

1-1 By: Moody, et al. (Senate Sponsor - Hinojosa) H.B. No. 2236
1-2 (In the Senate - Received from the House May 1, 2009;
1-3 May 5, 2009, read first time and referred to Committee on Criminal
1-4 Justice; May 22, 2009, reported favorably by the following vote:
1-5 Yeas 6, Nays 0; May 22, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the right of certain crime victims to be considered with
1-9 respect to a defendant's motion for continuance.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Article 56.02(a), Code of Criminal Procedure, is
1-12 amended to read as follows:

1-13 (a) A victim, guardian of a victim, or close relative of a
1-14 deceased victim is entitled to the following rights within the
1-15 criminal justice system:

1-16 (1) the right to receive from law enforcement agencies
1-17 adequate protection from harm and threats of harm arising from
1-18 cooperation with prosecution efforts;

1-19 (2) the right to have the magistrate take the safety of
1-20 the victim or his family into consideration as an element in fixing
1-21 the amount of bail for the accused;

1-22 (3) the right, if requested, to be informed:

1-23 (A) by the attorney representing the state of
1-24 relevant court proceedings, including appellate proceedings, and
1-25 to be informed if those proceedings have been canceled or
1-26 rescheduled prior to the event; and

1-27 (B) by an appellate court of decisions of the
1-28 court, after the decisions are entered but before the decisions are
1-29 made public;

1-30 (4) the right to be informed, when requested, by a
1-31 peace officer concerning the defendant's right to bail and the
1-32 procedures in criminal investigations and by the district
1-33 attorney's office concerning the general procedures in the criminal
1-34 justice system, including general procedures in guilty plea
1-35 negotiations and arrangements, restitution, and the appeals and
1-36 parole process;

1-37 (5) the right to provide pertinent information to a
1-38 probation department conducting a presentencing investigation
1-39 concerning the impact of the offense on the victim and his family by
1-40 testimony, written statement, or any other manner prior to any
1-41 sentencing of the offender;

1-42 (6) the right to receive information regarding
1-43 compensation to victims of crime as provided by Subchapter B,
1-44 including information related to the costs that may be compensated
1-45 under that subchapter and the amount of compensation, eligibility
1-46 for compensation, and procedures for application for compensation
1-47 under that subchapter, the payment for a medical examination under
1-48 Article 56.06 for a victim of a sexual assault, and when requested,
1-49 to referral to available social service agencies that may offer
1-50 additional assistance;

1-51 (7) the right to be informed, upon request, of parole
1-52 procedures, to participate in the parole process, to be notified,
1-53 if requested, of parole proceedings concerning a defendant in the
1-54 victim's case, to provide to the Board of Pardons and Paroles for
1-55 inclusion in the defendant's file information to be considered by
1-56 the board prior to the parole of any defendant convicted of any
1-57 crime subject to this subchapter, and to be notified, if requested,
1-58 of the defendant's release;

1-59 (8) the right to be provided with a waiting area,
1-60 separate or secure from other witnesses, including the offender and
1-61 relatives of the offender, before testifying in any proceeding
1-62 concerning the offender; if a separate waiting area is not
1-63 available, other safeguards should be taken to minimize the
1-64 victim's contact with the offender and the offender's relatives and

2-1 witnesses, before and during court proceedings;

2-2 (9) the right to prompt return of any property of the
 2-3 victim that is held by a law enforcement agency or the attorney for
 2-4 the state as evidence when the property is no longer required for
 2-5 that purpose;

2-6 (10) the right to have the attorney for the state
 2-7 notify the employer of the victim, if requested, of the necessity of
 2-8 the victim's cooperation and testimony in a proceeding that may
 2-9 necessitate the absence of the victim from work for good cause;

2-10 (11) the right to counseling, on request, regarding
 2-11 acquired immune deficiency syndrome (AIDS) and human
 2-12 immunodeficiency virus (HIV) infection and testing for acquired
 2-13 immune deficiency syndrome (AIDS), human immunodeficiency virus
 2-14 (HIV) infection, antibodies to HIV, or infection with any other
 2-15 probable causative agent of AIDS, if the offense is an offense under
 2-16 Section 21.02, 21.11(a)(1), 22.011, or 22.021, Penal Code;

2-17 (12) the right to request victim-offender mediation
 2-18 coordinated by the victim services division of the Texas Department
 2-19 of Criminal Justice;

2-20 (13) the right to be informed of the uses of a victim
 2-21 impact statement and the statement's purpose in the criminal
 2-22 justice system, to complete the victim impact statement, and to
 2-23 have the victim impact statement considered:

2-24 (A) by the attorney representing the state and
 2-25 the judge before sentencing or before a plea bargain agreement is
 2-26 accepted; and

2-27 (B) by the Board of Pardons and Paroles before an
 2-28 inmate is released on parole; ~~and~~

2-29 (14) except as provided by Article 56.06(a), for a
 2-30 victim of a sexual assault, the right to a forensic medical
 2-31 examination if the sexual assault is reported to a law enforcement
 2-32 agency within 96 hours of the assault; and

2-33 (15) for a victim of an assault or sexual assault who
 2-34 is younger than 17 years of age or whose case involves family
 2-35 violence, as defined by Section 71.004, Family Code, the right to
 2-36 have the court consider the impact on the victim of a continuance
 2-37 requested by the defendant; if requested by the attorney
 2-38 representing the state or by counsel for the defendant, the court
 2-39 shall state on the record the reason for granting or denying the
 2-40 continuance.

2-41 SECTION 2. Chapter 29, Code of Criminal Procedure, is
 2-42 amended by adding Article 29.14 to read as follows:

2-43 Art. 29.14. CONSIDERATION OF IMPACT ON CERTAIN VICTIMS.

2-44 (a) In this article, "victim" means the victim of an assault or
 2-45 sexual assault who is younger than 17 years of age or whose case
 2-46 involves family violence as defined by Section 71.004, Family Code.

2-47 (b) On request by the attorney representing the state, a
 2-48 court that considers a motion for continuance on the part of the
 2-49 defendant shall also consider the impact of the continuance on the
 2-50 victim. On request by the attorney representing the state or by
 2-51 counsel for the defendant, the court shall state on the record the
 2-52 reason for granting or denying the continuance.

2-53 SECTION 3. The change in law made by this Act applies only
 2-54 to a criminal proceeding that commences on or after the effective
 2-55 date of this Act. A criminal proceeding that commenced before the
 2-56 effective date of this Act is governed by the law in effect on the
 2-57 date the proceeding commenced, and the former law is continued in
 2-58 effect for that purpose.

2-59 SECTION 4. This Act takes effect September 1, 2009.

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