to consult with a sexual assault counselor."

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

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

23 1. The right to request that charges be pressed against your
24 assailant;

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

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

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

9 5. The right to be informed by the district attorney of other
10 victim's rights available pursuant to Section 142A-2 of ~~Title 21 of~~
11 ~~the Oklahoma Statutes~~ this title;

12 6. The right to not have evidence be destroyed before the
13 statute of limitations; and

14 7. The right to consult with a sexual assault counselor."

15 D. Upon the preliminary investigation of a domestic violence
16 crime involving intimate partner violence, the first peace officer
17 who interviews the victim of domestic abuse shall assess the
18 potential for danger by asking a series of questions provided on a
19 lethality assessment form available on the Attorney General website.
20 The lethality assessment form shall include, ~~but not be limited to,~~
21 the following questions:

22 1. Has the person ever used a weapon against the victim or
23 threatened the victim with a weapon?

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

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

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

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

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

10 7. Is the person unemployed?

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

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

14 10. Does the person follow or spy on the victim or leave the
15 victim threatening messages?

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

18 ~~Based upon the results of the lethality assessment, referrals to~~
19 ~~shelters, domestic violence intervention programs and other social~~
20 ~~services shall be provided to the victim~~

21 E. If the results of the lethality assessment indicate a
22 referral is suggested, the assessing officer shall implement the
23 protocol referral process to a domestic violence advocate from a
24 certified or tribal program as follows:

1 1. Advise the victim of the results of the assessment;

2 2. Advise the victim that based on the results of the
3 assessment the officer will call the domestic violence hotline to
4 allow the victim to speak with an advocate; and

5 3. If the victim does not want to speak with an advocate, the
6 officer shall document the refusal on the form.

7 F. Regardless of the results of the lethality assessment,
8 referral information for shelters, domestic violence programs and
9 other social services shall be provided to the victim.

10 SECTION 2. This act shall become effective November 1, 2021.

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