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The Rights of Crime Victims In Texas

Views expressed are those of the presenters, do not constitute legal advice,
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Constitutional Rights for Crime Victims (Slide 1 of 2)

➤ *“Are we asking too much if we ask to be told when and where the trial will take place? Are we asking too much if we want to be notified of plea bargaining before we read it in the paper?”*

– Victim,

- as quoted in Final Report, Task Force on Victims of Crime

➤ President Ronald Reagan’s 1982 Task Force on Victims of Crime

➤ Addressed the need of millions of Americans and their families victimized each year



Constitutional Rights for Crime Victims (Slide 2 of 2)

“The victim in every criminal prosecution shall have the right to be present and to be heard at all critical stages of judicial proceedings.”
– Task Force Final Report 1982

- 68 Task Force recommendations in five areas:
 - Proposed executive and legislation action at federal and state level
 - Proposed federal action
 - Proposed action for criminal justice system agencies
 - Proposed actions for organizations
 - Proposed amendment to the federal constitution



Texas Constitution for Crime Victims

- Crime Victims' Rights became a part of Texas law in 1985.
- 1989: Texas voters approved constitutional amendment adding the victim's bill of rights to the state constitution (Article I, Section 30).
- Rights are available to victims of adult offenders through language in Chapter 56A of the Texas Code of Criminal Procedure.
- Rights are available to victims of juvenile offenders in Chapter 57 of the Texas Family Code.



Who is Entitled to Rights? (Slide 1 of 4)

- “Victim”
- “Close relative of a deceased victim”
- “Guardian of a victim”



Who is Entitled to Rights?

(Slide 2 of 4)

“Victim”

- Texas Code of Criminal Procedure (TCCP), Article 56A.001 (7)
- Victim of sexual assault, kidnapping, aggravated robbery, trafficking of persons, or injury to a child, elderly individual or disabled individual
- People who suffer personal injury or death as a result of criminally injurious conduct
- People who suffer a pecuniary loss or personal injury or harm, Family Code Art. 57.001(3) (Juvenile offender)



Who is Entitled to Rights? (Slide 3 of 4)

“Close relative of a deceased victim”

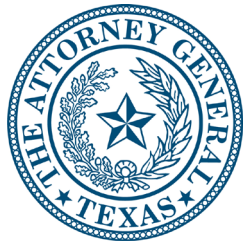
- Texas Code of Criminal Procedure (TCCP), Article 56A.001 (3)
- A person who was the spouse of a deceased victim at the time of the death
- A person who is a parent, adult brother, sister, or child of the deceased victim



Who is Entitled to Rights? (Slide 4 of 4)

“Guardian of a victim”

- Texas Code Of Criminal Procedure (TCCP), Article 56A.001(5)
- Means a person who is the legal guardian of the victim
- Whether or not the legal relationship between the guardian and the victim exists because of the age of the victim or the physical or mental incompetency of the victim.



Enforcing Victims' Rights

For victims of adult offenders:

- TCCP. Art. 56A.201 Prosecutors / Victim Assistance Coordinators (VAC)
- TCCP. Art. 56A.203 Law Enforcement / Crime Victim Liaison (CVL)
- Gov. Code Sec. 76.016, Community Supervision and Corrections Department (CSCD)



Enforcing Victims' Rights

Victim Assistance Coordinators (VAC)

- Texas Code Criminal Procedure – Article 56A.201 and 56A.202
- Prosecutor shall designate a VAC.
- Duty to ensure victims are afforded the rights granted to them
- Must work with law enforcement agencies, prosecuting attorneys, the Board of Pardons/Paroles and judiciary in carrying out duty
- Shall send Victim Impact Statements (VIS), victims' information booklet and CVC application to victims



Enforcing Victims' Rights

Crime Victim Liaison (CVL)

