

**SUBJECT:** Notifying victims of release of defendants acquitted by reason of insanity

**COMMITTEE:** Corrections — committee substitute recommended

**VOTE:** 4 ayes — Madden, D. Jones, Haggerty, Noriega

0 nays

3 absent — R. Allen, Hochberg, McReynolds

**WITNESSES:** For — Andy Kahan, Mayor's Crime Victims Office; Amy Smith, Harris County D.A.'s Office; Stephanie Stephens

Against — Denise Brady, Mental Health Association in Texas; Raman Gill, Texas Appleseed; Beth Mitchell, Advocacy, Inc.

On — Shannon Edmonds, Texas District and County Attorneys Association

**BACKGROUND:** Under Code of Criminal Procedure, Art. 46.03, sec. 4 (d)(4) courts may order outpatient care or treatment for criminal defendants who have been acquitted by reason of insanity. Under subsection (5), these defendants who have been committed to a mental health or mental retardation facilities can be released if certain conditions are met.

**DIGEST:** Under CSHB 291, a court ordering the discharge or release to outpatient care from a mental health or mental retardation facility of a criminal defendant previously acquitted by reason of insanity would be required to provide the victim services division of the Texas Department of Criminal Justice (TDCJ) with the name, address, and phone number of the victim or the victim's guardian or close relative. TDCJ's victim services division would be required to notify victims, their guardians, or close relatives. Courts would be authorized to take the victim information from the victim impact statement.

The bill would take effect September 1, 2005.

SUPPORTERS  
SAY:

CSHB 291 is necessary to ensure that crime victims who were harmed by people acquitted by reason of insanity are notified — just like other crime victims — when defendants are released from custody. Currently, upon being acquitted by reason of insanity, a person can be placed by a court under outpatient treatment or care or can be committed to a mental health or mental retardation facility and later released from the facility. Because notification is not required in these cases, victims do not know when the person is released into the community.

CSHB 291 would solve this problem by requiring that an already established mechanism be used for notification in these cases. Courts ordering a person's release into the community would give TDCJ the contact information for the crime victims, and TDCJ would notify the victims of the release. These requirements would not be burdensome for courts because they easily could get victims' information from the victim impact statements. TDCJ could integrate these notices into its existing procedures used to notify victims when offenders are released from state custody. TDCJ is the right entity to make these notifications because it has experience in notifying other crime victims and an established system to do so.

Victims of those acquitted by reason of insanity deserve the same right to notification that other victims receive. Victims may feel threatened by the presence of the defendant in the community and may want to take safety precautions such as installing a security system. One Harris County crime victim moved to another state after a defendant was released from a mental services facility. Knowing that they will be notified when a defendant is released to the community could give victims well deserved peace of mind. The number of cases that CSHB 291 would apply to is relatively small, but the bill could have a huge, positive impact for victims.

CSHB 291 should not be limited to defendants accused of certain types of offenses. All victims of crimes deserve notification because victims are in the best position to evaluate what, if any, action they should take. The crime that a defendant is charged with does not necessarily reflect the potential public safety risk that a defendant represents. All victims of offenders sentenced to state facilities, not just victims of certain types of crimes, receive notification when an offender is released, and CSHB 291 would apply this same standard to victims of those acquitted by reason of

insanity.

CSHB 291 would not unduly harm reintegration efforts of these defendants. Current law requiring notification of victims when people are released from correctional facilities has caused no serious problems. The safety concerns of victims and their right to know what is happening in their cases outweigh hypothetical issues about what defendants may experience when released.

**OPPONENTS  
SAY:**

CSHB 291 could place another roadblock in the path of those with mental health or mental retardation challenges who are trying to reintegrate into society after being acquitted of a crime by reason of insanity. Notification could lead to press attention or to victims bringing public attention to a defendant, which could make reintegration efforts – such as securing a job or a house – more difficult, if not impossible. If a defendant were released into the community, the court would have determined that it was safe to do so, and the defendant's efforts at reintegration should not then be hindered.

**OTHER  
OPPONENTS  
SAY:**

CSHB 291 should be limited to victims of serious or violent crime. People acquitted by reason of insanity for non-violent, low-level crimes most likely would pose minimal, if any, public safety threat and these defendants should not be subject to any unnecessary obstacles to their reintegration into society.

CSHB 291 should not place the job of notification with TDCJ, which has nothing to do with defendants who are acquitted by reason of insanity. These defendants are not part of TDCJ's responsibility because the defendants enter the mental health system, not the criminal justice system.

**NOTES:**

The original bill would have required the court clerk, not TDCJ, to notify the victims.