

CHAPTER 56A. RIGHTS OF CRIME VICTIMS (CONTINUED)

immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS; and (B) a forensic medical examination to the extent provided by Subchapters F and G if, within 120* hours of the offense: (i) the offense is reported to a law enforcement agency; or (ii) a forensic medical examination is otherwise conducted at a health care facility.

(b) A victim, guardian of a victim, or close relative of a deceased victim who requests to be notified under Subsection (a)(2) must provide a current address and phone number to the attorney representing the state and the law enforcement agency that is investigating the offense. The victim, guardian, or relative must inform the attorney representing the state and the law enforcement agency of any change in the address or phone number.

(c) A victim, guardian of a victim, or close relative of a deceased victim may designate a person, including an entity that provides services to victims of sexual assault, to receive any notice requested under Subsection (a)(2).

(d) This subsection applies only to a victim of an offense under Section 20A.02, 20A.03, 21.02, 21.11, 22.011, 22.012*, 22.021, 42.072, or 43.05, Penal Code. A victim described by this subsection or a parent or guardian of the victim is entitled to the following rights within the criminal justice system:

(1) the right to be informed: (A) that the victim or the victim's parent or guardian, as applicable, may file an application for a protective order under Article 7B.001; (B) of the court in which the application for a protective order may be filed; and (C) that, on request of the victim or of the victim's parent or guardian, as applicable, and subject to the Texas Disciplinary Rules of Professional Conduct, the attorney representing the state may file the application for a protective order on behalf of the victim;

(2) the right to request that the attorney representing the state, subject to the Texas Disciplinary Rules of Professional Conduct, file an application for a protective order described by Subdivision (1);

(3) if the victim or the victim's parent or guardian, as applicable, is present when the defendant is convicted or placed on deferred adjudication community supervision, the right to: (A) be given by the court

the information described by Subdivision (1); and (B) file an application for a protective order under Article 7B.001 immediately following the defendant's conviction or placement on deferred adjudication community supervision if the court has jurisdiction over the application; and

(4) if the victim or the victim's parent or guardian, as applicable, is not present when the defendant is convicted or placed on deferred adjudication community supervision, the right to be given by the attorney representing the state the information described by Subdivision (2).

(e) A victim of an offense under Section 20A.02, 20A.03, or 43.05, Penal Code, is entitled to be informed that the victim may petition for an order of nondisclosure of criminal history record information under Section 411.0728, Government Code, if the victim:*

(1) has been convicted of or placed on deferred adjudication community supervision for an offense described by Subsection (a)(1) of that section; and*

(2) committed that offense solely as a victim of an offense under Section 20A.02, 20A.03, or 43.05, Penal Code.*

Art. 56A.053. FAILURE TO PROVIDE RIGHT OR SERVICE.

(a) A judge, attorney representing the state, peace officer, or law enforcement agency is not liable for a failure or inability to provide a right granted by this subchapter.

(b) The failure or inability of any person to provide a right or service granted by this subchapter may not be used by a defendant in a criminal case as a ground for appeal, a ground to set aside the conviction or sentence, or a ground in a habeas corpus petition.

Art. 56A.054. STANDING.

A victim, guardian of a victim, or close relative of a deceased victim does not have standing to: (1) participate as a party in a criminal proceeding; or (2) contest the disposition of any charge.

**Citations have been adapted to reflect substantive changes made during the 86th legislature. This document will be updated at the conclusion of the 87th legislature to accommodate code modifications for Chapter 56A.*

Texas Department of Criminal Justice

VICTIM SERVICES DIVISION



TEXAS DEPARTMENT OF CRIMINAL JUSTICE

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The mission of the Texas Department of Criminal Justice (TDCJ) Victim Services Division is to provide a central mechanism for crime victims to participate in the Criminal Justice System.

For more information regarding crime victims' rights and available services, contact the TDCJ Victim Services Division and visit the TDCJ website.

The crime victims' rights listed in this brochure are current through the Regular Session of the 86th Legislature.

Rev. 1/2021

TEXAS CRIME VICTIMS' RIGHTS

If you are a victim of crime in Texas, you have rights.

Victims of crime are guaranteed certain rights and participation in the criminal justice system under Texas law. This brochure provides information about your rights as a crime victim.

In order to exercise your rights as a crime victim it is necessary to contact crime victim service providers to discuss and request, if applicable, your rights and available services. Your local district or county attorney's office, law enforcement agency, or supervising agency (probation or prison) have crime victim service providers and staff available to assist you.

If you have any questions regarding these rights and how to exercise them, please contact the Texas Department of Criminal Justice (TDCJ) Victim Services Division at 800-848-4284 or victim.svc@tdcj.texas.gov.

Art. 56A.001 (3) DEFINITIONS

- 1) "Board" means the Board of Pardons and Paroles.
- 2) "Clearinghouse" means the Texas Crime Victim Clearinghouse.
- 3) "Close relative of a deceased victim" means a person who: (A) was the spouse of a deceased victim at the time of the victim's death; or (B) is a parent or adult brother, sister, or child of a deceased victim.
- 4) "Department" means the Texas Department of Criminal Justice.
- 5) "Guardian of a victim" means a person who is the legal guardian of the victim, regardless of whether 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.
- 6) "Sexual assault" means an offense under the following provisions of the Penal Code: (A) Section 21.02; (B) Section 21.11(a)(1); (C) Section 22.011; or (D) Section 22.021.
- 7) "Victim" means a person who is the victim of the offense of sexual assault, kidnapping, aggravated robbery, trafficking of persons, or injury to a child, elderly individual, or disabled individual or has suffered personal injury or death as a result of the criminal conduct of another.

