

**CHAPTER 588**

**H.B. No. 235**

An Act relating to the rights of crime victims and the effect of those rights on the sentencing and availability of bail and release to parole for defendants and to victim assistance coordinators and their duties.

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** The Code of Criminal Procedure, 1965, is amended by adding Chapter 56 to read as follows:

**CHAPTER 56. RIGHTS OF CRIME VICTIMS**

*Art. 56.01. DEFINITIONS. In this chapter:*

(1) *“Close relative of a deceased victim” means a person who was the spouse of a deceased victim at the time of the victim’s death or who is a parent or adult brother, sister, or child of the deceased victim.*

(2) *“Guardian of a victim” means a person who is the legal guardian of the victim, whether or not the legal relationship between the guardian and victim exists because of the age of the victim or the physical or mental incompetency of the victim.*

(3) *“Victim” means a person who is the victim of sexual assault, kidnapping, or aggravated robbery or who has suffered bodily injury or death as a result of the criminal conduct of another.*

*Art. 56.02. CRIME VICTIMS’ RIGHTS. (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 law enforcement agencies adequate protection from harm and threats of harm arising from cooperation with prosecution efforts;

(2) the right to have the magistrate take the safety of the victim or his family into consideration as an element in fixing the amount of bail for the accused;

(3) the right, if requested, to be informed of relevant court proceedings and to be informed if those court proceedings have been canceled or rescheduled prior to the event;

(4) the right to be informed, when requested, by a peace officer concerning the procedures in criminal investigations and by the district attorney's office concerning the general procedures in the criminal justice system, including general procedures in guilty plea negotiations and arrangements;

(5) the right to provide pertinent information to a probation department conducting a presentencing investigation concerning the impact of the offense on the victim and his family by testimony, written statement, or any other manner prior to any sentencing of the offender;

(6) the right to receive information regarding compensation to victims of crime as provided by the Crime Victims Compensation Act (Article 8309-1, Vernon's Texas Civil Statutes), the payment of medical expenses under Section 1, Chapter 299, Acts of the 63rd Legislature, Regular Session, 1973 (Article 4447m, Vernon's Texas Civil Statutes), for a victim of a sexual assault, and when requested, to referral to available social service agencies that may offer additional assistance; and

(7) the right to be notified, if requested, of parole proceedings concerning a defendant in the victim's case and to provide to the Board of Pardons and Paroles for inclusion in the defendant's file information to be considered by the board prior to the parole of any defendant convicted of any crime subject to this Act.

(b) A victim is entitled to the right to be present at all public court proceedings related to the offense, subject to the approval of the judge in the case.

(c) The district attorney's office shall ensure to the extent practicable that a victim, guardian of a victim, or close relative of a deceased victim is afforded the rights granted by Subsection (a) of this article.

(d) A judge, attorney for the state, peace officer, or law enforcement agency is not liable for a failure or inability to provide a right enumerated in this article. The failure or inability of any person to provide a right or service enumerated in this article may not be used by a defendant in a criminal case as a ground for appeal. A victim, guardian of a victim, or close relative of a deceased victim does not have standing to participate as a party in a criminal proceeding or to contest the disposition of any charge.

Art. 56.03. **VICTIM IMPACT STATEMENT.** (a) The Texas Adult Probation Commission, with the participation of the Board of Pardons and Paroles, shall develop a form to be used by law enforcement agencies, prosecutors, and other participants in the criminal justice system to record the impact of an offense on a victim of the offense, guardian of a victim, or a close relative of a deceased victim and to provide to the agencies, prosecutors, and participants with information needed to contact the victim, guardian, or relative if needed at any stage of a prosecution of a person charged with the offense.

