

By: Cook, Carter, Burnam

H.B. No. 3671

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the right of certain young crime victims to a speedy
3 trial and 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;

10 (14) to the extent provided by Articles 56.06 and
11 56.065, for a victim of a sexual assault, the right to a forensic
12 medical examination if, within 96 hours of the sexual assault, the
13 assault is reported to a law enforcement agency or a forensic
14 medical examination is otherwise conducted at a health care
15 facility; and

16 (15) for a victim of an assault or sexual assault who
17 is younger than 17 years of age or whose case involves family
18 violence, as defined by Section 71.004, Family Code, or for a child
19 victim of an offense under Section 22.04, Penal Code, the right, on
20 request by the attorney representing the state, to a speedy trial
21 consistent with the defendant's right to a fair trial, including
22 the right to have the court consider the impact on the victim of a
23 continuance requested by the defendant; if requested by the
24 attorney representing the state or by counsel for the defendant,
25 the court shall state on the record the reason for granting or
26 denying the continuance.

27 SECTION 2. Article 29.14(a), Code of Criminal Procedure, is

1 amended to read as follows:

2 (a) In this article, "victim" means:

3 (1) the victim of an assault or sexual assault who is
4 younger than 17 years of age or whose case involves family violence
5 as defined by Section 71.004, Family Code; or

6 (2) the child victim of an offense under Section
7 22.04, Penal Code.

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

14 SECTION 4. This Act takes effect September 1, 2013.