- Texas Code Criminal Procedure – Article 56A.203 and 56A.204
- Law enforcement agency shall designate CVL Agency.
- Duty to ensure victims are afforded the rights granted to them
- Shall consult with the VAC in the office of attorney representing the state to determine the most effective manner in which CVL can ensure victims are afforded the rights granted to them



Enforcing Victims' Rights

Community Supervision and Corrections Department (CSCD)

- Texas Government Code – Section. 76.016
Victim Notification
- Shall immediately notify a victim – or victim's guardian or close relative if the victim is deceased – of the defendant's community supervision status:
 - The fact that the defendant has been placed on community supervision
 - The conditions of community supervision imposed by court
 - The date, time, and location of hearing or proceeding which may modify defendant's community supervision



Enforcing Victims' Rights

For victims of juvenile offenders:

- Texas Family Code – Section 57.003. Duty of Juvenile Board
- Juvenile board may designate a VAC in the juvenile board's jurisdiction for victims of juvenile offenders.
- Shall ensure victims are afforded the rights granted to them and, on request, an explanation of those rights
- Shall work closely with law enforcement agencies, prosecuting attorneys and the Texas Juvenile Justice Department in carrying on that duty
- Shall ensure that victims receive VIS, CVC application and written notice of rights
- Shall send a copy of VIS to the designated court



To Be Protected

Article 56A.051 (a) (1)

Texas Code Criminal Procedure – Article 56A.051 (a) (1)

Crime Victims' Rights – Adequate Protection

- Victims of crime have the right to adequate protection from harm and threats of harm arising from cooperation with prosecution efforts.



To Be Protected

Article 56A.051 (a) (2)

Texas Code Criminal Procedure – Article 56A.051 (a) (2)

Crime Victims' Rights – Safety

- Victims of crime have the right to have the magistrate take the safety of the victim or family into consideration when determining the amount of bail.



To Be Protected

Texas Code Criminal Procedure – **Article 17.15 (5)**
Rules For Fixing Amount Of Bail

- The future safety of a victim of the alleged offense and the community shall be considered.



To Be Protected

Texas Code Criminal Procedure – **Article 17.291 (b)**

Further Detention of Certain Persons

- The accused will not be released immediately on bond in a family violence case if there is probable cause to believe the violence will continue upon release.
- After bond is posted, they may be held for up to four hours unless a magistrate, in writing, extends the detention for up to 48 hours if certain conditions apply.



To Be Protected

Texas Code Criminal Procedure – **Article 17.40 (a)**

Conditions Related to Victim or Community Safety

- To secure a defendant's attendance at trial, a magistrate may impose any reasonable condition of bond related to the safety of a victim of the alleged offense or to the safety of the community.



To Be Protected

Texas Code Criminal Procedure – **Article 17.41** Condition Where Child Is Alleged Victim

- If a defendant is charged with a sexual offense against a child 12 years of age or younger, the magistrate may require a no-contact condition.
- A judge may grant supervised access to the alleged victim.
- This condition prevails over existing court orders up to 90 days.



To Be Protected

Article 56A.101

Texas Code Criminal Procedure – Article 56A.101
Crime Victims' Rights – Victim's Right To Privacy

- The victims of crime have the right, as far as reasonably practical, to have their address and phone number be removed from the court file.
- Exception: When the address is necessary to identify the place of crime



To Be Informed

Article 56A.051 (a) (3) (A)

Texas Code Criminal Procedure – Article 56A.051 (a) (3) (A)
Crime Victims' Rights – Prosecutorial

- Victims of crime have the right to be informed of relevant court proceedings, including appellate proceedings and be informed if those proceedings have been canceled or rescheduled.



To Be Informed

Article 56A.02 (a) (3) (B)

Texas Code Criminal Procedure – Article 56A.051 (a) (3) (B)
Crime Victims' Rights – Prosecutorial

- Victims of crime have the right to be informed by the appellate court of the decisions of the court, after the decisions are entered but before the decisions are made public.



