

By: Morales of Harris, Darby, Leach, Bowers

H.B. No. 4216

Substitute the following for H.B. No. 4216:

By: Moody

C.S.H.B. No. 4216

A BILL TO BE ENTITLED

AN ACT

relating to certain notifications related to the rights of crime victims.

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

SECTION 1. Article 56A.051(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 a law enforcement agency adequate protection from harm and threats of harm arising from cooperation with prosecution efforts;

(2) the right to have the magistrate consider the safety of the victim or the victim's family in setting the amount of bail for the defendant;

(3) if requested, the right to be informed in the manner provided by Article 56A.0525:

(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 before the event; and

(B) by an appellate court of the court's decisions, after the decisions are entered but before the decisions are made public;

1 (4) when requested, the right to be informed in the
2 manner provided by Article 56A.0525:

3 (A) by a peace officer concerning the defendant's
4 right to bail and the procedures in criminal investigations; and

5 (B) by the office of the attorney representing
6 the state concerning the general procedures in the criminal justice
7 system, including general procedures in guilty plea negotiations
8 and arrangements, restitution, and the appeals and parole process;

9 (5) the right to provide pertinent information to a
10 community supervision and corrections department conducting a
11 presentencing investigation concerning the impact of the offense on
12 the victim and the victim's family by testimony, written statement,
13 or any other manner before any sentencing of the defendant;

14 (6) the right to receive information, in the manner
15 provided by Article 56A.0525, regarding compensation to victims of
16 crime as provided by Chapter 56B, including information related to
17 the costs that may be compensated under that chapter and the amount
18 of compensation, eligibility for compensation, and procedures for
19 application for compensation under that chapter, the payment for a
20 forensic medical examination under Article 56A.252 for a victim of
21 an alleged sexual assault, and when requested, to referral to
22 available social service agencies that may offer additional
23 assistance;

24 (7) the right to:

25 (A) be informed, on request, and in the manner
26 provided by Article 56A.0525, of parole procedures;

27 (B) participate in the parole process;

1 (C) provide to the board for inclusion in the
2 defendant's file information to be considered by the board before
3 the parole of any defendant convicted of any offense subject to this
4 chapter; and

5 (D) be notified in the manner provided by Article
6 56A.0525, if requested, of parole proceedings concerning a
7 defendant in the victim's case and of the defendant's release;

8 (8) the right to be provided with a waiting area,
9 separate or secure from other witnesses, including the defendant
10 and relatives of the defendant, before testifying in any proceeding
11 concerning the defendant; if a separate waiting area is not
12 available, other safeguards should be taken to minimize the
13 victim's contact with the defendant and the defendant's relatives
14 and witnesses, before and during court proceedings;

15 (9) the right to the prompt return of any of the
16 victim's property that is held by a law enforcement agency or the
17 attorney representing the state as evidence when the property is no
18 longer required for that purpose;

19 (10) the right to have the attorney representing the
20 state notify the victim's employer, if requested, that the victim's
21 cooperation and testimony is necessary in a proceeding that may
22 require the victim to be absent from work for good cause;

23 (11) the right to request victim-offender mediation
24 coordinated by the victim services division of the department;

25 (12) the right to be informed, in the manner provided
26 by Article 56A.0525, of the uses of a victim impact statement and
27 the statement's purpose in the criminal justice system as described

1 by Subchapter D, 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 before a defendant is released
7 on parole;

8 (13) for a victim of an assault or sexual assault who
9 is younger than 17 years of age or whose case involves family
10 violence, as defined by Section 71.004, Family Code, the right to
11 have the court consider the impact on the victim of a continuance
12 requested by the defendant; if requested by the attorney
13 representing the state or by the defendant's attorney, the court
14 shall state on the record the reason for granting or denying the
15 continuance; and

16 (14) if the offense is a capital felony, the right to:

17 (A) receive by mail from the court a written
18 explanation of defense-initiated victim outreach if the court has
19 authorized expenditures for a defense-initiated victim outreach
20 specialist;

21 (B) not be contacted by the victim outreach
22 specialist unless the victim, guardian, or relative has consented
23 to the contact by providing a written notice to the court; and

24 (C) designate a victim service provider to
25 receive all communications from a victim outreach specialist acting
26 on behalf of any person.

27 SECTION 2. Articles 56A.052(a), (b), (d), and (e), Code of

1 Criminal Procedure, are amended to read as follows:

2 (a) If the offense is a sexual assault, a victim, guardian
3 of a victim, or close relative of a deceased victim is entitled to
4 the following rights within the criminal justice system:

5 (1) if requested, the right to a disclosure of
6 information, in the manner provided by Article 56A.0525, regarding:

7 (A) any evidence that was collected during the
8 investigation of the offense, unless disclosing the information
9 would interfere with the investigation or prosecution of the
10 offense, in which event the victim, guardian, or relative shall be
11 informed of the estimated date on which that information is
12 expected to be disclosed; and

13 (B) the status of any analysis being performed of
14 any evidence described by Paragraph (A);

15 (2) if requested, the right to be notified in the
16 manner provided by Article 56A.0525:

17 (A) at the time a request is submitted to a crime
18 laboratory to process and analyze any evidence that was collected
19 during the investigation of the offense;

20 (B) at the time of the submission of a request to
21 compare any biological evidence collected during the investigation
22 of the offense with DNA profiles maintained in a state or federal
23 DNA database; and

