

By: Moody

H.B. No. 2236

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

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

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

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

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

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

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

1 crime subject to this subchapter, and to be notified, if requested,  
2 of the defendant's release;

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

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

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

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

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

1           (13) the right to be informed of the uses of a victim  
2 impact statement and the statement's purpose in the criminal  
3 justice system, to complete the victim impact statement, and to  
4 have the victim impact statement considered:

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

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

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

14           (15) for a victim of an assault or sexual assault in a  
15 case involving family violence, as defined by Section 71.004,  
16 Family Code, the right, on request by the attorney representing the  
17 state, to a speedy trial consistent with the defendant's right to a  
18 fair trial, including the right to have the court consider the  
19 impact on the victim of a continuance requested by the defendant  
20 and, if the continuance is granted, the right, on request by the  
21 attorney representing the state or by the victim, to have the court  
22 state on the record the reason for the continuance.

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

25           Art. 29.14. CONSIDERATION OF IMPACT ON CERTAIN VICTIMS OF  
26 FAMILY VIOLENCE. (a) In this article, "victim" means the victim of  
27 an assault or sexual assault in a case involving family violence as

1 defined by Section 71.004, Family Code.

2 (b) On request by the attorney representing the state, a  
3 court that considers a motion for continuance on the part of the  
4 defendant shall also consider the impact of the continuance on the  
5 victim. If the court grants the motion, the court, on request by  
6 the attorney representing the state or by the victim, shall state on  
7 the record the reason for the continuance.

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

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