To Be Informed

Article 56A.051 (a) (4)

Texas Code Criminal Procedure – Article 56A.051 (a) (4) (A)
Crime Victims' Rights – Law Enforcement

- Victims of crime have the right to be informed by a peace officer concerning:
 - Defendant's right to bail
 - Procedures in criminal investigations



To Be Informed

Article 56A.051 (a) (4)

Texas Code Criminal Procedure – Article 56A.051 (a) (4) (B)
Crime Victims' Rights – Prosecutorial

- Victims of crime have the right to be informed by the District Attorney's Office concerning:
 - General system procedures
 - Pleas
 - Restitution
 - Appeals
 - Parole



Information/impact to Probation Article 56A.051 (a) (5)

Texas Code of Criminal Procedure – Article 56A.051 (a) (5)
Crime Victims' Rights – VIS / Probation

- Victims of crime have the right to provide pertinent information to a probation department:
 - Testimony or written statement
 - Concerning the impact of the offense
 - Prior to sentencing



Information on CVC Article 56A.051 (a) (6)

Texas Code Criminal Procedure – Article 56A.051 (a) (6)
Crime Victims' Rights – Crime Victims' Compensation

- Victims of crime have the right to receive information regarding compensation as stated by the Crime Victims Compensation Act.



Right to Referrals

Article 56A.051 (a) (6)

Texas Code Criminal Procedure – Article 56A.051 (a) (6)
Crime Victims' Rights – Referrals

- Victims of crime have the right to referral to available social service agencies that may offer additional assistance.



Victims Rights – Parole Process

Article 56A.051 (a) (7)

Texas Code Criminal Procedure – Article 56A.051 (a) (7)

Crime Victims' Rights – Parole Proceedings

- Victims of crime have the right to be informed, upon request:
 - Parole proceedings concerning a defendant in victim's case
 - Notification and participation in parole proceedings
 - About submitting their own provision to the BPP concerning defendant file information to be considered prior to parole
 - Of the defendant's release
 - TDCJ, Victim Services (800) 848-4284



Safe Waiting Areas

Article 56A.051 (a) (8)

Texas Code Criminal Procedure – Article 56A.051 (a) (8)
Crime Victims' Rights – Waiting Area

- Victims of crime have the right to be provided with a waiting area before testifying in any proceedings concerning the offender.
- If not available, other safeguards should be taken to minimize the victim's contact with the offender and the offender's relatives and witnesses, before and during court proceedings.



Return of Property

Article 56A.051 (a) (9)

Texas Code of Criminal Procedure – Article 56A.051 (a) (9)

Crime Victims' Rights – Property

- Victims of crime have the right to prompt return of property that is held by law enforcement or attorney for the state as evidence.
- Applicable when the property is no longer required for evidence



Help with Employer

Article 56A.051 (a) (10)

Texas Code of Criminal Procedure – Article 56A.051 (a) (10)

Crime Victims' Rights – Notification Of Employer

- Victims of crime have the right for the prosecutor's office to notify victim's employer with documentation of necessity of victim's cooperation and testimony in a proceeding.
- Applicable upon victim request



VOMD

Article 56A.051 (a) (11)

Texas Code of Criminal Procedure – Article 56A.051 (a) (11)
Crime Victims' Rights – Victim-Offender Mediation

- A victim has the right to request victim-offender mediation.

- Coordinated by TDCJ, Victim Services Division:
 - (800) 848-4284
 - VOMD (Victim Offender Mediation/Dialogue) staff



Victim Impact Statement

Article 56A.051 (a) (12)

Texas Code of Criminal Procedure – Article 56A.051 (a) (12)
Crime Victims' Rights (Victim Impact Statement)

- Victims of crime have the right to be informed of the use and purpose of a Victim Impact Statement (VIS).
- VIS is a written document allowing victim the opportunity to provide information about the impact of the crime:
 - Economic loss
 - Physical / psychological injury
 - Change in personal welfare or familial relationship
 - For a blank Victim Impact Statement:
https://www.tdcj.texas.gov/publications/victim_impact_statement.html