24 (C) of the results of the comparison described by
25 Paragraph (B), unless disclosing the results would interfere with
26 the investigation or prosecution of the offense, in which event the
27 victim, guardian, or relative shall be informed of the estimated

1 date on which those results are expected to be disclosed;

2 (3) if requested, the right to counseling regarding
3 acquired immune deficiency syndrome (AIDS) and human
4 immunodeficiency virus (HIV) infection; and

5 (4) for the victim, the right to:

6 (A) testing for acquired immune deficiency
7 syndrome (AIDS), human immunodeficiency virus (HIV) infection,
8 antibodies to HIV, or infection with any other probable causative
9 agent of AIDS; and

10 (B) a forensic medical examination to the extent
11 provided by Subchapters F and G if, within 120 hours of the offense:

12 (i) the offense is reported to a law
13 enforcement agency; or

14 (ii) a forensic medical examination is
15 otherwise conducted at a health care provider.

16 (b) A victim, guardian of a victim, or close relative of a
17 deceased victim who requests to be notified under Subsection (a)(2)
18 must provide a current address and phone number to the attorney
19 representing the state and the law enforcement agency that is
20 investigating the offense. The victim, guardian, or relative must
21 inform the attorney representing the state and the law enforcement
22 agency of any change in the address or phone number. The victim,
23 guardian, or relative must provide an e-mail address and update any
24 change in that e-mail address if the victim, guardian, or relative
25 chooses to receive notifications by e-mail.

26 (d) This subsection applies only to a victim of an offense
27 under Section 20A.02, 20A.03, 21.02, 21.11, 22.011, 22.012, 22.021,

1 42.072, or 43.05, Penal Code. A victim described by this
2 subsection or a parent or guardian of the victim, if the victim is
3 younger than 18 years of age or an adult ward, is entitled to the
4 following rights within the criminal justice system:

5 (1) the right to be informed in the manner provided by
6 Article 56A.0525:

7 (A) that the victim or, if the victim is younger
8 than 18 years of age or an adult ward, the victim's parent or
9 guardian or another adult acting on the victim's behalf may file an
10 application for a protective order under Article 7B.001;

11 (B) of the court in which the application for a
12 protective order may be filed;

13 (C) that, on request of the victim or, if the
14 victim is younger than 18 years of age or an adult ward, on request
15 of the victim's parent or guardian or another adult acting on the
16 victim's behalf, the attorney representing the state may, subject
17 to the Texas Disciplinary Rules of Professional Conduct, file the
18 application for a protective order on behalf of the requestor; and

19 (D) that, subject to the Texas Disciplinary Rules
20 of Professional Conduct, the attorney representing the state
21 generally is required to file the application for a protective
22 order with respect to the victim if the defendant is convicted of or
23 placed on deferred adjudication community supervision for the
24 offense;

25 (2) the right to:

26 (A) request that the attorney representing the
27 state, subject to the Texas Disciplinary Rules of Professional

1 Conduct, file an application for a protective order described by
2 Subdivision (1); and

3 (B) be notified in the manner provided by Article
4 56A.0525 when the attorney representing the state files an
5 application for a protective order under Article 7B.001;

6 (3) if the victim or the victim's parent or guardian,
7 as applicable, is present when the defendant is convicted or placed
8 on deferred adjudication community supervision, the right to:

9 (A) be given by the court the information
10 described by Subdivision (1), in the manner provided by Article
11 56A.0525; and

12 (B) file an application for a protective order
13 under Article 7B.001 immediately following the defendant's
14 conviction or placement on deferred adjudication community
15 supervision if the court has jurisdiction over the application; and

16 (4) if the victim or the victim's parent or guardian,
17 as applicable, is not present when the defendant is convicted or
18 placed on deferred adjudication community supervision, the right to
19 be given by the attorney representing the state the information
20 described by Subdivision (1), in the manner provided by Article
21 56A.0525.

22 (e) A victim of an offense under Section 20A.02, 20A.03, or
23 43.05, Penal Code, is entitled to be informed, in the manner
24 provided by Article 56A.0525, that the victim may petition for an
25 order of nondisclosure of criminal history record information under
26 Section 411.0728, Government Code, if the victim:

27 (1) has been convicted of or placed on deferred

1 adjudication community supervision for an offense described by
2 Subsection (a)(1) of that section; and

3 (2) committed that offense solely as a victim of an
4 offense under Section 20A.02, 20A.03, or 43.05, Penal Code.

5 SECTION 3. Subchapter B, Chapter 56A, Code of Criminal
6 Procedure, is amended by adding Article 56A.0525 to read as
7 follows:

8 Art. 56A.0525. AUTHORIZED FORM OF NOTIFICATIONS. For
9 purposes of this subchapter, a judge, attorney representing the
10 state, peace officer, or law enforcement agency that is required to
11 notify, inform, or disclose information to a victim, guardian of a
12 victim, or close relative of a deceased victim in accordance with a
13 right granted under this subchapter shall provide the notification
14 or information in the following manner:

15 (1) electronically, including by text message,
16 videoconference, or e-mail;

17 (2) by mail;

18 (3) through an anonymous, online portal; or

19 (4) by contacting by telephone or otherwise making
20 personal contact with the victim, guardian, or relative, as
21 applicable.

22 SECTION 4. This Act takes effect September 1, 2023.