

BILL ANALYSIS

C.S.H.B. 2559
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law entitles certain victims of sexual assault to general crime victims' rights within the criminal justice system and additional rights to counseling and testing for certain sexually transmitted diseases. Interested parties contend that more offenses should be considered sexual assault for purposes of victims' rights. C.S.H.B. 2559 seeks to revise Texas statutes with regard to sexual assault and victims' rights.

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

C.S.H.B. 2559 amends the Code of Criminal Procedure to expand the definition of "sexual assault," for purposes of crime victims' rights, to include the offenses of indecency with a child by engaging in sexual contact with a child or causing the child to engage in such contact; sexual assault; and aggravated sexual assault. The bill entitles a victim of sexual assault, guardian of such a victim, or close relative of such a victim who is deceased, in addition to the general crime victims' rights, to the right, if requested, to a disclosure of information regarding any evidence that was collected during the investigation of the offense, unless disclosing the information would interfere with the investigation, in which event the victim, guardian, or relative shall be informed of the estimated date on which that information is expected to be disclosed; the right, if requested, to a disclosure of information regarding the status of any analysis being performed of any evidence that was collected during the investigation of the offense; and the right, if requested, to be notified at the time a request is submitted to a crime laboratory to process and analyze any evidence collected during the investigation of the offense, notified at the time of the submission of a request to compare any biological evidence collected during the investigation of the offense with DNA profiles maintained in a state or federal DNA database, and notified of the results of the comparison, unless disclosing the results would interfere with the investigation of the offense, in which event the victim, guardian, or relative shall be informed of the estimated date on which those results are expected to be disclosed.

C.S.H.B. 2559 requires a victim, guardian, or relative who requests such notice to provide a current address and phone number to the attorney representing the state and the law enforcement agency that is investigating the offense and to inform the attorney and agency of any change in that address or phone number. The bill authorizes a victim of a sexual assault, or a guardian or relative, to designate a person, including an entity that provides services to victims of sexual assault, to receive any such notice requested by the victim. The bill makes conforming changes in statutory provisions relating to crime victims' rights and establishes that a law enforcement agency, prosecutor, or other participant in the criminal justice system is not required to use a victim impact statement form that complies with the bill's provisions until January 1, 2014.

C.S.H.B. 2559 amends the Family Code to make conforming and nonsubstantive changes.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2559 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Article 56.01(2-a), Code of Criminal Procedure, is amended.

SECTION 1. Same as introduced version.

SECTION 2. Articles 56.02(a), (c), and (d), Code of Criminal Procedure, are amended.

SECTION 2. Same as introduced version.

SECTION 3. Subchapter A, Chapter 56, Code of Criminal Procedure, is amended by adding Article 56.021 to read as follows:

SECTION 3. Subchapter A, Chapter 56, Code of Criminal Procedure, is amended by adding Article 56.021 to read as follows:

Art. 56.021. RIGHTS OF VICTIM OF SEXUAL ASSAULT. (a) In addition to the rights enumerated in Article 56.02, if the offense is a sexual assault, the 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 request information regarding any evidence that was collected during the investigation of the offense and

Art. 56.021. RIGHTS OF VICTIM OF SEXUAL ASSAULT. (a) In addition to the rights enumerated in Article 56.02, if the offense is a sexual assault, the victim, guardian of a victim, or close relative of a deceased victim is entitled to the following rights within the criminal justice system: (1) if requested, the right to a disclosure of information regarding any evidence that was collected during the investigation of the offense, unless disclosing the information would interfere with the investigation of the offense, in which event the victim, guardian, or relative shall be informed of the estimated date on which that information is expected to be disclosed;

the status of any analysis being performed of the evidence;

(2) if requested, the right to a disclosure of information regarding the status of any analysis being performed of any evidence that was collected during the investigation of the offense;

(2) the right to request to be notified: (A) at the time evidence collected during the investigation of the offense is submitted to a crime laboratory for analysis;

(3) if requested, the right to be notified: (A) at the time a request is submitted to a crime laboratory to process and analyze any evidence that was collected during the investigation of the offense;

(B) of the results of any comparison of the biological evidence collected during the

(B) at the time of the submission of a request to compare any biological evidence collected during the investigation of the offense with DNA profiles maintained in a state or federal DNA database; and

(C) of the results of the comparison described by Paragraph (B), unless

investigation of the offense with DNA profiles maintained in any DNA database; and

(C) at the time the DNA profile of any suspect is provided to appropriate state or federal DNA databases;

(3) if the offense is a sexual assault:

(A) the right to counseling, on request, regarding acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV) infection; and

(B) for the victim of the offense, testing for acquired immune deficiency syndrome (AIDS), human immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS; and

(4) to the extent provided by Articles 56.06 and 56.065, for a victim of a sexual assault, the right to a forensic medical examination if, within 96 hours of the sexual assault, the assault is reported to a law enforcement agency or a forensic medical examination is otherwise conducted at a health care facility.

(b) A victim who requests to be notified under Subsection (a)(2) must provide the attorney representing the state and the law enforcement agency that is investigating the offense with the victim's current address and phone number. The victim must inform the attorney representing the state and the law enforcement agency of any change in the victim's address or phone number.

(c) A victim of a sexual assault may designate a person, including an entity that provides services to victims of sexual assault, to receive any notice requested by the victim under Subsection (a)(2).

SECTION 4. Article 56.03(b), Code of Criminal Procedure, is amended.

SECTION 5. Article 56.04(b), Code of Criminal Procedure, is amended.

SECTION 6. Articles 56.045(b) and (f), Code of Criminal Procedure, are amended.

SECTION 7. Article 56.07(a), Code of Criminal Procedure, is amended.

disclosing the results would interfere with the investigation of the offense, in which event the victim, guardian, or relative shall be informed of the estimated date on which those results are expected to be disclosed;

(4) if requested, the right to counseling regarding acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV) infection;

(5) for the victim of the offense, testing for acquired immune deficiency syndrome (AIDS), human immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS; and

(6) to the extent provided by Articles 56.06 and 56.065, for the victim of the offense, the right to a forensic medical examination if, within 96 hours of the offense, the offense is reported to a law enforcement agency or a forensic medical examination is otherwise conducted at a health care facility.

(b) A victim, guardian, or relative who requests to be notified under Subsection (a)(3) must provide a current address and phone number to the attorney representing the state and the law enforcement agency that is investigating the offense. The victim, guardian, or relative must inform the attorney representing the state and the law enforcement agency of any change in the address or phone number.

(c) A victim, guardian, or relative may designate a person, including an entity that provides services to victims of sexual assault, to receive any notice requested under Subsection (a)(3).

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.

SECTION 6. Same as introduced version.

SECTION 7. Same as introduced version.

SECTION 8. Section 57.002(a), Family Code, is amended.

SECTION 8. Same as introduced version.

SECTION 9. To allow the Texas Crime Victim Clearinghouse sufficient time to update the victim impact statement form as required by Article 56.03(h), Code of Criminal Procedure, a law enforcement agency, prosecutor, or other participant in the criminal justice system is not required to use a victim impact statement form that complies with Article 56.03, Code of Criminal Procedure, as amended by this Act, until January 1, 2014.

SECTION 9. Same as introduced version.

SECTION 10. This Act takes effect September 1, 2013.

SECTION 10. Same as introduced version.