

BILL ANALYSIS

H.B. 2584
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Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Repeated delays and continuances in the criminal justice process can cause many problems in a case involving a child victim. The delayed process can prevent a child victim from reaching emotional closure and healing as, each time the case is reset and delayed, the child must return to the court and face the alleged offender once again. Such delays not only affect the child emotionally, they may even lead to a recantation of the abuse. As it is difficult to prepare a child victim and the victim's family for trial proceedings, the delays also cause unwillingness to participate as many families and children are ready to move on and achieve closure.

Such delays in prosecution can also limit the ability of a child victim to receive justice as the child's memories of the traumatic event fade with the passage of time. This is of particular importance in sexual abuse cases involving a child because often, the only evidence available is the child's recollection of the event, and there is usually no physical evidence or collateral witnesses to the crime, making the memory and testimony of the child extremely important. Bringing these cases to trial in a timely manner, while the event is still fresh in the child's memory, is critical for a fair and just trial for both the prosecution and the defense.

H.B. 2584 adds the right to a speedy trial to the list of rights within the criminal justice system to which a child victim of sexual assault or assault is entitled, on request of the attorney representing the state.

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

H.B. 2584 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 child younger than 17 years of age who is the victim of an assault or sexual assault, on request by the attorney representing the state, the right to a speedy trial consistent with the defendant's right to a fair trial, including the right to have the court consider the impact on the victim of a continuance requested by the defendant and, if the continuance is granted, the right, on request by the attorney representing the state or by the victim, to have the court state on the record the reason for the continuance.

H.B. 2584 requires a court that considers a motion for continuance on the part of a defendant, on request by the attorney representing the state, 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 the victim, to state on the record the reason for the continuance if the court grants the motion. The bill provides that these requirements apply only to a child younger than 17 years of age who is the victim of an assault or sexual assault.

EFFECTIVE DATE

September 1, 2009.