

By: Howard

H.B. No. 3819

Substitute the following for H.B. No. 3819:

By: Moody

C.S.H.B. No. 3819

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the prosecution of the offense of improper contact with
3 a victim and to providing certain rights to a victim of a criminal
4 offense and the victim's family regarding contact by an inmate or an
5 inmate's representative.

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

7 SECTION 1. Article 56.02, Code of Criminal Procedure, is
8 amended by adding Subsection (b-1) to read as follows:

9 (b-1) If a defendant is sentenced to a term of imprisonment
10 in a facility operated by or under contract with the Texas
11 Department of Criminal Justice, a victim, guardian of a victim, or
12 close relative of a deceased victim is entitled under Section
13 500.009, Government Code, to consent to contact or to request no
14 contact from the defendant or the defendant's representatives,
15 including family members, friends, attorneys, and other third
16 parties working on behalf of the defendant.

17 SECTION 2. Chapter 500, Government Code, is amended by
18 adding Section 500.009 to read as follows:

19 Sec. 500.009. CONTACT BY INMATE OR INMATE'S REPRESENTATIVE
20 WITH VICTIM OR CERTAIN OTHER PERSONS. (a) In this section:

21 (1) "Close relative of a deceased victim," "guardian
22 of a victim," and "victim" have the meanings assigned by Article
23 56.01, Code of Criminal Procedure.

24 (2) "Inmate" means the defendant in the victim's case

1 who is sentenced to a term of imprisonment in a facility operated by
2 or under contract with the department.

3 (3) "Inmate's representative" means any third party
4 working on behalf of an inmate, including a family member of, friend
5 of, or attorney for the inmate.

6 (b) A victim, guardian of a victim, or close relative of a
7 deceased victim has the right to consent to contact or to request no
8 contact from an inmate or an inmate's representatives.

9 (c) An inmate or an inmate's representative:

10 (1) shall determine whether a victim, guardian of a
11 victim, or close relative of a deceased victim has consented to
12 contact or requested no contact from the inmate or the inmate's
13 representatives before contacting the victim, guardian of the
14 victim, or close relative of the deceased victim; and

15 (2) may not contact a victim, guardian of a victim, or
16 close relative of a deceased victim if no contact from the inmate or
17 the inmate's representatives was requested.

18 (d) If the department is notified or otherwise becomes aware
19 that an inmate or an inmate's representative contacted a victim,
20 guardian of a victim, or close relative of a deceased victim in
21 violation of this section, the department shall:

22 (1) document the violation in the inmate's file; and

23 (2) forward documentation of the violation, including
24 documentation of whether the inmate was aware of the violation, to
25 the appropriate parole panel when the inmate is being considered
26 for release on parole or to mandatory supervision.

27 (e) A victim, guardian of a victim, or close relative of a

1 deceased victim who consents to contact or requests no contact from
2 the inmate or the inmate's representatives may change that election
3 by contacting the victim services division of the department.

4 (f) The department shall post on the department's Internet
5 website as part of the Offender Information Details section of the
6 website, or on another similar section of the website that displays
7 information about inmates imprisoned in facilities operated by or
8 under contract with the department, whether a victim, guardian of a
9 victim, or close relative of a deceased victim consented to contact
10 or requested no contact from the inmate or the inmate's
11 representatives.

12 SECTION 3. Section 498.0042, Government Code, is amended by
13 amending Subsections (a) and (b) and adding Subsection (a-1) to
14 read as follows:

15 (a) The department shall adopt policies that prohibit an
16 inmate in the institutional division or in a transfer facility from
17 contacting by letter, telephone, or any other means, either
18 directly or indirectly, a victim of the offense for which the inmate
19 is serving a sentence or a member of the victim's family, if:

20 (1) the victim was younger than 17 years of age at the
21 time of the commission of the offense; and

22 (2) the department has not, before the inmate makes
23 contact:

24 (A) received written and dated consent to the
25 contact from:

26 (i) a parent of the victim or the member of
27 the victim's family, other than the inmate;

1 (ii) a legal guardian of the victim or the
2 member of the victim's family; or

3 (iii) the victim or the member of the
4 victim's family, if the victim is 17 years of age or older at the
5 time of giving the consent; and

6 (B) provided the inmate with a copy of the
7 consent.

