

## **BILL ANALYSIS**

Senate Research Center

S.B. 761  
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Criminal Justice  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Crime victims are granted both constitutional and statutory rights within the criminal justice system and have legal standing to assert those rights. However, these rights hold little value if they cannot be effectively enforced. To safeguard against violations, victims should have access to legal assistance throughout the criminal justice process. The federal justice system, along with 14 other states, recognizes crime victims' right to legal representation, which has enhanced the process, increased victim participation, and ultimately led to better outcomes in the justice system.

This bill would not make victims a party to the criminal case and it would not impose civil liability for prosecutors, law enforcement, or the judiciary.

S.B. 761 aims to provide meaningful access to justice for survivors of sexual violence, including:

- Right to meaningful notice: Survivors would be given at least five days' notice that a plea bargain hearing has been set, rescheduled, or canceled, in addition to other relevant court proceedings.
- Right to be informed that the prosecutor does not represent the victim. The victim would be informed early in the criminal case that the state's attorney is not their attorney.
- Right to counsel: Texas law already states that victims have the right to assert their rights. This bill simply clarifies that victims may have an attorney assert their rights on their behalf.
- Right to an advocate: This would impose legal consequences on Sexual Assault Forensic Exam (SAFE)-Ready facilities that refuse to follow the law by not offering survivors the opportunity to have an advocate present during the forensic exam. Consequences could include loss of SAFE-Ready designation and a civil penalty.

Additionally, the bill would allow victims to have an advocate or attorney present in an investigative interview, even when that interview takes place outside of a law enforcement agency (i.e., via an adult forensic interviewer).

### **COMMITTEE SUBSTITUTE**

- Removes Section 1 (f)(2), Section 3, and Section 4.

S.B. 761 amends current law relating the offense of sexual assault and to the rights of crime victims, including the enforcement of certain rights of sexual assault victims and authorizes a civil penalty.

### **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 Article 26.13(e), Code of Criminal Procedure, as follows:

(e) Requires the court, before accepting a plea of guilty or a plea of nolo contendere, to, as applicable in the case:

(1) makes no changes to this subdivision; and

(2) inquire as to whether the attorney representing the state has taken certain actions, including conferring with the victim, guardian of a victim, or close relative of a deceased victim regarding the disposition of the case.

Makes nonsubstantive changes to this subsection.

SECTION 2. Amends Article 56A.051(a), Code of Criminal Procedure, as follows:

(a) Entitles a victim, guardian of a victim, or close relative of a deceased victim to the following rights within the criminal justice system:

(1)-(2) makes no changes to these subdivisions;

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

(A) by the attorney representing the state of relevant court proceedings, including appellate proceedings, at least five business days before the date of each proceeding or otherwise as soon as reasonably practicable, and to be informed as soon as possible if those proceedings have been canceled or rescheduled before the event; and

(B) makes no changes to this paragraph; and

(4)-(14) makes no changes to these subdivisions.

SECTION 3. Amends Article 56A.0531, Code of Criminal Procedure, 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 this chapter either orally or in writing, individually or through an attorney.

SECTION 4. Amends Article 56A.351, Code of Criminal Procedure, by amending Subsection (e) and adding Subsections (f) and (g), as follows:

(e) Deletes existing text defining "health care facility."

(f) Requires an individual or entity, including a health care facility, that is required to offer a victim the opportunity to have an advocate from a sexual assault program be present with the victim during the forensic medical examination to document whether the offer was extended to the victim, whether the advocate was available at the time of the examination, and if the offer was not extended to the victim, the reason the offer was not extended to the victim.

(g) Provides that, in this article, "health care facility" includes a hospital licensed under Chapter 241 (Hospitals), Health and Safety Code.

SECTION 5. Amends Article 56A.3515, Code of Criminal Procedure, by amending Subsections (a), (b), (b-1), (d), and (f) and adding Subsection (b-2), as follows:

(a) Requires the peace officer or other individual conducting an investigative interview with a victim reporting a sexual assault, other than a victim who is a minor as defined by

Section 101.003 (Child or Minor; Adult), Family Code, before conducting the interview, to offer the victim the opportunity to have an advocate from a sexual assault program, as defined by Section 420.003, Government Code, be present with the victim during the interview, if the advocate is available at the time of the interview.

(b) Makes a conforming change to this subsection.

(b-1) Makes conforming changes to this subsection.

(b-2) Provides that a victim described by Subsection (a) has the right to have an attorney present during an investigative interview with the victim. Prohibits the attorney from unreasonably delaying or otherwise impeding the interview process.

(d) Prohibits the advocate, liaison, officer, or counselor and the sexual assault program or other entity providing the advocate, liaison, officer, or counselor from unreasonably delaying or otherwise impeding the interview process.

(f) Provides that an individual or entity, rather than a peace officer or law enforcement agency, that provides an advocate, liaison, officer, or counselor with access to a victim reporting a sexual assault is not subject to civil or criminal liability for providing that access.

SECTION 6. Amends Article 56A.451, Code of Criminal Procedure, as follows:

Art. 56A.451. NOTIFICATION OF RIGHTS. (a) Requires the attorney representing the state, not later than the 10th day after the date that an indictment or information is returned against a defendant for an offense, to give to each victim of the offense a written notice containing:

(1)-(2) makes no changes to these subdivisions;

(3) a statement that the attorney representing the state does not represent the victim, guardian of a victim, or close relative of a deceased victim;

(4)-(5) makes nonsubstantive changes to these subdivisions; and

(6) notification of:

(A)-(B) makes no changes to these paragraphs;

(C)-(D) makes nonsubstantive changes to these paragraphs; and

(E) the right of a victim, guardian of a victim, or close relative of a deceased victim to assert the rights granted by this chapter either orally or in writing, and either individually or through an attorney, as provided by Article 56A.0531 (Assertion of Rights).

Makes a nonsubstantive change to this subsection.

(b) Makes no changes to this subsection.

SECTION 7. Amends Article 56A.452, Code of Criminal Procedure, as follows:

Art. 56A.452. NOTIFICATION OF SCHEDULED COURT PROCEEDINGS. (a) Creates this subsection from existing text. Requires the attorney representing the state, if requested by the victim, at least five business days before the date of the court proceeding or the filing of the continuance request or otherwise as soon as reasonably practicable, rather than as far as reasonably practical, to give the victim notice of:

(1) any scheduled court proceedings, rather than any scheduled court proceedings and changes in that schedule; and

(2) makes no changes to this subdivision.

(b) Requires the attorney representing the state, if requested by the victim, to give the victim notice of any changes in scheduled court proceedings as soon as possible.

SECTION 8. Amends Article 56A.453, Code of Criminal Procedure, to make no changes.

SECTION 9. Amends Section 22.011(c), Penal Code, by adding Subdivision (1-a) to define "consent."

SECTION 10. Makes application of this Act prospective.

SECTION 11. Effective date: September 1, 2025.