

By: Cook, Collier

H.B. No. 4518

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the authority of a court to grant a commutation of  
3 punishment to certain individuals serving a term of imprisonment  
4 and to victims' rights regarding a motion to grant a commutation.

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

6 SECTION 1. Title 1, Code of Criminal Procedure, is amended  
7 by adding Chapter 53 to read as follows:

8 CHAPTER 53. JUDICIAL COMMUTATION

9 Art. 53.001. APPLICABILITY. This chapter does not apply to  
10 an inmate who is serving a sentence for an offense listed in Article  
11 42A.054(a) or for which the judgment contains an affirmative  
12 finding under Article 42A.054(c) or (d).

13 Art. 53.002. MOTION TO GRANT COMMUTATION. (a)  
14 Notwithstanding any other law, on motion of the attorney  
15 representing the state a court may grant a commutation of  
16 punishment in accordance with this chapter for an inmate serving a  
17 term of imprisonment.

18 (b) A motion under this chapter must be filed by the  
19 attorney representing the state for the jurisdiction in which the  
20 inmate was convicted. The motion may be filed in any district court  
21 in the county in which the inmate was convicted.

22 (c) Until the court has granted the motion, the attorney  
23 representing the state may withdraw the motion. If the motion is  
24 withdrawn, the court is prohibited from granting a commutation in

1 the case based on that motion.

2 Art. 53.003. DECISION. (a) In determining whether to grant  
3 the motion, the court may consider:

4 (1) the inmate's disciplinary record and record of  
5 rehabilitation while imprisoned;

6 (2) evidence that reflects whether the inmate's age,  
7 time served, or diminished physical condition has reduced the  
8 inmate's risk for committing an offense in the future; and

9 (3) evidence that reflects any change in the inmate's  
10 circumstances since the original sentencing such that the inmate's  
11 continued imprisonment is no longer in the interest of justice.

12 (b) Notwithstanding any other law, the court may, in  
13 granting relief under this chapter, reduce an inmate's sentence to  
14 a term that is less than the statutory minimum for the offense that  
15 existed at the time of the offense, including by reducing the  
16 sentence to time served and ordering the inmate's immediate  
17 release.

18 (c) The court may not increase a sentence under this  
19 chapter.

20 Art. 53.004. APPEAL. (a) Except as provided by this  
21 article, the Texas Rules of Appellate Procedure apply to all  
22 hearings and orders under this chapter.

23 (b) Neither the attorney representing the state nor the  
24 inmate is entitled to appeal the court's decision to deny a motion  
25 under this chapter.

26 SECTION 2. Article [56A.051](#), Code of Criminal Procedure, is  
27 amended by amending Subsection (a) and adding Subsection (d) to

1 read as follows:

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

5 (1) the right to receive from a law enforcement agency  
6 adequate protection from harm and threats of harm arising from  
7 cooperation with prosecution efforts;

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

11 (3) if requested, the right to be informed:

12 (A) by the attorney representing the state of  
13 relevant court proceedings, including appellate proceedings, and  
14 to be informed if those proceedings have been canceled or  
15 rescheduled before the event; and

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

19 (4) when requested, the right to be informed:

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

22 (B) by the office of the attorney representing  
23 the state concerning the general procedures in the criminal justice  
24 system, including general procedures in guilty plea negotiations  
25 and arrangements, restitution, and the appeals and parole process;

26 (5) the right to provide pertinent information to a  
27 community supervision and corrections department conducting a

1 presentencing investigation concerning the impact of the offense on  
2 the victim and the victim's family by testimony, written statement,  
3 or any other manner before any sentencing of the defendant;

4           (6) the right to receive information regarding  
5 compensation to victims of crime as provided by Chapter 56B,  
6 including information related to the costs that may be compensated  
7 under that chapter and the amount of compensation, eligibility for  
8 compensation, and procedures for application for compensation  
9 under that chapter, the payment for a forensic medical examination  
10 under Article 56A.252 for a victim of an alleged sexual assault, and  
11 when requested, to referral to available social service agencies  
12 that may offer additional assistance;

13           (7) the right to:

14                   (A) be informed, on request, of parole  
15 procedures;

16                   (B) participate in the parole process;

17                   (C) provide to the board for inclusion in the  
18 defendant's file information to be considered by the board before  
19 the parole of any defendant convicted of any offense subject to this  
20 chapter; and

21                   (D) be notified, if requested, of parole  
22 proceedings concerning a defendant in the victim's case and of the  
23 defendant's release;

24           (8) the right to be provided with a waiting area,  
25 separate or secure from other witnesses, including the defendant  
26 and relatives of the defendant, before testifying in any proceeding  
27 concerning the defendant; if a separate waiting area is not

1 available, other safeguards should be taken to minimize the  
2 victim's contact with the defendant and the defendant's relatives  
3 and witnesses, before and during court proceedings;

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

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

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

14 (12) the right to be informed of the uses of a victim  
15 impact statement and the statement's purpose in the criminal  
16 justice system as described by Subchapter D, to complete the victim  
17 impact statement, and to have the victim impact statement  
18 considered:

19 (A) by the attorney representing the state and  
20 the judge before sentencing or before a plea bargain agreement is  
21 accepted; and

22 (B) by the board before a defendant is released  
23 on parole;

24 (13) for a victim of an assault or sexual assault who  
25 is younger than 17 years of age or whose case involves family  
26 violence, as defined by Section 71.004, Family Code, the right to  
27 have the court consider the impact on the victim of a continuance

1 requested by the defendant; if requested by the attorney  
2 representing the state or by the defendant's attorney, the court  
3 shall state on the record the reason for granting or denying the  
4 continuance; ~~and~~

5 (14) the right to be informed of any motion to grant a  
6 commutation filed under Chapter 53 and to be informed of any  
7 hearings or orders under that chapter; and

8 (15) if the offense is a capital felony, the right to:

9 (A) receive by mail from the court a written  
10 explanation of defense-initiated victim outreach if the court has  
11 authorized expenditures for a defense-initiated victim outreach  
12 specialist;

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

16 (C) designate a victim service provider to  
17 receive all communications from a victim outreach specialist acting  
18 on behalf of any person.

19 (d) If a victim notifies the attorney representing the state  
20 that the victim opposes a motion to grant a commutation filed by  
21 that attorney under Chapter 53, that attorney shall inform the  
22 court of the victim's objections.

23 SECTION 3. This Act takes effect January 1, 2024, but only  
24 if the constitutional amendment proposed by the 88th Legislature,  
25 Regular Session, 2023, authorizing the legislature to enact laws  
26 providing for a court to grant a commutation of punishment to  
27 certain individuals serving a term of imprisonment is approved by

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1 the voters. If that amendment is not approved by the voters, this  
2 Act has no effect.