

By: Hartnett, Moody, Madden, et al.

H.B. No. 2584

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

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

(B) by an appellate court of decisions of the court, after the decisions are entered but before the decisions are 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 child younger than 17 years of age who is
15 the victim of an assault or sexual assault, the right, on request by
16 the attorney representing the state, to a speedy trial consistent
17 with the defendant's right to a fair trial, including the right to
18 have the court consider the impact on the victim of a continuance
19 requested by the defendant and, if the continuance is granted, the
20 right, on request by the attorney representing the state or by the
21 victim, to have the court state on the record the reason for the
22 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 CHILD
26 VICTIMS. (a) This article applies only to a child younger than 17
27 years of age who is the victim of an assault or sexual assault.

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

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

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