

By: Farias

H.B. No. 2291

A BILL TO BE ENTITLED

AN ACT

1
2 relating to a victim-offender mediation program administered by
3 juvenile boards and the collection of restitution on behalf of
4 victims by juvenile probation departments.

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

6 SECTION 1. Chapter 54, Family Code, is amended by adding
7 Section 54.035 to read as follows:

8 Sec. 54.035. VICTIM-OFFENDER MEDIATION. (a) This section
9 applies only to a child whose delinquent conduct or conduct
10 indicating a need for supervision:

11 (1) causes a victim to suffer a pecuniary loss; and

12 (2) does not cause the victim or another to suffer
13 physical injury or harm.

14 (b) The Texas Juvenile Probation Commission by rule shall
15 establish guidelines for victim-offender mediation programs to be
16 administered by juvenile boards. Each juvenile board shall
17 implement and administer a victim-offender mediation program in
18 accordance with the guidelines adopted by the Texas Juvenile
19 Probation Commission. A juvenile court is required to inform a
20 victim to whom this section applies of the victim's right to request
21 victim-offender mediation.

22 (c) Under a victim-offender mediation program, a victim to
23 whom this section applies may request mediation with the child who
24 is alleged to have engaged in the delinquent conduct or conduct

1 indicating a need for supervision. If the child agrees to
2 participate in the victim-offender mediation and successfully
3 completes the terms of any agreement reached during the mediation,
4 the child is not subject to a disposition hearing under Section
5 54.04.

6 (d) Any agreement reached between the victim and the child
7 during victim-offender mediation is binding and enforceable by the
8 juvenile court. If an agreement is not reached between the victim
9 and the child or if the child does not successfully complete the
10 terms of the agreement, as determined by the juvenile court, the
11 child is subject to a disposition hearing under Section 54.04.

12 SECTION 2. Section 57.002(a), Family Code, is amended to
13 read as follows:

14 (a) A victim, guardian of a victim, or close relative of a
15 deceased victim is entitled to the following rights within the
16 juvenile justice system:

17 (1) the right to receive from law enforcement agencies
18 adequate protection from harm and threats of harm arising from
19 cooperation with prosecution efforts;

20 (2) the right to have the court or person appointed by
21 the court take the safety of the victim or the victim's family into
22 consideration as an element in determining whether the child should
23 be detained before the child's conduct is adjudicated;

24 (3) the right, if requested, to be informed of
25 relevant court proceedings, including appellate proceedings, and
26 to be informed in a timely manner if those court proceedings have
27 been canceled or rescheduled;

1 (4) the right to be informed, when requested, by the
2 court or a person appointed by the court concerning the procedures
3 in the juvenile justice system, including general procedures
4 relating to:

5 (A) the preliminary investigation and deferred
6 prosecution of a case; and

7 (B) the appeal of the case;

8 (5) the right to provide pertinent information to a
9 juvenile court conducting a disposition hearing concerning the
10 impact of the offense on the victim and the victim's family by
11 testimony, written statement, or any other manner before the court
12 renders its disposition;

13 (6) the right to receive information regarding
14 compensation to victims as provided by Subchapter B, Chapter 56,
15 Code of Criminal Procedure, including information related to the
16 costs that may be compensated under that subchapter and the amount
17 of compensation, eligibility for compensation, and procedures for
18 application for compensation under that subchapter, the payment of
19 medical expenses under Section 56.06, Code of Criminal Procedure,
20 for a victim of a sexual assault, and when requested, to referral to
21 available social service agencies that may offer additional
22 assistance;

23 (7) the right to be informed, upon request, of
24 procedures for release under supervision or transfer of the person
25 to the custody of the pardons and paroles division of the Texas
26 Department of Criminal Justice for parole, to participate in the
27 release or transfer for parole process, to be notified, if

1 requested, of the person's release, escape, or transfer for parole
2 proceedings concerning the person, to provide to the Texas Youth
3 Commission for inclusion in the person's file information to be
4 considered by the commission before the release under supervision
5 or transfer for parole of the person, and to be notified, if
6 requested, of the person's release or transfer for parole;

7 (8) the right to be provided with a waiting area,
8 separate or secure from other witnesses, including the child
9 alleged to have committed the conduct and relatives of the child,
10 before testifying in any proceeding concerning the child, or, if a
11 separate waiting area is not available, other safeguards should be
12 taken to minimize the victim's contact with the child and the
13 child's relatives and witnesses, before and during court
14 proceedings;

15 (9) the right to prompt return of any property of the
16 victim that is held by a law enforcement agency or the attorney for
17 the state as evidence when the property is no longer required for
18 that purpose;

19 (10) the right to have the attorney for the state
20 notify the employer of the victim, if requested, of the necessity of
21 the victim's cooperation and testimony in a proceeding that may
22 necessitate the absence of the victim from work for good cause;

23 (11) the right to be present at all public court
24 proceedings related to the conduct of the child as provided by
25 Section 54.08, subject to that section; [~~and~~]

26 (12) for a victim to whom Section 54.035 applies, the
27 right to request victim-offender mediation under that section; and

1 (13) any other right appropriate to the victim that a
2 victim of criminal conduct has under Article 56.02, Code of
3 Criminal Procedure.

4 SECTION 3. Subchapter C, Chapter 141, Human Resources Code,
5 is amended by adding Section 141.055 to read as follows:

6 Sec. 141.055. RESTITUTION MONITORING. The commission shall
7 monitor the success of juvenile probation departments in collecting
8 restitution from a child who:

9 (1) has been adjudicated as having engaged in
10 delinquent conduct or conduct indicating a need for supervision;
11 and

12 (2) is required by a juvenile court to make
13 restitution to the victim of the child's conduct.

14 SECTION 4. (a) Not later than December 1, 2007, the Texas
15 Juvenile Probation Commission shall establish guidelines for
16 victim-offender mediation programs as required by Section 54.035,
17 Family Code, as added by this Act.

18 (b) The change in law made by Section 54.035, Family Code,
19 as added by this Act, applies only to conduct that occurs on or
20 after January 1, 2008. Conduct that occurs before January 1, 2008,
21 is governed by the law in effect when the conduct occurred, and the
22 former law is continued in effect for that purpose. For purposes of
23 this section, conduct occurs before January 1, 2008, if any element
24 of the violation occurs before that date.

25 SECTION 5. This Act takes effect September 1, 2007.