

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 55th Legislature (2016)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2522

By: Coody (Ann) of the House

and

Barrington of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to crimes and punishments; creating
12 the Diane Burk-Dye Act; amending 21 O.S. 2011,
13 Section 142A-3, as amended by Section 1, Chapter 196,
14 O.S.L. 2014 (21 O.S. Supp. 2015, Section 142A-3),
15 which relates to the Oklahoma Victim's Rights Act;
16 providing for the relinquishment of firearms or
17 weapons under certain circumstances; providing
18 procedures for the inventory and safekeeping of
19 weapons; making certain conduct unlawful; providing
20 penalty; providing for noncodification; and providing
21 an effective date.

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

23 SECTION 1. NEW LAW A new section of law not to be
24 codified in the Oklahoma Statutes reads as follows:

 This act shall be known and may be cited as the "Diane Burk-Dye
Act".

1 SECTION 2. AMENDATORY 21 O.S. 2011, Section 142A-3, as
2 amended by Section 1, Chapter 196, O.S.L. 2014 (21 O.S. Supp. 2015,
3 Section 142A-3), is amended to read as follows:

4 Section 142A-3. A. Upon the preliminary investigation of a
5 violent crime, it shall be the duty of the officer who interviews
6 the victim of such crime to inform the victim, or a responsible
7 adult if the victim is a minor child or an incompetent person, or
8 the family member who receives death notification in the case of a
9 homicide, in writing, of their rights as a crime victim. Written
10 notification shall consist of handing the victim, responsible adult,
11 if the victim is a minor child or an incompetent person, or family
12 member receiving death notification, a preprinted card or brochure
13 that, at a minimum, includes the following information:

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

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

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

21 B. A victim of domestic abuse has the right to be informed by
22 the first peace officer who interviews the victim of domestic abuse
23 of the twenty-four-hour statewide telephone communication service
24 established by Section 18p-5 of Title 74 of the Oklahoma Statutes

1 and to give notice to the victim of certain rights. The notice
2 shall consist of handing such victim the following statement:

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

5 1. The right to request that charges be pressed against your
6 assailant;

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

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

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

17 C. The victim of rape or forcible sodomy has the right to be
18 informed by the officer who interviews the victim of the rape or
19 forcible sodomy, or a responsible adult if the victim is a minor
20 child or an incompetent person, of the twenty-four-hour statewide
21 telephone communication service established by the Office of the
22 Attorney General for victims of sexual assault pursuant to Section
23 18p-5 of Title 74 of the Oklahoma Statutes and to give notice to the
24 victim or such responsible adult of certain rights of the victim.

1 The notice shall consist of handing such victim or responsible adult
2 a written statement in substantially the following form:

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

5 1. The right to request that charges be pressed against your
6 assailant;

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

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

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

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

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

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- 1 1. Has the person ever used a weapon against the victim or
2 threatened the victim with a weapon?
- 3 2. Has the person threatened to kill the victim or children of
4 the victim?
- 5 3. Does the victim think the person will try to kill the
6 victim?
- 7 4. Has the person ever tried to choke the victim?
- 8 5. Is the person violently or constantly jealous or does the
9 person control most of the daily activities of the victim?
- 10 6. Has the victim left or separated from the person after
11 living together or being married?
- 12 7. Is the person unemployed?
- 13 8. Has the person ever tried to kill himself or herself?
- 14 9. Does the victim have a child that the person knows is not
15 his or her own child?
- 16 10. Does the person follow or spy on the victim or leave the
17 victim threatening messages?
- 18 11. Is there anything else that worries the victim about his or
19 her safety and if so, what worries the victim?

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

23 E. In the event the lethality assessment required in subsection
24 D of this section establishes probable cause for the peace officer

1 to believe the victim is in imminent risk of death or serious bodily
2 harm, the peace officer shall without delay contact a district court
3 judge or magistrate and seek intervention of the court. Upon ample
4 opportunity for review of the determination of probable cause by the
5 peace officer, the court may, in its sound discretion by directing
6 the service of written notice, order the person responsible for
7 creating the imminent risk of death or serious bodily harm to appear
8 before the court within twenty-four (24) hours and show cause why
9 the person should not be ordered to immediately relinquish all
10 firearms or other dangerous weapons owned or under his or her
11 control for safekeeping.

12 F. The court shall determine at a hearing ordered pursuant to
13 subsection E of this section whether to issue a Domestic Violence
14 Imminent Danger Order to immediately relinquish all firearms or
15 other dangerous weapons and pronounce a decision before adjourning
16 the hearing. Before the court issues an order to relinquish all the
17 firearms or other dangerous weapons of the person until further
18 order of the court, the court shall find that the person has a
19 history that demonstrates an intent to commit violence against the
20 victim including, but not limited to, a prior conviction for an
21 offense under the Protection from Domestic Abuse Act or any other
22 violent offense or evidence that shows by a preponderance of the
23 evidence that the person is likely to commit violence against the
24 victim. Any subsequent hearing before the court regarding retention

1 of the firearms or other dangerous weapons may be held in
2 conjunction with any other proceedings related to the domestic
3 violence crime resulting in the lethality assessment.

4 G. To ensure compliance with an order to immediately relinquish
5 all firearms and other dangerous weapons, the court shall authorize
6 a peace officer or law enforcement agency to accompany the person to
7 his or her place of residence, business, vehicle and any other place
8 the court finds appropriate to conduct an inventory and retrieval of
9 firearms or other dangerous weapons owned or under the control of
10 the person in such places. The inventory of relinquished weapons
11 shall include a description of the firearm or weapon, name of
12 manufacturer, caliber or gauge of weapon and the serial number,
13 where applicable. A copy of the inventory shall be provided to the
14 person and filed with the court with a return of service of the
15 order of the court. The law enforcement agency taking possession of
16 the firearm or weapon shall be responsible for the safekeeping of
17 the firearm or weapon and liable for any loss of or damage to the
18 firearm or weapon occurring while in the possession of the law
19 enforcement agency.

20 H. Any victim who makes false statements or representations to
21 any peace officer investigating the alleged crime or conducting the
22 lethality assessment shall be subject to prosecution for the false
23 reporting of a crime pursuant to the provisions of Section 589 of
24 this title and shall, upon conviction, be guilty of a misdemeanor

1 punishable by imprisonment in the county jail for not more than
2 ninety (90) days, or by a fine of not more than Five Hundred Dollars
3 (\$500.00), or by both such fine and imprisonment.

4 SECTION 3. This act shall become effective November 1, 2016.

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6 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 02/29/2016 -
7 DO PASS, As Amended and Coauthored.

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