

- SUBJECT:** Requiring prosecutors to report on provision of victims' rights
- COMMITTEE:** Criminal Jurisprudence — committee substitute recommended
- VOTE:** 6 ayes — Hinojosa, Dunnam, Garcia, Nixon, Smith, Talton
0 nays
3 absent — Green, Keel, Wise
- WITNESSES:** For — Lori Bible, People Against Violent Crime; Janice Sager, Texans For Equal Justice, Rusty Hubbarth, Justice for All; Vincent Torres
Against — None
- BACKGROUND:** Code of Criminal Procedure art. 56.02 and Family Code sec. 57.002 list the rights of victims in criminal cases. These rights include the right, if requested, to be informed of relevant court proceedings and the right to be informed by the district attorney's office about general procedures in the criminal justice system. Code of Criminal Procedure art. 56.08 requires prosecutors to give each victim a brief general statement of each procedural stage in the processing of a criminal case.
- DIGEST:** CSHB 3765 would require prosecutors to consider before entering into a plea agreement any victim impact statement they have received.
- Courts would have to require prosecutors to state on the record before a sentence was pronounced whether each victim, guardian of a victim, or close relative of a deceased victim had been given the victims' rights outlined in Code of Criminal Procedure that are applicable to procedures that occur before a sentence is pronounced.
- Before making a disposition in a juvenile case, courts would have to require prosecutors to state whether each victim, guardian of the victim, or close relative had been afforded the victims rights listed in Family Code.
- Prosecutors would have to include in the brief general statement they must give victims outlining the procedural stages of a case:

- ! an explanation that before entering into a plea agreement, prosecutors are required to consider a victim impact statement they have received; and
- ! an explanation that before accepting a guilty or no contest plea, the court has to ask whether a victim impact statement had been returned to the prosecutor and, if it had, to obtain a copy.

CSHB 3765 would take effect September 1, 1999, and would apply to the rights of victims of offenses committed on or after that date.

**SUPPORTERS
SAY:**

CSHB 3765 would help provide accountability to ensure that crime victims are given all the rights to which they are entitled under current law. Although victims' rights are clearly outlined in the Code of Criminal Procedure and the Family Code, no mechanism exists to ensure that victims are informed of their their rights and no way to monitor whether criminal justice personnel are providing them. By designating someone to report on these rights in open court, HB 3765 would make victims and criminal justice personnel more aware of their rights.

CSHB 3765 would not make prosecutors responsible for affording victims all of their rights, just for reporting on whether they have been provided. Complying with CSHB 3765 could be as simple for prosecutors as responding "yes" to judges' questions about whether victims had been afforded their rights. A reporting system could easily be set up so that all responsible entities report to the prosecutor what has occurred. If prosecutors did not know about whether a right had been afforded, they simply could report that to the court. CSHB 3765 would not impose any penalty on prosecutors if victims have not been afforded their rights.

CSHB 3765 also would ensure that prosecutors consider victim impact statements, if they have received them. The bill would require only that prosecutors consider the victim statement, not that prosecutors take any specific action on the statement.

**OPPONENTS
SAY:**

CSHB 3765 could place a burden on prosecutors and result in an unwise shift in the public's perception of their role. It could be time consuming and complicated for prosecutors to monitor provision of victims' rights.

Some of the statutory rights afforded crime victims are out of the purview of prosecutors. For example, victims have the right to be informed by a peace

officer about the defendant's right to bail and the right to a waiting area separate from other witnesses or to have steps taken to minimize their contact with the offender and the offender's relatives and witnesses before and during court proceedings. Prosecutors may not know whether peace officers have complied with these rights and may have no control over whether funding has been provided for a separate waiting room. Having prosecutors report in open court about these rights could result in their appearing to be responsible for them. This could create the wrong perception that the prosecutor is the victim's lawyer or advocate instead of the person responsible to society to see that justice is done.

NOTES: The committee substitute added the requirement that prosecutors consider victim impact statements that they have received.