

By: Hinojosa of Hidalgo

S.B. No. 761

A BILL TO BE ENTITLED

AN ACT

relating to rights of crime victims and the enforcement of those rights; authorizing a civil penalty.

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

SECTION 1. Articles 26.13(e) and (f), Code of Criminal Procedure, are amended to read as follows:

(e) Before accepting a plea of guilty or a plea of nolo contendere, the court shall, as applicable in the case:

(1) inquire as to whether a victim impact statement has been returned to the attorney representing the state and ask for a copy of the statement if one has been returned; and

(2) inquire as to whether the attorney representing the state has:

(A) given notice, at least five business days before the date of the presentation of the agreement to the court or otherwise as soon as reasonably practicable, of the existence and terms of any plea bargain agreement to the victim, guardian of a victim, or close relative of a deceased victim, as those terms are defined by Article 56A.001; and

(B) conferred with the victim, guardian of a victim, or close relative of a deceased victim regarding the disposition of the case.

(f) The court must substantially comply with Subsection (e) of this article. The failure of the court to comply with Subsection

(e) of this article:

(1) is not grounds for the defendant to set aside the conviction, sentence, or plea; and

(2) is grounds for the victim, guardian of a victim, or close relative of a deceased victim to petition the court to reset a plea hearing or set aside the plea.

SECTION 2. 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, 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) by an appellate court of the court's decisions, after the decisions are entered but before the decisions

1 are made public;

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

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

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

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

15 (6) the right to receive information, in the manner
16 provided by Article [56A.0525](#):

17 (A) regarding compensation to victims of crime as
18 provided by Chapter [56B](#), including information related to the costs
19 that may be compensated under that chapter and the amount of
20 compensation, eligibility for compensation, and procedures for
21 application for compensation under that chapter;

22 (B) for a victim of a sexual assault, regarding
23 the payment under Subchapter G for a forensic medical examination;
24 and

25 (C) when requested, providing a referral to
26 available social service agencies that may offer additional
27 assistance;

1 (7) the right to:

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

4 (B) participate in the parole process;

5 (C) provide to the board for inclusion in the
6 defendant's file information to be considered by the board before
7 the parole of any defendant convicted of any offense subject to this
8 chapter; and

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

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

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

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

27 (11) the right to request victim-offender mediation

1 coordinated by the victim services division of the department;

2 (12) the right to be informed, in the manner provided
3 by Article 56A.0525, of the uses of a victim impact statement and
4 the statement's purpose in the criminal justice system as described
5 by Subchapter D, to complete the victim impact statement, and to
6 have the victim impact statement considered:

7 (A) by the attorney representing the state and
8 the judge before sentencing or before a plea bargain agreement is
9 accepted; and

10 (B) by the board before a defendant is released
11 on parole;

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

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

21 (A) receive by mail from the court a written
22 explanation of defense-initiated victim outreach if the court has
23 authorized expenditures for a defense-initiated victim outreach
24 specialist;

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

1 (C) designate a victim service provider to
2 receive all communications from a victim outreach specialist acting
3 on behalf of any person.

4 SECTION 3. Article 56A.053, Code of Criminal Procedure, is
5 amended by amending Subsection (a) and adding Subsection (c) to
6 read as follows:

7 (a) Subject to Subsection (c), a [A] judge, attorney
8 representing the state, peace officer, or law enforcement agency is
9 not liable for a failure or inability to provide a right granted by
10 this subchapter.

11 (c) A judge, attorney representing the state, peace
12 officer, or law enforcement agency may be subject to an injunction
13 or writ of mandamus to compel the judge, attorney, officer, or
14 agency to provide a right granted by or a service required under
15 this subchapter.

16 SECTION 4. Article 56A.0531, Code of Criminal Procedure, is
17 amended to read as follows:

18 Art. 56A.0531. ASSERTION OF RIGHTS. (a) A victim, guardian
19 of a victim, or close relative of a deceased victim may assert the
20 rights provided by this chapter either orally or in writing.

