

SUBJECT: Establishing sexual assault victims' rights, defining sexual assault offenses

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Herrero, Carter, Burnam, Canales, Hughes, Leach, Moody, Schaefer, Toth

0 nays

WITNESSES: For — Chris Kaiser, Texas Association Against Sexual Assault; (*Registered, but did not testify*: Brian Eppes, Tarrant County District Attorney's Office; Carlos Salinas, Alliance for Texas Families; Aaron Setliff, The Texas Council on Family Violence; Steven Tays, Bexar County Criminal District Attorney's Office)

Against — None

On — (*Registered, but did not testify*: Frank Malinak, Texas Department of Public Safety)

BACKGROUND: The Code of Criminal Procedure, sec. 56.01 specifies that the offense of continuous sexual abuse of a young child is included within the definition of "sexual assault" for the purpose of crime victims' right. The Code of Criminal Procedure, sec. 56.02 enumerates a crime victim's rights. Chapter 56 also governs procedures for the forensic medical examination of victims of both reported and unreported sexual assault offenses.

DIGEST: CSHB 2559 would specify the offenses within the definition of "sexual assault" and enumerate the rights of a sexual assault victim.

Definition. CSHB 2559 would define sexual assault as the offenses of engaging in sexual contact with a child (within the offense of indecency with a child), sexual assault, aggravated sexual assault, and the continuous sexual abuse of a young child, for the purpose of crime victims' rights.

Victims' rights. The bill would specify rights of sexual assault victims, the guardians of the victims, or close relatives of deceased victims within the criminal justice system.

Victims, guardians, or relatives would have the right to disclosure of information regarding evidence collected during the investigation of an offense, unless disclosure would interfere with the investigation. In that case, these individuals would need to be informed about when the information might be disclosed. Victims, guardians, and relatives would, upon request, need to be informed about the status of evidence analyses.

Upon request, a victim, guardian, or relative would have the right to be notified when a request to process and analyze evidence collected during an investigation was sent to a crime laboratory. These individuals would also have the right to know when a request to compare biological evidence to state and federal databases was submitted and the results of that comparison. If disclosure about the biological comparison would interfere with the investigation, the individual would have to be informed about when the information might be disclosed. A victim, guardian, or relative would need to provide a current address and phone number to the state attorney and the investigating agency and keep them informed of any changes. These individuals could also designate a different entity to receive notifications.

Upon request, a victim, guardian, or relative would have the right to counseling on the HIV/AIDS infection, and a victim could request to be tested for the infection. The victim also would have the right to a forensic medical examination at no cost if, within 96 hours of the offense, the offense was reported to a law enforcement agency or a forensic medical examination was conducted at a health care facility.

Additional changes. The bill would make additional conforming amendments to include the sexual assault victims' rights within other statutes that provide procedures for administering crime victims' rights. A law enforcement agency, prosecutor, or other participant in the criminal justice system would not be required to use a sexual assault victim impact statement form until January 1, 2013.

The bill would take effect on September 1, 2013.

**SUPPORTERS
SAY:**

CSHB 2559 would help protect sexual assault victims. Currently, sexual assault victims are afforded the same rights as all crime victims. This bill would recognize the particularly traumatizing nature of sexual crimes and establish rights to address the unique issues. By establishing these rights, the bill would allow sexual assault victims and their families to remain

informed about investigations and have access to critical medical examinations. The bill also would clarify the definition of sexual assault by enumerating the offenses.

The notification requirements would not add significant administrative burdens. A victim, guardian, or relative would need to request the notifications, which would likely reduce the number of notices that had to be sent.

The right to disclosure of evidence would not be concerning because an agency could deny a request if it would interfere with an investigation. Moreover, open-file policies already allow victims to request access to a substantial amount of information.

**OPPONENTS
SAY:**

CSHB 2559 would burden state agencies with onerous notification requirements. By requiring victims, guardians, or relatives to be notified at two different points in the investigative process, the bill would establish significant administrative burdens.

This bill would contribute to the trend of enumerating new victims' rights, which could erode the rights of defendants. By allowing disclosure of investigation-related evidence, the bill could spread confusing or incomplete information about an ongoing investigation.