

BILL ANALYSIS

Senate Research Center

H.B. 3765
By: Gallego (Armbrister)
Criminal Justice
5/14/1999
Committee Report (Amended)

DIGEST

Currently, attorneys for the state and courts are both required to assure that victims of crime are provided all of the rights afforded them by the constitution and the statutes. However, courts are not required to inquire of attorneys for the state whether victims have, in fact, been accorded all of the rights afforded them by law. H.B. 3765 would amend regulations regarding the rights of crime victims and the right of victims of delinquent conduct committed by a child.

PURPOSE

As proposed, H.B. 3765 amends the rights of crime victims and the right of victims of delinquent conduct committed by a child.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 26.13, Code of Criminal Procedure, by adding Subsection (h), to require the attorney representing the state to consider any victim impact statement regarding the offenses that have been returned to the attorney before entering into any plea bargain agreement.

SECTION 2. Amends Article 42.037, Code of Criminal Procedure, by adding Subsection (n), to authorize the pardons and paroles division to waive a supervision fee or an administrative fee imposed on an inmate under Section 508.182, Government Code, during any period in which the inmate is required to pay restitution.

SECTION 3. Amends Article 56.02, Code of Criminal Procedure, by amending Subsections (a) and (b) and adding Subsection (e), to provide that a victim, guardian of a victim, or close relative of a victim, have the right to be informed of certain court proceedings, to request victim-offender mediation, and to be informed of the uses of a victim impact statement and the statement's purpose, unless there is no record or the record is waived. Requires the court, before pronouncing sentence in a case and that are to be afforded to the victim by the attorney for the state, to ask the attorney for the state if whether the victim, the guardian of a victim, or the close relative of a deceased victim have been afforded all rights prescribed by this article. Makes conforming changes.

SECTION 4. Amends Article 56.03(e), Code of Criminal Procedure, to require the court to permit the defendant a reasonable time to read a statement, excluding the victim's name, address, and telephone number, if alleging a factual inaccuracy in the statement. Requires the court to forward a victim's impact statement to the community supervision and corrections department, rather than probation department, if the defendant is sentenced to a term of community supervision, rather than probation.

SECTION 5. Amends Chapter 56A, Code of Criminal Procedure, by adding Article 56.045, as follows:

Art. 56.045. RIGHT TO PRESENCE OF VICTIM ASSISTANCE COORDINATOR, CRIME VICTIM ADVOCATE, OR OTHER REPRESENTATIVE. Prohibits a victim of sexual assault from being denied the opportunity to present certain evidence regarding the offense.

SECTION 6. Amends Article 56.08, Code of Criminal Procedure, by adding Subsections (e) and (f), to

provide statements which must be included in the brief general statement describing the plea bargaining stage given to a victim. Requires the court to require the attorney representing the state to state on the record whether each victim or certain others to the extent practicable had been provided the notice required this article. Makes a conforming change.

SECTION 7. Amends Article 56.12, Code of Criminal Procedure, to set forth circumstances when the Texas Department of Criminal Justice (TDCJ) shall notify the victim of an offense or certain others of information regarding the offender. Provides that it is the victim's responsibility to request certain information about an offender and to notify TDCJ of change of address and desire for notification. Requires the institutional division to include certain information about the peace officer receiving the inmate into custody, whereby the victim services division of TDCJ shall notify the victim of that information. Deletes text requiring TDCJ to notify the victim of certain information.

SECTION 8. Amends Chapter 56A, Code of Criminal Procedure, by adding Article 56.13 and 56.14, as follows:

Art. 56.13. VICTIM-OFFENDER MEDIATION. Sets forth guidelines for victim services to train volunteers and provide mediation services.

Art. 56.14. CLEARINGHOUSE ANNUAL CONFERENCE. Authorizes the Texas Crime Victim Clearinghouse to conduct an annual conference to provide certain information regarding crime victims' rights. Authorizes the clearinghouse to charge a fee to persons attending.

SECTION 9. Amends Section 154.023(a), Civil Practice and Remedies Code, to provide that mediation includes victim-offender mediation described by Article 56.13, Code of Criminal Procedure.

SECTION 10. Amends Section 57.002, Family Code, by adding Subsections (b) and (c), to require the court, before making a disposition in a case, to require the attorney for the state to state whether the victim, the guardian of a victim, or the close relative of a deceased victim have been afforded all rights prescribed by this section and that are to be afforded to the victim by the attorney for the state. Sets forth guidelines to notify the victim. Makes conforming changes.

SECTION 11. Amends Section 76.016, Government Code, to delete text regarding a reasonable attempt to notify a victim of certain information. Makes conforming changes.

SECTION 12. Amends Section 415.032(b), Government Code, to require the Commission on Law Enforcement Officer Standards and Education (commission) to require course and programs to provide training in crime victim's rights and the duty of law enforcement agencies to ensure that a victim is afforded those rights.

SECTION 13. Amends Section 493.001, Government Code, to provide that the mission of the TDCJ is to assist victims of crime and other issues.

SECTION 14. Amends Chapter 508B, Government Code, by adding Section 508.0481, as follows:

Sec. 508.0481. VICTIM'S RIGHTS TO REPRESENTATION. Entitles certain victims and other individuals to representation by counsel at a hearing if the person is required to attend. Provides that this section does not require the state to provide representation to the person. Defines "victim," "close relative of a deceased victim," and "guardian of a victim."

SECTION 15. Amends Section 2008.053(a), Government Code, to provide an exception to an agency's appointment of a third party, which includes whether the procedure is a victim-offender mediation, in which case approval of the parties is not required. Makes conforming changes.

SECTION 16. Makes application of this Act prospective.

SECTION 17. Effective date: September 1, 1999.

SECTION 18. Emergency clause.