(b) The victim impact statement must be in a form designed to inform a victim, guardian of a victim, or a close relative of a deceased victim with a clear statement of rights provided by Article 56.02 of this code and to collect the following information:

(1) the name of the victim of the offense or, if the victim has a legal guardian or is deceased, the name of a guardian or close relative of the victim;

(2) the address and telephone number of the victim, guardian, or relative through which the victim, guardian of a victim, or a close relative of a deceased victim, may be contacted;

(3) a statement of economic loss suffered by the victim, guardian, or relative as a result of the offense;

(4) a statement of any physical or psychological injury suffered by the victim, guardian, or relative as a result of the offense, as described by the victim, guardian, relative, or by a physician or counselor;

(5) a statement of any psychological services requested as a result of the offense;

(6) a statement of any change in the victim's, guardian's, or relative's personal welfare or familial relationship as a result of the offense;

(7) a statement as to whether or not the victim, guardian, or relative wishes to be notified in the future of any parole hearing for the defendant and an explanation as to the procedures by which the victim, guardian, or relative may obtain information concerning the release of the defendant from the Texas Department of Corrections; and

(8) any other information, other than facts related to the commission of the offense, related to the impact of the offense on the victim, guardian, or relative.

(c) The victim assistance coordinator, or if a victim assistance coordinator does not serve the county or judicial district in which the offense occurred, the attorney for the state prosecuting the

defendant, shall send a victim impact statement to a victim, guardian, or close relative of a deceased victim.

(d) If a victim, guardian of a victim, or close relative of a deceased victim states on the victim impact statement that he wishes to be notified of parole proceedings, the victim, guardian, or relative is responsible for notifying the Board of Pardons and Paroles of any change of address.

(e) Prior to the imposition of a sentence by the court in a criminal case, the court, if it has received a victim impact statement, shall consider the information provided in the statement. Before sentencing the defendant, the court shall permit the defendant or his counsel a reasonable time to read the statement, comment on the statement, and, with the approval of the court, introduce testimony or other information alleging a factual inaccuracy in the statement.

(f) The court may not inspect a victim impact statement until after a finding of guilt or until deferred adjudication is ordered and the contents of the statement may not be disclosed to any person unless:

- (1) the defendant pleads guilty or nolo contendere or is convicted of the offense; or
- (2) the defendant in writing authorizes the court to inspect the statement.

(g) A victim impact statement is subject to discovery under Article 39.14 of this code before the testimony of the victim is taken only if the court determines that the statement contains exculpatory material.

**Art. 56.04. VICTIM ASSISTANCE COORDINATOR.** (a) A district attorney, criminal district attorney, or county attorney performing the duties of district attorney, whose jurisdiction is over an area in which the population is 150,000 or more, according to the most recent federal census, shall designate a person as victim assistance coordinator in his office. A prosecutor required to designate a victim assistance coordinator under this article must consult with the prosecutor in the county or district charged with the prosecution of misdemeanors and consider that prosecutor's suggestions as to the most effective manner in which the victim assistance coordinator can perform duties imposed by this article.

(b) The duty of the victim assistance coordinator is to ensure that a victim, guardian of a victim, or close relative of a deceased victim is afforded the rights granted victims, guardians, and relatives by Article 56.02 of this code. The victim assistance coordinator shall work closely with appropriate law enforcement agencies, prosecuting attorneys, the Board of Pardons and Paroles, and the judiciary in carrying out that duty.

(c) The victim assistance coordinator, or a designee of the prosecutor's office, shall send a copy of a victim impact statement to the court sentencing the defendant. If the court sentences the defendant to imprisonment in the Texas Department of Corrections, it shall attach the copy of the victim impact statement to the commitment papers.

**Art. 56.05. REPORTS REQUIRED.** (a) The Board of Pardons and Paroles, the Texas Adult Probation Commission, and the Texas Crime Victim Clearinghouse, designated as the planning body for the purposes of this article, shall develop a survey plan to maintain statistics on the numbers and types of persons to whom state and local agencies provide victim impact statements during each year.

