

By: Moody, Hartnett

H.B. No. 2236

Substitute the following for H.B. No. 2236:

By: Gallego

C.S.H.B. No. 2236

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the right of certain crime victims to be considered with  
3 respect to a defendant's motion for continuance.

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

5 SECTION 1. Article 56.02(a), Code of Criminal Procedure, is  
6 amended to read as follows:

7 (a) A victim, guardian of a victim, or close relative of a  
8 deceased victim is entitled to the following rights within the  
9 criminal justice system:

10 (1) the right to receive from law enforcement agencies  
11 adequate protection from harm and threats of harm arising from  
12 cooperation with prosecution efforts;

13 (2) the right to have the magistrate take the safety of  
14 the victim or his family into consideration as an element in fixing  
15 the amount of bail for the accused;

16 (3) the right, if requested, to be informed:

17 (A) by the attorney representing the state of  
18 relevant court proceedings, including appellate proceedings, and  
19 to be informed if those proceedings have been canceled or  
20 rescheduled prior to the event; and

21 (B) by an appellate court of decisions of the  
22 court, after the decisions are entered but before the decisions are  
23 made public;

24 (4) the right to be informed, when requested, by a

1 peace officer concerning the defendant's right to bail and the  
2 procedures in criminal investigations and by the district  
3 attorney's office concerning the general procedures in the criminal  
4 justice system, including general procedures in guilty plea  
5 negotiations and arrangements, restitution, and the appeals and  
6 parole process;

7           (5) the right to provide pertinent information to a  
8 probation department conducting a presentencing investigation  
9 concerning the impact of the offense on the victim and his family by  
10 testimony, written statement, or any other manner prior to any  
11 sentencing of the offender;

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

21           (7) the right to be informed, upon request, of parole  
22 procedures, to participate in the parole process, to be notified,  
23 if requested, of parole proceedings concerning a defendant in the  
24 victim's case, to provide to the Board of Pardons and Paroles for  
25 inclusion in the defendant's file information to be considered by  
26 the board prior to the parole of any defendant convicted of any  
27 crime subject to this subchapter, and to be notified, if requested,

1 of the defendant's release;

2 (8) the right to be provided with a waiting area,  
3 separate or secure from other witnesses, including the offender and  
4 relatives of the offender, before testifying in any proceeding  
5 concerning the offender; if a separate waiting area is not  
6 available, other safeguards should be taken to minimize the  
7 victim's contact with the offender and the offender's relatives and  
8 witnesses, before and during court proceedings;

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

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

17 (11) the right to counseling, on request, regarding  
18 acquired immune deficiency syndrome (AIDS) and human  
19 immunodeficiency virus (HIV) infection and testing for acquired  
20 immune deficiency syndrome (AIDS), human immunodeficiency virus  
21 (HIV) infection, antibodies to HIV, or infection with any other  
22 probable causative agent of AIDS, if the offense is an offense under  
23 Section 21.02, 21.11(a)(1), 22.011, or 22.021, Penal Code;

24 (12) the right to request victim-offender mediation  
25 coordinated by the victim services division of the Texas Department  
26 of Criminal Justice;

27 (13) the right to be informed of the uses of a victim

1 impact statement and the statement's purpose in the criminal  
2 justice system, to complete the victim impact statement, and to  
3 have the victim impact statement considered:

4 (A) by the attorney representing the state and  
5 the judge before sentencing or before a plea bargain agreement is  
6 accepted; and

7 (B) by the Board of Pardons and Paroles before an  
8 inmate is released on parole; ~~and~~

9 (14) except as provided by Article 56.06(a), for a  
10 victim of a sexual assault, the right to a forensic medical  
11 examination if the sexual assault is reported to a law enforcement  
12 agency within 96 hours of the assault; and

13 (15) for a victim of an assault or sexual assault who  
14 is younger than 17 years of age or whose case involves family  
15 violence, as defined by Section 71.004, Family Code, the right to  
16 have the court consider the impact on the victim of a continuance  
17 requested by the defendant; if requested by the attorney  
18 representing the state or by counsel for the defendant, the court  
19 shall state on the record the reason for granting or denying the  
20 continuance.

21 SECTION 2. Chapter 29, Code of Criminal Procedure, is  
22 amended by adding Article 29.14 to read as follows:

23 Art. 29.14. CONSIDERATION OF IMPACT ON CERTAIN VICTIMS.

24 (a) In this article, "victim" means the victim of an assault or  
25 sexual assault who is younger than 17 years of age or whose case  
26 involves family violence as defined by Section 71.004, Family Code.

27 (b) On request by the attorney representing the state, a

1 court that considers a motion for continuance on the part of the  
2 defendant shall also consider the impact of the continuance on the  
3 victim. On request by the attorney representing the state or by  
4 counsel for the defendant, the court shall state on the record the  
5 reason for granting or denying the continuance.

6 SECTION 3. The change in law made by this Act applies only  
7 to a criminal proceeding that commences on or after the effective  
8 date of this Act. A criminal proceeding that commenced before the  
9 effective date of this Act is governed by the law in effect on the  
10 date the proceeding commenced, and the former law is continued in  
11 effect for that purpose.

12 SECTION 4. This Act takes effect September 1, 2009.