

By: Guillen

H.B. No. 488

A BILL TO BE ENTITLED

AN ACT

relating to providing notice of the release or escape of a defendant to certain crime victims and witnesses in criminal trials.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act shall be known as the Diana Hinojosa Leal Act.

SECTION 2. Article 56.11, Code of Criminal Procedure, is amended to read as follows:

Art. 56.11. NOTIFICATION TO VICTIM OR WITNESS OF RELEASE OR ESCAPE OF DEFENDANT. (a) The Texas Department of Criminal Justice or the sheriff, whichever has custody of the defendant in the case of a felony, or the sheriff in the case of a misdemeanor, shall notify the victim of the offense or a witness who testified against the defendant at the trial for the offense whenever a defendant [~~person~~] convicted of an offense described by Subsection (c):

(1) completes the defendant's [~~person's~~] sentence and is released; or

(2) escapes from a correctional facility.

(b) If the Texas Department of Criminal Justice is required by Subsection (a) to give notice to a [the] victim or witness [~~of an offense~~], the department shall also give notice to local law enforcement officials in the county in which the victim or witness resides.

(c) This article applies to a defendant [~~person~~] convicted

1 of:

2 (1) an offense under Title 5, Penal Code, that is
3 punishable as a felony;

4 (2) an offense described by Section 508.187(a),
5 Government Code, other than an offense described by Subdivision
6 (1);~~[7]~~ or

7 (3) an offense involving family violence, stalking, or
8 violation of a protective order or magistrate's order.

9 (d) It is the responsibility of a victim or witness desiring
10 notification of the defendant's ~~[offender's]~~ release to provide the
11 Texas Department of Criminal Justice or the sheriff, as
12 appropriate, with the e-mail address, mailing address, and
13 telephone number of the victim, witness, or other person through
14 whom the victim or witness may be contacted and to notify the
15 department or the sheriff of any change of address or telephone
16 number of the victim, witness, or other person. Information
17 obtained and maintained by the Texas Department of Criminal Justice
18 or a sheriff under this subsection is privileged and confidential.

19 (e) The Texas Department of Criminal Justice or the sheriff,
20 as appropriate, shall:

21 (1) give the notice required by Subsection (a) by
22 e-mail, if possible; and

23 (2) make a reasonable attempt to give any ~~[the]~~ notice
24 required by Subsection (a):

25 (A) ~~[(1)]~~ not later than the 30th day before the
26 defendant ~~[person]~~ completes the sentence and is released; or

27 (B) ~~[(2)]~~ immediately if the defendant ~~[person]~~

1 escapes from the correctional facility.

2 (f) An attempt by the Texas Department of Criminal Justice
3 or the sheriff to give notice to a [the] victim or witness at the
4 victim's or witness's last known e-mail address and mailing
5 address, as shown on the records of the department or agency,
6 constitutes a reasonable attempt to give notice under this article.

7 (g) Immediately following the conviction of a defendant
8 described by Subsection (c), the attorney who represented the state
9 in the prosecution of the case shall notify in writing a victim or
10 witness described by Subsection (a) of the victim's or witness's
11 right to receive notice under this article.

12 (h) In this article:

13 (1) "Correctional facility" has the meaning assigned
14 by Section 1.07, Penal Code.

15 (2) "Family violence" has the meaning assigned by
16 Section 71.004, Family Code.

17 SECTION 3. Article 56.12, Code of Criminal Procedure, is
18 amended to read as follows:

19 Art. 56.12. NOTIFICATION OF ESCAPE OR TRANSFER. (a) The
20 Texas Department of Criminal Justice shall immediately notify the
21 victim of an offense, the victim's guardian, or the victim's close
22 relative, if the victim is deceased, if the victim, victim's
23 guardian, or victim's close relative has notified the institutional
24 division as provided by Subsection (b) of this article, whenever
25 the defendant [~~offender~~]:

26 (1) escapes from a facility operated by the
27 institutional division; or

1 (2) is transferred from the custody of the
2 institutional division to the custody of a peace officer under a
3 writ of attachment or a bench warrant.

4 (a-1) The Texas Department of Criminal Justice shall
5 immediately notify a witness who testified against a defendant at
6 the trial for the offense for which the defendant is incarcerated,
7 the witness's guardian, or the witness's close relative, if the
8 witness is deceased, if the witness, witness's guardian, or
9 witness's close relative has notified the institutional division as
10 provided by Subsection (b), whenever the defendant:

11 (1) escapes from a facility operated by the
12 institutional division; or

13 (2) is transferred from the custody of the
14 institutional division to the custody of a peace officer under a
15 writ of attachment or a bench warrant.

16 (b) It is the responsibility of the victim, witness,
17 guardian, or close relative desiring notification of a defendant's
18 ~~[an offender's]~~ escape or transfer from custody under a writ of
19 attachment or bench warrant to notify the Texas Department of
20 Criminal Justice of the desire for notification and any change of
21 address.

22 (c) In providing notice under Subsection (a)(2) or
23 (a-1)(2), the institutional division shall include the name,
24 address, and telephone number of the peace officer receiving the
25 defendant ~~[inmate]~~ into custody. On returning the defendant
26 ~~[inmate]~~ to the custody of the institutional division, the victim
27 services division of the Texas Department of Criminal Justice shall

1 notify the victim, witness, [~~the victim's~~] guardian, or [~~the~~
2 ~~victim's~~] close relative, as applicable [~~if the victim is~~
3 ~~deceased~~], of that fact.

4 (d) In this article, "witness's close relative" means a
5 person who was the spouse of the deceased witness at the time of the
6 witness's death or who is a parent or adult brother, sister, or
7 child of the deceased witness.

8 SECTION 4. Subchapter A, Chapter 56, Code of Criminal
9 Procedure, is amended by adding Article 56.15 to read as follows:

10 Art. 56.15. COMPUTERIZED DATABASE; DEFENDANT RELEASE
11 INFORMATION. The Texas Department of Criminal Justice shall:

12 (1) create and maintain a computerized database
13 containing the release information and release date of a defendant
14 described by Article 56.11(c); and

15 (2) allow a victim or witness entitled to notice under
16 Article 56.11 or 56.12 to access via the Internet the computerized
17 database maintained under Subdivision (1).

18 SECTION 5. The changes in law made by Articles 56.11 and
19 56.12, Code of Criminal Procedure, as amended by this Act, apply
20 only to a notice regarding a defendant who is released or escapes on
21 or after September 1, 2005. A notice regarding a defendant who is
22 released or escapes before September 1, 2005, is governed by the law
23 in effect at the time the defendant was released or escaped, and the
24 previous law is continued in effect for that purpose.

25 SECTION 6. The Texas Department of Criminal Justice shall
26 complete the creation of the computerized database required by
27 Article 56.15, Code of Criminal Procedure, as added by this Act, not

1 later than March 1, 2006, and shall begin to allow victims or
2 witnesses described by Article 56.11 or 56.12, Code of Criminal
3 Procedure, access to that database on a date that is not later than
4 September 1, 2006.

5 SECTION 7. This Act takes effect September 1, 2005.