

By: Davis

S.B. No. 558

A BILL TO BE ENTITLED

AN ACT

relating to the rights of victims of sexual assault.

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;

(4) the right to be informed, when requested, by a peace officer concerning the defendant's right to bail and the

1 procedures in criminal investigations and by the district
2 attorney's office concerning the general procedures in the criminal
3 justice system, including general procedures in guilty plea
4 negotiations and arrangements, restitution, and the appeals and
5 parole process;

6 (5) the right to provide pertinent information to a
7 probation department conducting a presentencing investigation
8 concerning the impact of the offense on the victim and his family by
9 testimony, written statement, or any other manner prior to any
10 sentencing of the offender;

11 (6) the right to receive information regarding
12 compensation to victims of crime as provided by Subchapter B,
13 including information related to the costs that may be compensated
14 under that subchapter and the amount of compensation, eligibility
15 for compensation, and procedures for application for compensation
16 under that subchapter, the payment for a medical examination under
17 Article 56.06 for a victim of a sexual assault, and when requested,
18 to referral to available social service agencies that may offer
19 additional assistance;

20 (7) the right to be informed, upon request, of parole
21 procedures, to participate in the parole process, to be notified,
22 if requested, of parole proceedings concerning a defendant in the
23 victim's case, to provide to the Board of Pardons and Paroles for
24 inclusion in the defendant's file information to be considered by
25 the board prior to the parole of any defendant convicted of any
26 crime subject to this subchapter, and to be notified, if requested,
27 of the defendant's release;

1 (8) the right to be provided with a waiting area,
2 separate or secure from other witnesses, including the offender and
3 relatives of the offender, before testifying in any proceeding
4 concerning the offender; if a separate waiting area is not
5 available, other safeguards should be taken to minimize the
6 victim's contact with the offender and the offender's relatives and
7 witnesses, before and during court proceedings;

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

12 (10) the right to have the attorney for the state
13 notify the employer of the victim, if requested, of the necessity of
14 the victim's cooperation and testimony in a proceeding that may
15 necessitate the absence of the victim from work for good cause;

16 (11) the right to counseling, on request, regarding
17 acquired immune deficiency syndrome (AIDS) and human
18 immunodeficiency virus (HIV) infection and testing for acquired
19 immune deficiency syndrome (AIDS), human immunodeficiency virus
20 (HIV) infection, antibodies to HIV, or infection with any other
21 probable causative agent of AIDS, if the offense is an offense under
22 Section 21.02, 21.11(a)(1), 22.011, or 22.021, Penal Code;

23 (12) the right to request victim-offender mediation
24 coordinated by the victim services division of the Texas Department
25 of Criminal Justice;

26 (13) the right to be informed of the uses of a victim
27 impact statement and the statement's purpose in the criminal

1 justice system, to complete the victim impact statement, and to
2 have the victim impact statement considered:

3 (A) by the attorney representing the state and
4 the judge before sentencing or before a plea bargain agreement is
5 accepted; and

6 (B) by the Board of Pardons and Paroles before an
7 inmate is released on parole;

8 (14) to the extent provided by Articles 56.06 and
9 56.065, for a victim of a sexual assault, the right to a forensic
10 medical examination if, within 96 hours of the sexual assault, the
11 assault is reported to a law enforcement agency or a forensic
12 medical examination is otherwise conducted at a health care
13 facility; ~~and~~

14 (15) for a victim of an assault or sexual assault who
15 is younger than 17 years of age or whose case involves family
16 violence, as defined by Section 71.004, Family Code, the right to
17 have the court consider the impact on the victim of a continuance
18 requested by the defendant; if requested by the attorney
19 representing the state or by counsel for the defendant, the court
20 shall state on the record the reason for granting or denying the
21 continuance; and

22 (16) for a victim of a sexual assault, the right to
23 decline to participate in the investigation or prosecution of the
24 sexual assault without facing criminal charges or threats of
25 criminal charges under Section 37.08, Penal Code.

26 SECTION 2. This Act takes effect September 1, 2013.