8 (a-1) The department shall adopt policies that prohibit an
9 inmate in the institutional division or in a transfer facility from
10 contacting by letter, telephone, or any other means, either
11 directly or indirectly, a victim of the offense for which the inmate
12 is serving a sentence or a member of the victim's family, if:

13 (1) the victim was 17 years of age or older at the time
14 of the commission of the offense;

15 (2) the inmate is confined after being convicted of an
16 offense listed in Article 17.032(a) or 62.001(5), Code of Criminal
17 Procedure, or after being convicted of an offense for which the
18 judgment contains an affirmative finding under Article 42A.054(c)
19 or (d), Code of Criminal Procedure; and

20 (3) the department has not, before the inmate makes
21 contact:

22 (A) received written and dated consent to the
23 contact from the victim; and

24 (B) provided the inmate with a copy of the
25 consent.

26 (b) If, during the actual term of imprisonment of an inmate
27 in the institutional division or a transfer facility, the inmate

1 violates a policy adopted under Subsection (a) or (a-1) or an order
2 entered under Article 42.24, Code of Criminal Procedure, the
3 department shall forfeit all or any part of the inmate's accrued
4 good conduct time. The department may not restore good conduct
5 time forfeited under this subsection.

6 SECTION 4. Section 508.1531, Government Code, is amended to
7 read as follows:

8 Sec. 508.1531. CONTACT WITH VICTIM. A parole panel
9 considering the release of an inmate on parole or to mandatory
10 supervision may consider whether the inmate:

11 (1) violated a policy adopted by the department under
12 Section 498.0042(a) or (a-1) or a court order entered under Article
13 42.24, Code of Criminal Procedure; or

14 (2) engaged in, or directed another person to engage
15 in, conduct that violates Section 500.009.

16 SECTION 5. Sections 38.111(a) and (b), Penal Code, are
17 amended to read as follows:

18 (a) A person commits an offense if the person, while
19 confined in a correctional facility after being charged with or
20 convicted of an offense listed in Article 17.032(a) or 62.001(5),
21 Code of Criminal Procedure, or after being convicted of an offense
22 for which the judgment contains an affirmative finding under
23 Article 42A.054(c) or (d), Code of Criminal Procedure, contacts by
24 letter, telephone, or any other means, either directly or through a
25 third party, a victim of the offense or a member of the victim's
26 family, if [+]

27 [~~(1) the victim was younger than 17 years of age at the~~]

1 ~~time of the commission of the offense for which the person is~~
2 ~~confined; and~~

3 ~~(2)~~ the director of the correctional facility has
4 not, before the person makes contact with the victim:

5 (1) ~~(A)~~ received written and dated consent to the
6 contact from:

7 (A) the victim, if the victim was 17 years of age
8 or older at the time of the commission of the offense for which the
9 person is confined; or

10 (B) if the victim was younger than 17 years of age
11 at the time of the commission of the offense for which the person is
12 confined:

- 13 (i) a parent of the victim;
14 (ii) a legal guardian of the victim;
15 (iii) the victim, if the victim is 17 years
16 of age or older at the time of giving the consent; or
17 (iv) a member of the victim's family who is
18 17 years of age or older; and

19 (2) ~~(B)~~ provided the person with a copy of the
20 consent.

21 (b) The person confined in a correctional facility may not
22 give the written consent required under Subsection (a)(1)
23 ~~[(a)(2)(A)]~~.

24 SECTION 6. The change in law made by this Act applies only
25 to an offense committed on or after the effective date of this Act.
26 An offense committed before the effective date of this Act is
27 governed by the law in effect on the date the offense was committed,

1 and the former law is continued in effect for that purpose. For
2 purposes of this section, an offense was committed before the
3 effective date of this Act if any element of the offense occurred
4 before that date.

5 SECTION 7. This Act takes effect September 1, 2017.