



OFFICE OF THE  
ATTORNEY GENERAL OF TEXAS

# **The Rights of Crime Victims In Texas**



# Housekeeping

- ▶ Please turn off cell phones and pagers or place in a silent mode.
- ▶ Questions can be answered in presentations or during break.



# 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 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
- ▶ Gathered testimony from experts of need



# 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.
- ▶ Rights are available to victims of adult offenders through language in Chapter 56 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 56.01 (3)
- ▶ 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
- ▶ 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 56.01 (1)
- ▶ 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 56.01(2)
- ▶ 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 (Slide 1 of 6)

- ▶ The Texas Constitution, Article 1, Bill of Rights
- ▶ Gives the state, through its prosecuting attorney, the right to enforce the rights of crime victims



# Enforcing Victims' Rights (Slide 2 of 6)

For victims of adult offenders:

- ▶ TCCP. Art. 56.04(a) Prosecutors / Victim Assistance Coordinators (VAC)
- ▶ TCCP. Art. 56.04 (c) Law Enforcement / Crime Victim Liaison (CVL)
- ▶ Gov Code Sec. 76.016, Community Supervision and Corrections Department (CSCD)



# Enforcing Victims' Rights (Slide 3 of 6)

## Victim Assistance Coordinators (VAC)

- ▶ Texas Code Criminal Procedure – Article 56.03, 56.04
- ▶ 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
- ▶ Shall send a copy of VIS to court sentencing defendant
- ▶ Commissioners court may approve a program in which the CVL or VAC may offer to arrange post trial counseling to jurors.



# Enforcing Victims' Rights (Slide 4 of 6)

## Crime Victim Liaison (CVL)

- ▶ Texas Code Criminal Procedure – Article 56.04
- ▶ 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
- ▶ Commissioners court may approve a program in which the CVL or VAC may offer to arrange post trial counseling to jurors.



# Enforcing Victims' Rights (Slide 5 of 6)

## 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 (Slide 6 of 6)

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 (Slide 1 of 10)

Texas Code Criminal Procedure – Article 56.02 (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 (Slide 2 of 10)

Texas Code Criminal Procedure – Article 56.02 (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 (Slide 3 of 10)

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 (Slide 4 of 10)

Texas Code Criminal Procedure – Article 17.29 (b)  
Accused Liberated

- ▶ Before releasing on bail a person arrested for stalking or family violence, law enforcement shall make a reasonable attempt to give personal notice of the released person to the victim or person designated.



## To Be Protected (Slide 5 of 10)

### 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 (Slide 6 of 10)

### 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 (Slide 7 of 10)

### Texas Code Criminal Procedure – Article 17.41 Condition Where Child 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 (Slide 8 of 10)

### Texas Code Criminal Procedure – Article 56.02 (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.



# To Be Protected (Slide 9 of 10)

## Texas Code Criminal Procedure – Article 56.09 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 Protected (Slide 10 of 10)

## Texas Code Criminal Procedure – Article 42.21 Accused Liberated

- ▶ Before releasing a person convicted of a family violence offense, the entity holding the person shall make reasonable attempt to give notice of imminent release.
- ▶ Note the above word “convicted.”



# To Be Informed (Slide 1 of 11)

Texas Code Criminal Procedure – Article 56.02 (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.



## To Be Informed (Slide 2 of 11)

### Texas Code Criminal Procedure – Article 56.02 (a) (6) Crime Victims' Rights – Referrals

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



## To Be Informed (Slide 3 of 11)

### Texas Code Criminal Procedure – Article 56.02 (a) (4) Crime Victims' Rights – Prosecutorial

- ▶ 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 (Slide 4 of 11)

## Texas Code Criminal Procedure – Article 56.02 (a) (4) 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



## To Be Informed (Slide 5 of 11)

### Texas Code Criminal Procedure – Article 56.02 (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 (Slide 6 of 11)

### Texas Code Criminal Procedure – Article 56.02 (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 (Slide 7 of 11)

### Texas Code Criminal Procedure – Article 56.02 (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





## To Be Informed (Slide 8 of 11)

Texas Code Criminal Procedure – Article 56.11

Notification To Victim Of Released Or Escape Of Defendant

- ▶ Victims of family violence or stalking have the right to be notified when a defendant is released from or escapes from custody.
- ▶ Applies to certain felonies and offenses involving family violence, stalking or violation of a protective or magistrate's order.
- ▶ Victim and witness must keep agencies notified of current contact information.