Rights for young victims

Article 56A.051 (a) (13)

Texas Code of Criminal Procedure – Article 56A.051 (a) (13)

Crime Victims' Rights – Impact of a Court Postponement

- Victims younger than age 17 whose case involves family violence, assault or sexual assault have the right to have the court consider the impact on the victim for a continuance requested by defendant.
- Reason for granting or denying continuance shall be stated on record



Info about DIVO Program

Article 56A.051 (a) (14)

Texas Code of Criminal Procedure – Article 56A.051 (a) (14)

- If the offense is a capital felony, victims have the right to receive mail by the court with a written explanation of defense-initiated victim outreach (DIVO) if the court has authorized expenditures for a DIVO specialist.
 - The right to NOT be contacted by the specialist unless the victim, relative or guardian has consented to the contact by providing a written notice to the court and;
 - The right to designate a victim service provider to receive all communications from the specialist.
- Note: this is not related to Victim/Offender Mediation****



Right to be present

Texas Code of Criminal Procedure – Article 56A.051 (b)

Crime Victims' Rights – To Be Present At Proceeding

- A victim, guardian of a victim, or close relative of a deceased victim has the right to be present at all public court proceedings
- Proceedings are related to the offense.
- Subject to judge's approval



Right to be present

Texas Code of Criminal Procedure – Article 36.03 (a) (b)

Crime Victims' Rights – Invocation Of Rule

- The court may order the exclusion of a victim's statement if determined that the testimony by the victim would be materially altered if the victim heard other testimony at the proceeding.
- Applies to a victim, close relative of the deceased victim, or guardian of a victim
- If opposing party objects, requestor of exclusion may require proof to justify exclusion.



To Be Informed

Texas VINE (Victim Information and Notification Everyday)

- Automated system providing crime victims with 24 hours/day offender county jail status and court information via a toll-free number and website
- Toll free: (877) TX4-VINE; (877) 894-8463
- For information on offenders in state prison, victims may call Texas Department of Criminal Justice, Victim Services Division at (800) 848-4284.



To Be Informed

Texas Code Criminal Procedure – Article 56A.503

Notification Of Escape Or Transfer

- TDCJ shall immediately provide notification whenever the defendant escapes or is transferred:
 - Victim
 - Guardian or close relative of the victim
 - AND a witness who testified against defendant

- Victim and witness must keep TDCJ notified of current contact information.



To Be Informed

- Texas Code Criminal Procedure – Article 56A.504
 - Crimes punishable as a felony and family violence, stalking, violation of a protective order or magistrate’s order:
 - Victims and witnesses who testified against offender shall be notified when an offender on electronic monitoring as a condition of release, ceases to be electronically monitored.



To Be Heard

Texas Code of Criminal Procedure – Article 42.03 (b) Pronouncing Sentence

- After the court has pronounced defendant's sentence, the court shall permit the victim to appear and present a statement of the person's views of the crime, the defendant, and the effect of the offense.
 - After punishment assessed
 - After sentence is pronounced



To Be Heard

Texas Code Criminal Procedure – Article 56A.051 (a) (12)

Crime Victims' Rights – Victim Impact Statement

- Victims of crime have the right to have VIS considered by prosecutor and judge prior to sentencing and before plea agreement is accepted.
- Victims of crime have the right to have VIS considered by Board of Pardons and Paroles before inmate is released on parole.



To Be Heard

Texas Code of Criminal Procedure – Article 56A.155

Victim Impact Statement

- The Victim Impact Statement is subject to discovery under Article 39.14 before the testimony of the victim is taken only if the court determines that the statement contains exculpatory material.



To Be Heard

Texas Family Code – Section 57.002(5)

Right To Be Heard in Juvenile Court

- Before the juvenile court renders its disposition, the court shall permit the victim to provide pertinent information concerning the impact of the offense on the victim or victim's family.



