

By: Guillen

H.B. No. 963

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. 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, other than a witness who testified in the course and scope of the witness's official or professional duties, 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

of:

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

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

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

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

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

(1) [7] shall make a reasonable attempt to give any [~~the~~] notice required by Subsection (a):

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

(B) [~~(2)~~] immediately if the defendant [~~person~~] escapes from the correctional facility; and

1 (2) may give any notice required by Subsection (a) by
2 e-mail, if possible.

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

9 (g) Not later than immediately following the conviction of a
10 defendant described by Subsection (c), the attorney who represented
11 the state in the prosecution of the case shall notify in writing a
12 victim or witness described by Subsection (a) of the victim's or
13 witness's right to receive notice under this article.

14 (h) In this article:

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

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

19 SECTION 2. Article 56.12, Code of Criminal Procedure, is
20 amended to read as follows:

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

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

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

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

13 (1) escapes from a facility operated by the
14 institutional division; or

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

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

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

1 ~~[inmate]~~ to the custody of the institutional division, the victim
2 services division of the Texas Department of Criminal Justice shall
3 notify the victim, witness, ~~[the victim's]~~ guardian, or ~~[the~~
4 ~~victim's]~~ close relative, as applicable ~~[if the victim is~~
5 ~~deceased]~~, of that fact.

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

10 SECTION 3. Subchapter A, Chapter 56, Code of Criminal
11 Procedure, is amended by adding Article 56.15 to read as follows:

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

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

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

20 SECTION 4. The changes in law made by Articles 56.11 and
21 56.12, Code of Criminal Procedure, as amended by this Act, apply
22 only to a notice regarding a defendant who is released or escapes on
23 or after September 1, 2007. A notice regarding a defendant who is
24 released or escapes before September 1, 2007, is governed by the law
25 in effect at the time the defendant was released or escaped, and the
26 previous law is continued in effect for that purpose.

27 SECTION 5. The Texas Department of Criminal Justice shall

1 complete the creation of the computerized database required by
2 Article 56.15, Code of Criminal Procedure, as added by this Act, not
3 later than March 1, 2008, and shall begin to allow victims or
4 witnesses described by Article 56.11 or 56.12, Code of Criminal
5 Procedure, access to that database on a date that is not later than
6 September 1, 2008.

7 SECTION 6. This Act takes effect September 1, 2007.