(b) At intervals specified in the plan, the planning body may require any state or local agency to submit, in a form prescribed for the reporting of the information, statistical data on the numbers and types of persons to whom the agency provides victim impact statements and any other information required by the planning body. The form must be designed to protect the privacy of persons afforded rights under this chapter and to determine whether the selected agency or office is making a good faith effort to protect the rights of the persons served.

**SECTION 2.** Article 17.15, Code of Criminal Procedure, 1965, is amended to read as follows:

**Art. 17.15. RULES FOR FIXING AMOUNT OF BAIL.** The amount of bail to be required in any case is to be regulated by the court, judge, magistrate or officer taking the bail; they are to be governed in the exercise of this discretion by the Constitution and by the following rules:

1. The bail shall be sufficiently high to give reasonable assurance that the undertaking will be complied with.
2. The power to require bail is not to be so used as to make it an instrument of oppression.
3. The nature of the offense and the circumstances under which it was committed are to be considered.
4. The ability to make bail is to be regarded, and proof may be taken upon this point.
5. The future safety of a victim of the alleged offense may be considered.

**SECTION 3.** Section 15(f), Article 42.12, Code of Criminal Procedure, 1965, is amended to read as follows:

(f)(1) In this subsection: (A) "close relative of a deceased victim" means a person who was the spouse of a deceased victim at the time of the victim's death, a parent of the deceased victim, or an

adult brother, sister, or child of the deceased victim; (B) "guardian of a victim" means a person who is the legal guardian of a victim, whether or not the legal relationship between the guardian and victim exists because of the age of the victim or the physical or mental incompetency of the victim; and (C) "victim" means a person who is a victim of sexual assault, kidnapping, or aggravated robbery or who has suffered bodily injury or death as the result of the criminal conduct of another.

(2) Before considering for parole a prisoner who is serving a sentence for an offense in which a person was a victim, the Board, using the name and address provided on the victim impact statement, shall make a reasonable effort to notify a victim of the prisoner's crime or if the victim has a legal guardian or is deceased, to notify the legal guardian or close relative of the deceased victim. If the notice is sent to a guardian or close relative of a deceased victim, the notice must contain a request by the Board that the guardian or relative inform other persons having an interest in the matter that the prisoner is being considered for parole. If a hearing is held, the Board shall allow a victim, guardian of a victim, close relative of a deceased victim, or a representative of a victim or his guardian or close relative to provide a written statement. This subsection may not be construed to limit the number of persons who may provide statements for or against the release of the prisoner on parole. The Board shall consider the statements and the information provided in a victim impact statement in determining whether or not to recommend parole. However, the failure of the Board to comply with notice requirements of this subsection is not a ground for revocation of parole.

(3) Before ordering the parole of any prisoner, the Board may have the prisoner appear before it and interview him. A parole shall be ordered only for the best interest of society, not as an award of clemency; it shall not be considered to be a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his employment or for his maintenance and care, and when the Board believes that he is able and willing to fulfill the obligations of a law-abiding citizen. Every prisoner while on parole shall remain in the legal custody of the institution from which he was released but shall be amenable to the orders of the Board.

**SECTION 4.** (a) The Texas Adult Probation Commission, with the participation of the Board of Pardons and Paroles, shall develop, produce, and distribute the victim impact statement form described by Article 56.03, Code of Criminal Procedure, 1965, to each district attorney, criminal district attorney, and county attorney in this state no later than the 60th day after the effective date of this Act.

(b) The Texas Crime Victim Clearinghouse shall prepare and submit to the legislature during the 70th Regular Session a copy of findings developed from the survey required under Article 56.05, Code of Criminal Procedure, 1965.

**SECTION 5.** This Act takes effect September 1, 1985.

**SECTION 6.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 24, 1985, by a non-record vote; House concurred in Senate amendments to H.B. No. 235 on May 23, 1985, by a non-record vote; passed by the Senate, with amendments, on May 20, 1985, by a viva-voce vote.

Approved: June 13, 1985

Effective: September 1, 1985