21 (b) The victim, guardian of a victim, close relative of a
22 deceased victim, the attorney representing the state, or an
23 attorney representing a victim, guardian of a victim, or close
24 relative of a deceased victim may assert a right granted by this
25 subchapter to the victim, guardian, or relative, or request
26 enforcement of the right, by filing a motion, petition for a writ of
27 mandamus, or action for injunctive or declaratory relief in a trial

or appellate court with jurisdiction over the case.

(c) In an appeal in a criminal case, the attorney representing the state may assert as error the trial court's denial, in the proceeding to which the appeal relates, of a right granted by this subchapter to the victim, guardian of a victim, or close relative of a deceased victim.

SECTION 5. Article [56A.351](#), Code of Criminal Procedure, is amended by amending Subsection (e) and adding Subsections (f), (g), (h), and (i) to read as follows:

(e) Any individual or entity, including a health care facility, that provides an advocate with access under Subsection (a) to a victim consenting to a forensic medical examination is not subject to civil or criminal liability for providing that access. ~~[In this article, "health care facility" includes a hospital licensed under Chapter [241](#), Health and Safety Code.]~~

(f) 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 shall document:

(1) whether the offer was extended to the victim;

(2) whether the advocate was available at the time of the examination; and

(3) if the offer was not extended to the victim, the reason the offer was not extended to the victim.

(g) An individual or entity, including a health care facility, that does not offer a victim the opportunity to have an advocate be present, as required by Subsection (a), or that

1 otherwise prevents a victim from gaining access to an advocate
2 described by that subsection for a reason other than the
3 unavailability of the advocate, is:

4 (1) liable to this state for a civil penalty in the
5 amount of \$1,000 for each violation; and

6 (2) subject to, if the individual or entity is
7 designated as a SAFE-ready facility or SAFE program, as those terms
8 are defined by Section 323.001, Health and Safety Code, removal of
9 the facility's or program's designation by the Health and Human
10 Services Commission or Department of State Health Services, as
11 applicable, under Chapter 323, Health and Safety Code.

12 (h) The attorney general may bring an action to recover the
13 civil penalty imposed under Subsection (g)(1).

14 (i) In this article, "health care facility" includes a
15 hospital licensed under Chapter 241, Health and Safety Code.

16 SECTION 6. Article 56A.3515, Code of Criminal Procedure, is
17 amended by amending Subsections (a), (b), (b-1), (d), and (f) and
18 adding Subsection (b-2) to read as follows:

19 (a) Before conducting an investigative interview with a
20 victim reporting a sexual assault, other than a victim who is a
21 minor as defined by Section 101.003, Family Code, the peace officer
22 or other individual conducting the interview shall offer the victim
23 the opportunity to have an advocate from a sexual assault program,
24 as defined by Section 420.003, Government Code, be present with the
25 victim during the interview, if the advocate is available at the
26 time of the interview. The advocate must have completed a sexual
27 assault training program described by Section 420.011(b),

1 Government Code.

2 (b) If an advocate described by Subsection (a) is not
3 available at the time of the interview, the peace officer or other
4 individual conducting the interview shall offer the victim the
5 opportunity to have a crime victim liaison from the law enforcement
6 agency, a peace officer who has completed a sexual assault training
7 program described by Section 420.011(b), Government Code, or a
8 victim's assistance counselor from a state or local agency or other
9 entity be present with the victim during the interview.

10 (b-1) The peace officer or other individual conducting an
11 investigative interview described by Subsection (a) shall make a
12 good faith effort to comply with Subsections (a) and (b), except
13 that the officer's or individual's compliance with those
14 subsections may not unreasonably delay or otherwise impede the
15 interview process.

16 (b-2) A victim has the right to have an attorney present
17 during an investigative interview with the victim. The attorney
18 may not unreasonably delay or otherwise impede the interview
19 process.

20 (d) The advocate, liaison, officer, or counselor and the
21 sexual assault program or other entity providing the advocate,
22 liaison, officer, or counselor may not unreasonably delay or
23 otherwise impede the interview process.

24 (f) An individual or entity [~~A peace officer or law~~
25 ~~enforcement agency~~] that provides an advocate, liaison, officer, or
26 counselor with access to a victim reporting a sexual assault is not
27 subject to civil or criminal liability for providing that access.

