

BILL ANALYSIS

C.S.H.B. 2236
By: Moody
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The U.S. Constitution provides that in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial. However, the victim of a crime has an equally strong interest in the prompt disposition and conclusion of all criminal proceedings in which the victim is involved.

Repeated delays and continuances in the criminal justice process may prevent a victim from reaching emotional, physical, and financial closure to the trauma suffered as a result of the crime or crimes perpetrated against the victim. Such delays in prosecution may also limit the ability of a victim to receive justice, as a victim's memory, or the memories of other witnesses, begins to fade with the passage of time or when a victim's health deteriorates. In response to these concerns, many states have enacted statutes and amended their state constitutions to recognize that victims also have a right to a prompt disposition and conclusion of all criminal proceedings in which the victim is involved.

C.S.H.B. 2236 entitles a victim or the representative for a victim of an assault or sexual assault who is younger than 17 years of age or whose case involves family violence to the right to have the court consider the impact on the victim of a continuance requested by the defendant.

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. 2236 amends the Code of Criminal Procedure to add to the list of rights within the criminal justice system to which a victim, guardian of a victim, or close relative of a deceased victim is entitled, for a victim of an assault or sexual assault who is younger than 17 years of age or whose case involves family violence, the right to have the court consider the impact on the victim of a continuance requested by the defendant. The bill requires the court, if requested by the attorney representing the state or by counsel for the defendant, to state on the record the reason for granting or denying the continuance.

C.S.H.B. 2236 requires a court that considers, on request by the attorney representing the state, a motion for continuance on the part of a defendant to also consider the impact of the continuance on the victim. The bill requires the court, on request by the attorney representing the state or by counsel for the defendant, to state on the record the reason for granting or denying the continuance. The bill defines "victim," for purposes of considering the impact of a continuance on certain victims, as the victim of an assault or sexual assault who is younger than 17 years of age or whose case involves family violence.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2236 differs from the original by adding to the rights of a victim in the criminal justice system the right of a victim or the representative of a victim of an assault or sexual assault who is younger than 17 years of age, and retaining the right for a victim of assault or sexual assault whose case involves family violence, to have the court consider the impact on the victim of a continuance requested by the defendant, whereas the original only grants this right to a victim of assault or sexual assault in a case involving family violence. The substitute modifies the definition of "victim," which was present in the original, to reflect this change.

C.S.H.B. 2236 removes language from the original entitling the victim, on request by the attorney representing the state, to the right to a speedy trial consistent with the defendant's right to a fair trial. The substitute differs from the original by requiring the court to state on the record the reason for granting or denying a continuance, if requested by the attorney representing the state or by counsel for the defendant, whereas the original entitles the victim to the right, on request by the attorney representing the state or by the victim, to have the reason for a continuance stated on the record only if the continuance is granted.

C.S.H.B. 2236 differs from the original in the provision relating to the consideration of the impact on certain victims by requiring a court to state on the record the reason for granting or denying a continuance, if requested by the attorney representing the state or by counsel for the defendant, whereas the original requires a court to state only the reason for a continuance on the record, on request by the attorney representing the state or by the victim.