To Be Heard

Texas Code of Criminal Procedure – Article 26.13 (e) Plea of Guilty

- Before accepting a plea of guilty, the court shall inquire as to whether a Victim Impact Statement has been returned.
- The court shall ask for a copy of the Victim Impact Statement.
- The court shall ask if prosecutor has given notice of the existence and terms of any plea bargain to the victim, guardian of a victim or close relative of a deceased victim.



To Receive Medical Examination Article 56A.251

Texas Code of Criminal Procedure Article 56A.251 (a)
Forensic Medical Examinations

- If a sexual assault is reported to law enforcement within 120 hours, law enforcement with consent of the victim, person acting on behalf of the victim, or an employee of Department of Family and Protective Services, **shall** request a medical examination for use in the investigation and prosecution of the offense.

Payment of Costs of Examination

Texas Code of Criminal Procedure – Article 56A.252

- On application to the Attorney General, a health care provider that provides a forensic medical exam to a sexual assault survivor or the sexual assault examiner or the SANE who conducts exam, is entitled to be reimbursed in an amount set by the Attorney General for the forensic portion of the exam and the evidence collection kit.



To Receive Medical Examination

Texas Code of Criminal Procedure – Article. 56A.253

Crime Victims' Rights – Forensic Medical Exam

- A law enforcement agency or prosecuting attorney's office may pay all costs related to the testimony of a licensed health care professional in a criminal proceeding regarding the results of the forensic medical examination or manner in which it was performed.



To Receive Medical Examination

Texas Code of Criminal Procedure – Article. 56A.255

Crime Victims' Rights –Emergency Medical Care

- This Article does not require a law enforcement agency to pay any costs of treatment for injuries.



To Receive Medical Examination

Texas Code of Criminal Procedure – Articles 56A.254 Victim that report and 56A.305 Victim that does not report

- The Attorney General may make a payment to or on behalf of an individual for the reasonable costs incurred for medical care provided in accordance with Section 323.004, Health and Safety Code.
 - For exams occurring on or after September 1, 2015.



To Receive Medical Examination for Non Reported Assaults

Texas Code of Criminal Procedure – Article 56A.303

Medical Exam For S/A **Victim Who Has Not Reported Assault**

- Requires a health care facility to conduct a forensic medical examination of the victim of alleged sexual assault if victim:
 - Arrives within 120 hours after the assault occurred
 - Consents to the exam
 - Has not reported the assault to law enforcement
- Or refer victim to health care facility who can provide service
- Victim is not required to participate in prosecution.



To Receive Medical Examination for Non Reported Assaults

Texas Code of Criminal Procedure – Article 56A.304

Medical Exam For S/A **Victim Who Has Not Reported Assault**

- On application to the attorney general, a health care facility that provides the forensic medical exam to sexual assault survivor or the sexual assault examiner or sexual assault nurse examiner who conducts the exam within 120 hour after assault, may be reimbursed for reasonable cost of the exam and kit.
- DPS will collect the kits and store them for up five years. Article 56A.306



More Rights of Victims of Sexual Assault or Abuse, Stalking or Trafficking

TCCP, Article 56A.052

Texas Code of Criminal Procedure – Article 56A.052

- Victims of sexual assault have the following rights:
- (1) If requested, the right to a disclosure of information regarding any evidence that was collected during the investigation of the offense, unless releasing that information would interfere with the investigation or prosecution, at which time the victim shall be informed of the estimated date on which that information is expected to be disclosed.



More Rights of Victims of Sexual Assault or Abuse, Stalking or Trafficking

TCCP, Article 56A.052

Texas Code of Criminal Procedure – Article 56A.052

- Victims of sexual assault have the following rights:
- (2) if requested, the right to a disclosure of information regarding the status of any analysis of any evidence.
- (3) the right to be notified of the evidence being analyzed, of a request to compare any biological evidence collected with DNA profiles maintained in the state or federal DNA database and the results of the comparison, unless it would hamper the investigation or prosecution of the case, in which the victim shall be informed of the estimated date on which those results are expected to be disclosed.