SECTION 7. Article 56A.451, Code of Criminal Procedure, is amended to read as follows:

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

(1) the case number and assigned court for the case;

(2) a brief general statement of each procedural stage in the processing of a criminal case, including bail, plea bargaining, parole restitution, and appeal;

(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) suggested steps the victim may take if the victim is subjected to threats or intimidation;

(5) [~~(4)~~] the name, address, and phone number of the local victim assistance coordinator; and

(6) [~~(5)~~] notification of:

(A) the rights and procedures under this chapter, Chapter 56B, and Subchapter B, Chapter 58;

(B) the right to file a victim impact statement with the office of the attorney representing the state and the department;

(C) the right to receive information:

(i) regarding compensation to victims of crime as provided by Chapter 56B, including information relating to

1 the costs that may be compensated under that chapter, eligibility
2 for compensation, and procedures for application for compensation
3 under that chapter;

4 (ii) for a victim of a sexual assault,
5 regarding the payment under Subchapter G for a forensic medical
6 examination; and

7 (iii) providing a referral to available
8 social service agencies that may offer additional assistance; ~~and~~

9 (D) the right of a victim, guardian of a victim,
10 or close relative of a deceased victim, as defined by Section
11 [508.117](#), Government Code, to appear in person before a member of the
12 board as provided by Section [508.153](#), Government Code; and

13 (E) the right of a victim, guardian of a victim,
14 or close relative of a deceased victim to assert the rights granted
15 by this chapter either orally or in writing, individually or
16 through an attorney, as provided by Article [56A.0531](#).

17 (b) The brief general statement required by Subsection
18 (a)(2) that describes the plea bargaining stage in a criminal trial
19 must include a statement that:

20 (1) a victim impact statement provided by a victim,
21 guardian of a victim, or close relative of a deceased victim will be
22 considered by the attorney representing the state in entering into
23 a plea bargain agreement; and

24 (2) the judge before accepting a plea bargain
25 agreement is required under Article [26.13](#)(e) to ask:

26 (A) whether a victim impact statement has been
27 returned to the attorney representing the state;

1 (B) if a victim impact statement has been
2 returned, for a copy of the statement; and

3 (C) whether the attorney representing the state
4 has given the victim, guardian of a victim, or close relative of a
5 deceased victim notice of the existence and terms of the plea
6 bargain agreement at least five business days before the date of the
7 presentation of a plea bargain agreement to the court or otherwise
8 as soon as reasonably practicable.

9 SECTION 8. Article 56A.452, Code of Criminal Procedure, is
10 amended to read as follows:

11 Art. 56A.452. NOTIFICATION OF SCHEDULED COURT PROCEEDINGS.

12 (a) If requested by the victim, the attorney representing the
13 state, at least five business days before the date of the court
14 proceeding or the filing of the continuance request or otherwise as
15 soon ~~[far]~~ as reasonably practicable ~~[practical]~~, shall give the
16 victim notice of:

17 (1) any scheduled court proceedings ~~[and changes in~~
18 ~~that schedule]~~; and

19 (2) the filing of a request for continuance of a trial
20 setting.

21 (b) If requested by the victim, the attorney representing
22 the state shall give the victim notice of any changes in scheduled
23 court proceedings as soon as possible.

24 SECTION 9. Article 56A.453, Code of Criminal Procedure, is
25 amended to read as follows:

26 Art. 56A.453. NOTIFICATION OF PLEA BARGAIN AGREEMENT. The
27 attorney representing the state, at least five business days before

1 the date of the presentation of a plea bargain agreement to the
2 court or otherwise as soon [~~far~~] as reasonably practicable
3 [~~practical~~], shall give a victim, guardian of a victim, or close
4 relative of a deceased victim notice of the existence and terms of
5 any plea bargain agreement to be presented to the court.

6 SECTION 10. The change in law made by this Act applies only
7 to victims of criminally injurious conduct occurring on or after
8 the effective date of this Act. Criminally injurious conduct
9 occurring before the effective date of this Act is governed by the
10 law in effect on the date the conduct occurred, and the former law
11 is continued in effect for that purpose. For purposes of this
12 section, criminally injurious conduct occurred before the
13 effective date of this Act if any element of the offense underlying
14 the conduct occurred before that date.

15 SECTION 11. This Act takes effect September 1, 2025.