

BILL ANALYSIS

H.B. 281
By: Lucio III
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

An officer falling in the line of duty impacts the community and the officer's family in substantial ways. Often times, a plea agreement is reached with the suspect involved in such an officer's death. In these circumstances, however, the family of the officer may not agree with the terms of the plea agreement and wish to inform the judge of their disagreement. Interested parties have noted that judges currently have the discretion to accept or reject the terms of a plea agreement and in exercising that discretion, the judge should be able to consider the views of the officer's family in addition to all other evidence. The parties contend that a victim impact statement is currently only allowed after a final ruling has been made.

H.B. 281 seeks to give family members a voice in this matter by providing one immediate family member of a peace officer who dies as the result of alleged criminal conduct the right to state the family's opinion regarding any plea bargain agreement in the case prior to sentencing.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 281 amends the Code of Criminal Procedure to entitle one immediate family member of a peace officer who dies as the result of alleged criminal conduct for which a defendant has been indicted or for which an information has been returned to make an oral statement to the court regarding the terms of any plea bargain agreement in the case and regarding whether the peace officer's family supports or opposes the terms of that agreement. The bill requires the family member who makes the statement to be designated by the peace officer's immediate family.

H.B. 281 requires the attorney representing the state, in a case in which a peace officer dies as a result of the alleged criminal conduct of the defendant, to give to the peace officer's immediate family members notice of the existence and terms of any plea bargain agreement and the right of one immediate family member to make an oral statement to the court. The bill requires the court to consider such statement before sentencing the defendant and to permit the defendant or the defendant's counsel an opportunity to cross-examine the person making the statement, comment on the statement, and, with the court's approval, introduce testimony or other information alleging a factual inaccuracy in the statement. The bill requires the court to inform the immediate family member of the defendant's rights before the family member makes an oral statement.

H.B. 281 includes among a court's duties before accepting a plea of guilty or nolo contendere a duty to inquire as to whether the attorney representing the state has given the required notice to the peace officer's immediate family members.

H.B. 281 specifies that the presentation and consideration of such an oral statement is in addition to the consideration of a written victim impact statement and does not preclude the presentation

of a statement after sentence is pronounced.

EFFECTIVE DATE

September 1, 2013.