

BILL ANALYSIS

C.S.H.B. 2145
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concern has been raised that some prosecutors, in an effort to secure a quick and guaranteed conviction, offer a plea bargain in a case involving the death of a peace officer in the line of duty that is not supported by the surviving family members of the officer. Often, these family members do not believe the punishment agreed to in the plea bargain fits the circumstances of the crime and would rather see a case move to trial than see the plea bargain accepted.

C.S.H.B. 2145 allows one immediate family member of a peace officer who dies as the result of alleged criminal conduct to make an oral statement to the court regarding any plea bargaining agreement in the case. The bill requires the attorney representing the state to notify immediate family members of the peace officer of the terms of any proposed plea bargain and notify them of the right of one immediate family member to make a statement to the court.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2145 amends the Code of Criminal Procedure to allow one immediate family member of a peace officer who dies as a result of alleged criminal conduct for which a defendant has been indicted or for which an information has been returned, to make an oral statement to a court regarding the terms of any plea bargain agreement in the case. The bill requires the family member who makes the statement to be designated by the peace officer's immediate family. The bill requires the attorney representing the state in such a case to notify the deceased peace officer's immediate family members of the existence and terms of any plea bargain agreement and of the right of one immediate family member to make an oral statement regarding whether the family member supports or opposes the terms of the plea bargain agreement.

C.S.H.B. 2145 requires the court to consider an oral statement by one immediate family member of the deceased peace officer before sentencing the defendant and requires the court to inform the family member before the family member makes the statement that the defendant or the defendant's counsel is permitted to cross-examine the person making the oral statement, comment on the oral statement, and with court approval introduce testimony or other information alleging a factual inaccuracy in the oral statement. The bill specifies that the presentation and consideration of an oral statement by one immediate family member is in addition to the consideration of a written victim impact statement and does not preclude the presentation of a statement after a sentence is pronounced.

C.S.H.B. 2145 defines "immediate family member of a peace officer" and "peace officer."

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2145 differs from the original by adding a provision to require the family member who makes the statement to be designated by the peace officer's immediate family. The substitute removes the provision that each immediate family member has a right to make an oral statement to the court regarding whether the family member supports the terms of the agreement and adds that provision to the substitute to entitle the one designated immediate family member to make an oral statement to the court regarding whether the peace officer's family supports or opposes the terms of the agreement. The substitute adds a provision not in the original to require the court to consider an oral statement prior to sentencing the defendant and requires the court to inform the family member making the statement that the defendant or the defendant's counsel is permitted an opportunity to cross-examine the person making the statement, to comment on the statement, and to introduce testimony or information alleging a factual inaccuracy in the statement. The substitute adds a provision not in the original to specify that an oral statement is in addition to the consideration of a written victim impact statement and does not preclude the presentation of a statement after the sentence is announced. The substitute defines "immediate family member of a peace officer" and "peace officer."