

BILL ANALYSIS

S.B. 761
By: Hinojosa, Juan "Chuy"
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Crime victims are granted rights within the criminal justice system to ensure they are protected and can meaningfully engage with the system. However, according to witness testimony provided by victims of sexual assault to the House Committee on Criminal Jurisprudence, additional rights and measures are needed to support victims, specifically a right to be timely notified of scheduled proceedings in the criminal case, and measures to enforce the requirement to offer an advocate to a victim during a forensic medical examination could help support victims as they seek to cooperate with the prosecution of offenses and ultimately hold offenders accountable. S.B. 761 seeks to support victims of sexual assault and other offenses by setting out specific deadlines for notice of scheduled proceedings and plea bargain agreements, by clearly informing victims that the state's attorney is not their attorney, by imposing legal consequences on health care facilities that refuse to offer victims of sexual assault the opportunity to have an advocate present during a forensic exam, by granting rape victims the right to have an attorney present during a forensic interview, and by clarifying that victims may have an attorney assert their rights on their behalf.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 761 amends the Code of Criminal Procedure to set a deadline by which a victim, guardian of a victim, or close relative of a deceased victim, if requested, is to be informed by the state's attorney of relevant court proceedings, including appellate proceedings, as a general crime victim's right within the criminal justice system, of at least five business days before the date of each proceeding or otherwise as soon as reasonably practicable and to specify that the right to be informed if those proceedings have been canceled or rescheduled before the event applies as soon as possible. The bill specifies that the right of a victim, guardian of a victim, or close relative of a deceased victim granted by provisions relating to crime victims' rights may be asserted individually or through an attorney.

S.B. 761 requires an individual or entity, including a health care facility, that must offer a victim who is reporting sexual assault the opportunity to have an advocate from a sexual assault program be present with the victim during a 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 that offer was not extended to the victim, the reason the offer was not

extended to the victim. The bill makes an individual or entity, including a health care facility, that does not extend such an offer to a victim or that otherwise prevents a victim from gaining access to an advocate for a reason other than the unavailability of the advocate subject to the following:

- liability to the state for a civil penalty in the amount of \$1,000 for each violation; and
- if the individual or entity is designated as a SAFE-ready facility or SAFE program, removal of the facility's or program's designation by the Health and Human Services Commission or Department of State Health Services, as applicable.

The bill authorizes the attorney general to bring an action to recover the civil penalty. The bill makes conforming changes.

S.B. 761 clarifies that the requirement to offer a victim who is reporting a sexual assault and is not a minor the opportunity to have an advocate from a sexual assault program or, if an advocate is not available, an applicable crime victim liaison, peace officer, or victim's assistance counselor, be present with the victim during an investigative interview applies to any other individual conducting the interview. The bill establishes that a victim has the right to have an attorney present during the interview but prohibits the attorney from unreasonably delaying or otherwise impeding the interview process. The bill specifies that the prohibition against an advocate, liaison, officer, or counselor and the program or other entity providing such a person delaying or otherwise impeding the interview process applies with respect to unreasonably delaying or otherwise impeding the process. The bill extends the exemption from civil or criminal liability for providing an advocate, liaison, officer, or counselor with access to a victim during the interview to any individual or entity that provides such access.

S.B. 761 includes the following among the information in the written notice that the state's attorney must give to a victim not later than the 10th day after the date that an indictment or information is returned against a defendant:

- a statement that the state's attorney does not represent the victim, guardian of a victim, or close relative of a deceased victim; and
- notification of the right of a victim, guardian of a victim, or close relative of a deceased victim to assert the rights granted by state law relating to crime victims' rights either orally or in writing, and either individually or through an attorney.

The bill specifies that the plea bargaining statement required to be in the written notice stating whether the state's attorney has given the victim, guardian of a victim, or close relative of a deceased victim notice of the existence and terms of the plea bargain agreement applies with respect to that provision of notice at least five business days before the date of the presentation of a plea bargain agreement to the court or otherwise as soon as reasonably practicable.

S.B. 761 sets a deadline by which the state's attorney must provide a victim who has requested notice of any scheduled court proceedings and the filing of a request for continuance of a trial setting of at least five business days before the date of the court proceeding or the filing or otherwise as soon as reasonably practicable, thereby replacing the currently prescribed timeline of as far as reasonably practical. The bill clarifies that the state's attorney must give notice to the victim, if requested by the victim, of any changes in scheduled proceedings as soon as possible.

S.B. 761 sets a deadline by which the state's attorney must provide a victim, guardian of a victim, or close relative of a deceased victim notice of the existence and terms of any plea bargain agreement of at least five business days before the date of the presentation of the plea bargain agreement to a court or otherwise as soon as practicable, thereby replacing the currently prescribed timeline of as far as reasonably practical. The bill makes the deadline of at least five business days before the date of the presentation of the agreement to the court, or otherwise as soon as practicable, applicable to the requirement for a court, before accepting a plea of guilty or a plea of nolo contendere, to inquire as to whether the state's attorney has given that notice to those persons and also requires the court, before accepting such a plea, to inquire as to whether the state's attorney has conferred with the victim, guardian of a victim, or close relative of a deceased victim regarding the disposition of the case.

S.B. 761 applies only to victims of criminally injurious conduct occurring on or after the bill's effective date. Criminally injurious conduct occurring before the bill's effective date is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose. For these purposes, criminally injurious conduct occurred before the bill's effective date if any element of the offense underlying the conduct occurred before that date.

EFFECTIVE DATE

September 1, 2025.