

By: Miklos, et al.

H.B. No. 2145

Substitute the following for H.B. No. 2145:

By: Gallego

C.S.H.B. No. 2145

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the right of one immediate family member of certain
3 deceased peace officers to make an oral statement regarding the
4 terms of a plea bargain agreement.

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

6 SECTION 1. Chapter 26, Code of Criminal Procedure, is
7 amended by adding Article 26.131 to read as follows:

8 Art. 26.131. ORAL STATEMENT REGARDING TERMS OF PLEA BARGAIN
9 AGREEMENT. (a) One immediate family member of a peace officer who
10 dies as the result of alleged criminal conduct for which a defendant
11 has been indicted or for which an information has been returned is
12 entitled to make an oral statement to the court regarding the terms
13 of any plea bargain agreement in the case and regarding whether the
14 peace officer's family supports or opposes the terms of that
15 agreement. The family member who makes the statement must be
16 designated by the peace officer's immediate family.

17 (b) In a case in which a peace officer dies as a result of
18 the alleged criminal conduct of the defendant, the attorney
19 representing the state shall notify the immediate family members of
20 the deceased peace officer of the existence and terms of any plea
21 bargain agreement and the right of one immediate family member to
22 make an oral statement to the court as described by Subsection (a).

23 (c) The court shall:

24 (1) consider an oral statement under Subsection (a)

1 before sentencing the defendant; and

2 (2) permit the defendant or the defendant's counsel an
3 opportunity to:

4 (A) cross-examine the person making the oral
5 statement;

6 (B) comment on the oral statement; and

7 (C) with the approval of the court, introduce
8 testimony or other information alleging a factual inaccuracy in the
9 oral statement.

10 (d) Before the immediate family member makes an oral
11 statement under Subsection (a), the court shall inform the family
12 member of the defendant's rights under Subsection (c)(2).

13 (e) The presentation and consideration of an oral statement
14 under this article is in addition to the consideration of a written
15 victim impact statement under Article 56.03 and does not preclude
16 the presentation of a statement after sentence is pronounced under
17 Article 42.03.

18 (f) In this article:

19 (1) "Immediate family member of a peace officer" means
20 an individual who is related to a peace officer within the second
21 degree by affinity or consanguinity.

22 (2) "Peace officer" has the meaning assigned by
23 Section 1.07, Penal Code.

24 SECTION 2. The change in law made by this Act applies only
25 to a plea of guilty or nolo contendere entered on or after the
26 effective date of this Act, regardless of whether the offense with
27 reference to which the plea is entered is committed before, on, or

1 after that date.

2 SECTION 3. This Act takes effect September 1, 2009.