

BILL ANALYSIS

Senate Research Center
88R20402 SHH-F

C.S.S.B. 409
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Criminal Justice
4/5/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Survivors of sexual assault and related sex crimes can regularly face institutional barriers and poor treatment by those working in the criminal justice system. Specifically, many survivors are denied information about the status of their case in a timely manner, nor are they consulted when their case is dismissed or pled to a lower offense. This retraumatizes victims and leads to less engagement from survivors as a whole. A recent report by the Institute on Domestic Violence and Sexual Assault at The University of Texas Austin stated that a survivor's negative experience with a governmental institution had profound effects on their ability to participate in the criminal justice system, access services, and heal from sexual violence.

S.B. 409 aims to empower survivors within the criminal justice process by:

- Adding victims of stalking (42.072) and indecent assault (22.012) to those afforded the rights from Article 56A of the Code of Criminal Procedure.
- Granting a victim, or their representative, the right to be informed and confer with the prosecution about the disposition of the offense.
- Clarifying that a victim, guardian of a victim, or a close relative of a deceased victim may assert and enforce any rights from Article 56A of the Code of Criminal Procedure either orally or in writing.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 409 amends current law relating to the rights of victims, guardians of victims, and close relatives of deceased victims in the criminal justice system.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Articles 56A.052(a), (b), and (c), Code of Criminal Procedure, as follows:

(a) Provides that a victim, guardian of a victim, or close relative of a deceased victim of an offense under Sections 21.02 (Continuous Sexual Abuse of Young Child or Disabled Individual), 21.11 (Indecency With a Child), 22.011 (Sexual Assault), 22.012 (Indecent Assault), 22.021 (Aggravated Sexual Assault), or 42.072 (Stalking), Penal Code, rather than if the offense is a sexual assault, is entitled to the following rights within the criminal justice system:

- (1) makes nonsubstantive changes to this subdivision;
- (2) makes no changes to this subdivision;
- (3) makes a nonsubstantive change to this subdivision;

(4) if requested, the right to be informed about, and confer with the attorney representing the state regarding, the disposition of the offense, including sharing the victim's, guardian's, or relative's views regarding:

- (A) a decision not to file charges;
- (B) the dismissal of charges;
- (C) the use of a pretrial intervention program; or
- (D) a plea bargain agreement; and

(5) makes a nonsubstantive change to this subdivision.

(b) Requires a victim, guardian of a victim, or close relative of a deceased victim who requests to be notified or receive information under Subsection (a)(1), (2), or (4), rather than Subsection (a)(2), subject to Subsection (c), to:

- (1) makes a nonsubstantive change to this paragraph;
- (2) makes a conforming change to this paragraph.

(c) Authorizes a victim, guardian of a victim, or close relative of a deceased victim to designate a person, including an entity that provides services to victims of an offense described by Subsection (a), rather than sexual assault, to receive any notice requested under Subsection (a)(2).

SECTION 2. Amends Subchapter B, Chapter 56A, Code of Criminal Procedure, by adding Article 56A.0531, as follows:

Art. 56A.0531. ASSERTION OF RIGHTS. Authorizes a victim, guardian of a victim, or close relative of a deceased victim to assert the rights provided by Chapter 56A (Rights of Crime Victims) either orally or in writing.

SECTION 3. Effective date: September 1, 2023.