**Statutory Victims’ Rights in Texas**

**Relevant Statutes: CCP Chapter 56**

**DEFINITION OF “VICTIM”**

• the victim of the offense of sexual assault, kidnapping, aggravated robbery, trafficking of persons, or injury to a child, elderly individual, disabled individual or who has suffered personal injury or death as a result of the criminal conduct of another;

• 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; and

• 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. CCP art. 56.01.

**Enforcing Victims’ Rights**

The majority of victims’ rights are found in CCP art. 56.02. Tex. Const. art. I, §30(2)(c) also details victims’ rights in Texas and gives the state, through its prosecuting attorney, the right to enforce crime victims’ rights, carried out through the following entities:

For victims of adult offenders:

• In prosecutor offices: through Victim Assistance Coordinators (VACs) [CCP art. 56.04(a)];

• In law enforcement: through Crime Victim Liaisons (CVL) [CCP art. 56.04(c)]; and

• Community supervision & correction departments [Gov’t Code §76.016].

For victims of juvenile offenders, see Family Code ch. 57.

**VICTIM ASSISTANCE COORDINATORS**

**Designation**

The prosecuting attorney designates a person to serve as victim assistance coordinator (VAC) in that jurisdiction, which may be the prosecutor. CCP art. 56.04. VACs’ duties are to: (1) ensure victims are afforded rights, and (2) work closely with law enforcement, prosecutors, the Board of Pardons and Paroles, and the judiciary. CCP art. 56.02.

**Notification**

Effective Sept. 1, 2011, prosecutors are required “as far as reasonably practical” to give the victim notice of the existence and terms of any plea bargain agreement to be presented to the court. This duty applies regardless of whether the victim requests that information. The prosecutor must also inform the victim that the court must verify this notice before accepting any eventual plea. In addition, the VAC/prosecutor office must send out a written notice to each victim of the offense no later than the 10th day following the return of an indictment or information. CCP arts. 56.03(c) & 56.08.

Information about the following rights and services must be included:

• crime victims’ rights under CCP Chapter 56;

• the right to appear in person before a Board of Pardons and Paroles member (Gov’t Code §508.117 & §508.153);

• suggested steps to take if the victim is subjected to threats or intimidation;

• Victim Impact Statement (VIS) form and offer to assist, upon request, in completing the statement;

• Crime Victims Compensation application and offer to assist, upon request, in completing the application (see www.oag.state.tx.us/victim/training/cvs\_materials.pdf);

• information about payment of a medical examination for a victim of sexual assault under CCP art. 56.06;

• a brief general statement of each procedural stage in the case including bail, plea bargaining, parole restitution, and appeal;

• name, address and phone number of local VAC;

• case number and assigned court for the case; and

• social service referral agencies that may offer assistance.

**Duties after Response**

Additional victim rights are triggered at the request of the victim or upon return of information, at which time the prosecutor or VAC must:

• as far as “reasonably practicable” give the victim notice of any scheduled court proceedings, changes in that schedule, requests for continuance, and any plea agreements. For more information on notice of status changes, call VINE at **1-877-894-8463** or see **www.vinelink.com**.

• consider the VIS before sentencing or acceptance of a plea and send a copy of a returned VIS to the court sentencing the defendant. CCP art. 56.02(13)(A). The court shall attach the copy of the VIS to the commitment papers to TDCJ [CCP art. 56.04] or send the information to the community supervision and corrections department supervising the defendant [CCP art. 56.03(e)].

• offer not more than 10 hours of post-trial psychological counseling for jurors in any trial that involved graphic evidence or testimony if authorized by Commissioners Court using a provider that assists with similar services for victims. CCP art. 56.04.

• forward victim’s contact information to the community supervision department; and

• provide VIS statistics to the Crime Victim Clearinghouse. CCP art. 56.05.

For information about restitution, see CCP art. 42.037. For information about HIV testing and counseling, see CCP arts. 21.31 and 56.02(a)(11) (adult offenders) and Family Code §54.033 (juvenile offenders).

**Victim Impact Statement**

A victim can describe the financial, physical, and psychological impact of the crime by completing a victim impact statement or by making an oral statement after sentencing. The VIS was created to provide victims whose cases are plea bargained with their “day in court.” It also serves as a vehicle to provide information about the parole process and for TDCJ to then provide notice to victims about hearings, releases, or escapes. The TDCJ website has VIS forms [see **http://www.tdcj.state.tx.us/publications/pubs\_victim\_impact\_statement.html]** or prosecutors may use their own format if the following information is included:

• name, address and telephone number;

• statement of economic loss;

• statement of any physical or psychological injury (described by victim, doctor or counselor);

• statement of any psychological services requested;

• statement of any change in personal welfare or familial relationship;

• statement as to whether the victim wishes to be notified in the future of any parole hearings and an explanation of those proceedings;

• any other info, other than the facts of the case, related to the impact of the crime on the victim; and

• if the victim is a child, whether existing court orders grant the defendant possession of or access to the child.

Upon a plea of guilty, no contest or a conviction, the VIS must be presented to the court for consideration prior to imposition of a sentence. CCP art. 56.03(f)–(g). Before sentencing the defendant, the court shall permit the defendant or his counsel a reasonable time to read the statement, excluding the victim’s name address and telephone number. A VIS is subject to discovery only if the court determines it contains exculpatory material.

**Victim Allocution**

Allocution provides victims of violent crime the right to speak in court after punishment has been assessed. CCP art. 42.03, §1(b). The victim’s remarks are limited to the victim’s views about the offense, the defendant and the effect of the offense on the victim. Although the victim may address both the court and the defendant, the victim may not ask any questions of the defendant. The court reporter may not transcribe the victim’s statement, and the statement may not be made until after the sentence has been pronounced. A trial court cannot alter a sentence after allocution. *Johnson v. State*, 286 S.W.3d 346 (Tex. Crim. App. 2009).

**Right to Safety/Family Violence**

As of 2012, three statutes address prosecutors’ roles in helping ensure victims’ safety in family violence cases:

**CCP. art. 17.291(b)**

• 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 4 hours unless a magistrate, in writing, extends the detention for up to 48 hours if certain conditions apply.

**CCP. art. 17.29(b)**

• 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 release to the victim or person designated for notification.

**CCP. art. 42.21**

• Before releasing a person convicted of a family violence offense, the entity holding the person shall make a reasonable attempt to give notice of imminent release.

See also CCP art. 17.41 (bond conditions for child victims); CCP art. 17.40 (bond conditions related to victim safety).