More Rights of Victims of Sexual Assault or Abuse, Stalking or Trafficking TCCP, Article 56A.052

Texas Code of Criminal Procedure – Article 56A.052 (4)

Crime Victims' Rights – HIV/AIDS

- Victims of crime have the right to counseling and testing regarding AIDS/HIV infection.
- For the victim of the offense, testing for AIDS, HIV, antibodies to HIV or infection with any other probably causative agent of AIDS.



More Rights of Victims of Sexual Assault or Abuse, Stalking or Trafficking

TCCP, Article 56A.052

Texas Code of Criminal Procedure – Article 56A.052 (d)

➤ Victims, parents or guardians of a victim have:

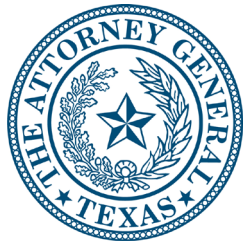
(1) The right to request that the attorney representing the state file a protective order on behalf of the victim.

(2) The right to be informed:

- (A) that the victim or parents or guardian may file an application for protective order

(B) of the court in which the application for protective order may be filed.

(C) that, on request, the attorney representing the state may file the application for protective order



More Rights of Victims of Sexual Assault or Abuse, Stalking or Trafficking

TCCP, Article 56A.052

Texas Code of Criminal Procedure – Article 56A.052 (d)

➤ Victims, parents or guardians of a victim have:

(3) the right, if the defendant is convicted or placed on deferred adjudication community supervision, to be given information about protective orders immediately following the conviction or placement on community supervision, if the victim is present.

(4) if not present, the right to be given the information about probation by the attorney representing the state.



Presence of Advocate at exam

Texas Code of Criminal Procedure – Article 56A.351

Crime Victims' Rights – Presence Of Advocate

- Before conducting a forensic medical examination, the physician or other medical services personnel shall offer the person the opportunity to have an advocate present for:
 - Counseling
 - Support services
 - Crime victims' rights

- Applicable if advocate is available



To Receive AIDS/HIV/STD Testing

Texas Code of Criminal Procedure – **Article 21.31 (a)**

Crime Victims' Rights – Testing for Aids and Certain Other Diseases

- Anyone charged with a sexual offense involving contact shall be tested for AIDS/HIV
- Requested from either the victim or court
- Results released to the local health authority who reports the test results to the victim and defendant



Additional Rights Privacy- Pseudonym Forms

Texas Code Criminal Procedure – Chapter 58

- Victims of Sexual Assault, Family Violence, Stalking and Human Trafficking
- May choose a pseudonym to be used instead of their names in all public files and records concerning the offense
- The OAG develops the forms and distributes them to law enforcement agencies.
- Instructions and forms available online at:
<https://www.texasattorneygeneral.gov/cvs/crime-victim-forms-applications>



Additional Rights Restitution

Texas Code of Criminal Procedure – Article 42.037 (a)
Restitution

- Court may order restitution to any victim.
- Court may order restitution to the CVC fund to the extent that the fund has paid CVC to or on behalf of the victim.
- If not ordered, court shall state reason on the record.



Immunity Issues

Article 56A.053

Texas Code of Criminal Procedure – Article 56A.053

Crime Victims' Rights – Immunity Issues

- No liability for failure to provide crime victims' rights from **Articles 56A.051 or 56A.052**
 - Judge
 - Attorney for state
 - Peace officer
 - Law enforcement agency

- **Article 56A.054** Victim (guardian or close relative of deceased victim) has no standing to participate as a party in a criminal proceeding or to contest disposition



How You Can Help

- Let victims know about their rights.
- Explain what victims need to do to exercise these rights.
- Advocate for victims.
- Build support for victim rights.



Thank You

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Crime Victim Services Division

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