

By: Lucio III

H.B. No. 3097

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the right of one immediate family member of certain
3 deceased peace officers to make an oral statement regarding the
4 terms of a plea bargain agreement.

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

6 SECTION 1. Article 26.13(e), Code of Criminal Procedure, is
7 amended to read as follows:

8 (e) Before accepting a plea of guilty or a plea of nolo
9 contendere, the court shall, as applicable in the case:

10 (1) inquire as to whether a victim impact statement
11 has been returned to the attorney representing the state and ask for
12 a copy of the statement if one has been returned; and

13 (2) inquire as to whether the attorney representing
14 the state has given the notice required by Article 26.131(b) or
15 56.08(b-1) [~~of the existence and terms of any plea bargain~~
16 ~~agreement to the victim, guardian of a victim, or close relative of~~
17 ~~a deceased victim, as those terms are defined by Article 56.01~~].

18 SECTION 2. Chapter 26, Code of Criminal Procedure, is
19 amended by adding Article 26.131 to read as follows:

20 Art. 26.131. ORAL STATEMENT REGARDING TERMS OF PLEA BARGAIN
21 AGREEMENT. (a) One immediate family member of a peace officer who,
22 in the course of lawfully discharging an official duty, dies as the
23 result of alleged criminal conduct for which a defendant has been
24 indicted or for which an information has been returned for an

1 offense under Section 19.02, 19.03, 19.04, or 49.08, Penal Code, is
2 entitled to make an oral statement to the court regarding the terms
3 of any plea bargain agreement in the case and regarding whether the
4 peace officer's family supports or opposes the terms of that
5 agreement. The family member who makes the statement must be
6 designated by the peace officer's immediate family.

7 (b) In a case in which a peace officer dies in the course of
8 lawfully discharging an official duty as a result of the alleged
9 criminal conduct described by Subsection (a), the attorney
10 representing the state shall give to the immediate family members
11 of the deceased peace officer notice of the existence and terms of
12 any plea bargain agreement and the right of one immediate family
13 member to make an oral statement to the court as described by
14 Subsection (a).

15 (c) The court shall:

16 (1) consider an oral statement under Subsection (a)
17 before sentencing the defendant; and

18 (2) permit the defendant or the defendant's counsel an
19 opportunity to:

20 (A) cross-examine the person making the oral
21 statement;

22 (B) comment on the oral statement; and

23 (C) with the approval of the court, introduce
24 testimony or other information alleging a factual inaccuracy in the
25 oral statement.

26 (d) Before the immediate family member makes an oral
27 statement under Subsection (a), the court shall inform the family

1 member of the defendant's rights under Subsection (c)(2).

2 (e) The presentation and consideration of an oral statement
3 under this article is in addition to the consideration of a written
4 victim impact statement under Article 56.03 and does not preclude
5 the presentation of a statement after sentence is pronounced under
6 Article 42.03.

7 (f) In this article:

8 (1) "Immediate family member of a peace officer" means
9 an individual who is related to a peace officer within the second
10 degree by affinity or consanguinity.

11 (2) "Peace officer" has the meaning assigned by
12 Section 1.07, Penal Code.

13 SECTION 3. The change in law made by this Act applies only
14 to a plea of guilty or nolo contendere entered on or after the
15 effective date of this Act, regardless of whether the offense with
16 reference to which the plea is entered is committed before, on, or
17 after that date.

18 SECTION 4. This Act takes effect September 1, 2019.