

By: Guillen

H.B. No. 963

Substitute the following for H.B. No. 963:

By: Pena

C.S.H.B. No. 963

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to providing notice of the release or escape of a defendant  
3 to certain crime victims and witnesses in criminal trials.

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

5 SECTION 1. Article 56.11, Code of Criminal Procedure, is  
6 amended to read as follows:

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

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

16 (2) escapes from a correctional facility.

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

22 (c) This article applies to a defendant [~~person~~] convicted  
23 of:

24 (1) an offense under Title 5, Penal Code, that is

1 punishable as a felony;

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

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

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

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

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

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

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

26                         (B) ~~[(2)]~~ immediately if the defendant ~~[person]~~  
27 escapes from the correctional facility.

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

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

11 (h) In this article:

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

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

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

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

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

27 (2) is transferred from the custody of the

1 institutional division to the custody of a peace officer under a  
2 writ of attachment or a bench warrant.

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

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

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

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

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

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

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

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

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

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

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

17 SECTION 4. The changes in law made by Articles 56.11 and  
18 56.12, Code of Criminal Procedure, as amended by this Act, apply  
19 only to a notice regarding a defendant who is released or escapes on  
20 or after September 1, 2007. A notice regarding a defendant who is  
21 released or escapes before September 1, 2007, is governed by the law  
22 in effect at the time the defendant was released or escaped, and the  
23 previous law is continued in effect for that purpose.

24 SECTION 5. The Texas Department of Criminal Justice shall  
25 complete the creation of the computerized database required by  
26 Article 56.15, Code of Criminal Procedure, as added by this Act, not  
27 later than March 1, 2008, and shall begin to allow victims or

1 witnesses described by Article 56.11 or 56.12, Code of Criminal  
2 Procedure, access to that database on a date that is not later than  
3 September 1, 2008.

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