Art. 56A.051. GENERAL RIGHTS

- (a) A victim, guardian of a victim, or close relative of

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a deceased victim is entitled to the following rights within the criminal justice system:

- (1) the right to receive from a law enforcement agency adequate protection from harm and threats of harm arising from cooperation with prosecution efforts;
- (2) the right to have the magistrate consider the safety of the victim or the victim's family in setting the amount of bail for the defendant;
- (3) if requested, the right to be informed: (A) by the attorney representing the state of relevant court proceedings, including appellate proceedings, and to be informed if those proceedings have been canceled or rescheduled before the event; and (B) by an appellate court of the court's decisions, after the decisions are entered but before the decisions are made public;
- (4) when requested, the right to be informed: (A) by a peace officer concerning the defendant's right to bail and the procedures in criminal investigations; and (B) by the office of the attorney representing the state concerning the general procedures in the criminal justice system, including general procedures in guilty plea negotiations and arrangements, restitution, and the appeals and parole process;
- (5) the right to provide pertinent information to a community supervision and corrections department conducting a presentencing investigation concerning the impact of the offense on the victim and the victim's family by testimony, written statement, or any other manner before any sentencing of the defendant;
- (6) the right to receive information regarding compensation to victims of crime as provided by Chapter 56B, including information related to the costs that may be compensated under that chapter and the amount of compensation, eligibility for compensation, and procedures for application for compensation under that chapter, the payment for a forensic medical examination under Article 56A.252 for a victim of an alleged sexual assault, and when requested, to referral to available social service agencies that may offer additional assistance;
- (7) the right to: (A) be informed, on request, of parole procedures; (B) participate in the parole process; (C) provide to the board for inclusion in the defendant's file information to be considered by the board before the parole of any defendant convicted of any offense subject to this chapter; and (D) be notified, if requested, of parole proceedings concerning a defendant in the victim's case and of the defendant's release;

- (8) the right to be provided with a waiting area, separate or secure from other witnesses, including the defendant and relatives of the defendant, before testifying in any proceeding concerning the defendant; if a separate waiting area is not available, other safeguards should be taken to minimize the victim's contact with the defendant and the defendant's relatives and witnesses, before and during court proceedings;
 - (9) the right to the prompt return of any of the victim's property that is held by a law enforcement agency or the attorney representing the state as evidence when the property is no longer required for that purpose;
 - (10) the right to have the attorney representing the state notify the victim's employer, if requested, that the victim's cooperation and testimony is necessary in a proceeding that may require the victim to be absent from work for good cause;
 - (11) the right to request victim-offender mediation coordinated by the victim services division of the department;
 - (12) the right to be informed of the uses of a victim impact statement and the statement's purpose in the criminal justice system as described by Subchapter D, to complete the victim impact statement, and to have the victim impact statement considered: (A) by the attorney representing the state and the judge before sentencing or before a plea bargain agreement is accepted; and (B) by the board before a defendant is released on parole;
 - (13) for a victim of an assault or sexual assault who is younger than 17 years of age or whose case involves family violence, as defined by Section 71.004, Family Code, the right to have the court consider the impact on the victim of a continuance requested by the defendant; if requested by the attorney representing the state or by the defendant's attorney, the court shall state on the record the reason for granting or denying the continuance; and
 - (14) if the offense is a capital felony, the right to: (A) receive by mail from the court a written explanation of defense-initiated victim outreach if the court has authorized expenditures for a defense-initiated victim outreach specialist; (B) not be contacted by the victim outreach specialist unless the victim, guardian, or relative has consented to the contact by providing a written notice to the court; and (C) designate a victim service provider to receive all communications from a victim outreach specialist acting on behalf of any person.
- (b) A victim, guardian of a victim, or close relative of a

deceased 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 office of the attorney representing the state and the sheriff, police, and other law enforcement agencies shall ensure to the extent practicable that a victim, guardian of a victim, or close relative of a deceased victim is provided the rights granted by this subchapter and, on request, an explanation of those rights.

Art. 56.021/56A.052. RIGHTS OF VICTIMS OF SEXUAL ASSAULT OR ABUSE, INDECENT ASSAULT*, STALKING, OR TRAFFICKING

(a) If the offense is a sexual assault, 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) if requested, the right to a disclosure of information regarding: (A) any evidence that was collected during the investigation of the offense, unless disclosing the information would interfere with the investigation or prosecution of the offense, in which event the victim, guardian, or relative shall be informed of the estimated date on which that information is expected to be disclosed; and (B) the status of any analysis being performed of any evidence described by Paragraph (A);
- (2) if requested, the right to be notified: (A) at the time a request is submitted to a crime laboratory to process and analyze any evidence that was collected during the investigation of the offense; (B) at the time of the submission of a request to compare any biological evidence collected during the investigation of the offense with DNA profiles maintained in a state or federal DNA database; and (C) of the results of the comparison described by Paragraph (B), unless disclosing the results would interfere with the investigation or prosecution of the offense, in which event the victim, guardian, or relative shall be informed of the estimated date on which those results are expected to be disclosed;
- (3) if requested, the right to counseling regarding acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV) infection; and
- (4) for the victim, the right to: (A) testing for acquired immune deficiency syndrome (AIDS), human

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