## To Be Informed (Slide 9 of 11)

### Texas VINE (Victim Information and Notification Everyday)

- ▶ Automated system providing crime victims with 24 hours/day offender status and court information via a toll free number and website.
- ▶ Toll free: (877) TX4-VINE; (877) 894-8463



## To Be Informed (Slide 10 of 11)

### Texas Code Criminal Procedure – Article 56.12 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 (Slide 11 of 11)

## Texas Government Code – Section 76.016 Victim Notification – Probation

- ▶ The CSCD shall immediately notify a victim, family member of a deceased victim, or guardian of a victim of:
  - The fact that defendant is on community supervision
  - Conditions of the community supervision
  - Date, time and location of any hearing or proceeding to modify conditions, revoke or terminate the community supervision



# To Be Heard (Slide 1 of 7)

## Texas Code of Criminal Procedure – Article 56.02 (a) (13) 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: [www.tdcj.state.tx.us](http://www.tdcj.state.tx.us)



## To Be Heard (Slide 2 of 7)

### 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 (Slide 3 of 7)

### Texas Code Criminal Procedure – Article 56.02 (a) (13) 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 have VIS considered by Board of Pardons and Paroles before inmate is released on parole.



## To Be Heard (Slide 4 of 7)

### Texas Code of Criminal Procedure – Article 56.03 (g) 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 (Slide 5 of 7)

### 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.



## To Be Heard (Slide 6 of 7)

Texas Code of Criminal Procedure – Article 56.02 (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



## To Be Heard (Slide 7 of 7)

### 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 Receive Medical Examination (Slide 1 of 7)

Texas Code of Criminal Procedure – Article 56.02 (a) (14)  
Crime Victims' Rights – Forensic Medical Examinations

- ▶ Victims of crime have the right to a forensic medical exam if the offense is reported to law enforcement within 96 hours of the assault or a forensic medical examination is otherwise conducted at a health care facility.



# To Receive Medical Examination (Slide 2 of 7)

Texas Code of Criminal Procedure – Article 56.06 (a)  
Crime Victims' Rights – Forensic Medical Examinations

- ▶ Law enforcement may decline a request for a medical exam for a sexual assault victim if the person reporting has made one or more false reports of sexual assault to law enforcement and if there is no other corroborating evidence for the current allegation.



# To Receive Medical Examination (Slide 3 of 7)

Texas Code of Criminal Procedure – Article. 56.06 (c)  
Crime Victims' Rights – Forensic Medical Exam

- ▶ A law enforcement agency that requests a medical examination of a victim of an alleged sexual assault for use in the investigation or prosecution of the offense shall pay all costs of the examination.
- ▶ Law enforcement agencies' reimbursement for sexual assault examinations:
  - TCCP - Article 56.06 (a)
  - On application to Crime Victims' Compensation Program



# To Receive Medical Examination (Slide 4 of 7)

Texas Code of Criminal Procedure – Article 56.065

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 96 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
- ▶ Department of Public Safety:
  - Attorney General reimburses DPS for fees
  - DPS preserves evidence for two years



# To Receive Medical Examination (Slide 5 of 7)

Texas Code of Criminal Procedure – Article 56.02 (a) 11  
Crime Victims' Rights – HIV

- ▶ Victims of crime have the right to counseling and testing regarding AIDS/HIV infection.





# To Receive Medical Examination (Slide 6 of 7)

Texas Code of Criminal Procedure – Article 56.045  
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 Medical Examination (Slide 7 of 7)

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 (Slide 1 of 8)

## Texas Code of Criminal Procedure – Article 56.02 (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



## Additional Rights (Slide 2 of 8)

### Texas Code of Criminal Procedure – Article 56.02 (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



## **Additional Rights (Slide 3 of 8)**

Texas Code of Criminal Procedure – Article 56.02 (a) (15)  
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



## Additional Rights (Slide 4 of 8)

### 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.



# Additional Rights (Slide 5 of 8)

## Texas Code of Criminal Procedure – Article 56.02 (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



## Additional Rights (Slide 6 of 8)

### 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.





## Additional Rights (Slide 7 of 8)

### Texas Code of Criminal Procedure – Article 56.02 (a) (12) 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



# Additional Rights (Slide 8 of 8)

## Texas Code of Criminal Procedure – Article 56.02 (d) Crime Victims' Rights – Immunity Issues

- ▶ No liability for failure to provide crime victims' rights
  - Judge
  - Attorney for state
  - Peace officer
  - Law enforcement agency
  
- ▶ 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

Office of the Attorney General  
Crime Victim Services Division

P.O. Box 12198

Austin, TX 78711-2198

(512) 936-1200

(800) 983-9933 Toll Free

[www.texasattorneygeneral.gov](http://www.texasattorneygeneral.gov)



# ***CERTIFICATE of PARTICIPATION***

*The Office of the Attorney General presents this certificate to:*

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*(Print your name)*

with sincere appreciation for your on-line training  
on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
of the

## ***Rights of Crime Victims***

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*(Signature of participant )*

***Mail a copy of your certificate to :  
Crime Victim Services Division  
Attention: Training & Outreach Coordinator  
P O Box 12198  
Austin, Texas 78711-2198***