

REVISOR'S REPORT

A NONSUBSTANTIVE REVISION
OF PROVISIONS OF THE CODE OF CRIMINAL PROCEDURE

Submitted to the 86th Legislature
as part of the
Texas Legislative Council's
Statutory Revision Program

Austin, Texas

2019

FOREWORD

The Texas Legislative Council is required by Section 323.007, Government Code, to carry out a complete nonsubstantive revision of the Texas statutes as authorized by Section 43, Article III, Texas Constitution. The process involves reclassifying and rearranging the statutes in a more logical order, eliminating repealed, invalid, duplicative, and other ineffective provisions while employing a format and numbering system that will accommodate future expansion of the law, and improving the draftsmanship of the statutes as practicable. The revision is intended to further the legislature's stated purpose of making the statutes "more accessible, understandable, and usable" without altering the sense, meaning, or effect of the law.

Under the classification scheme adopted by the Texas Legislative Council, the statutes will eventually consist of 27 codes, each governing a different subject matter. To date, the council has produced and the legislature has enacted the Agriculture Code, Alcoholic Beverage Code, Business & Commerce Code, Civil Practice and Remedies Code, Education Code, Election Code (a substantive revision), Estates Code, Finance Code, Government Code, Health and Safety Code, Human Resources Code, Insurance Code, Labor Code, Local Government Code, Natural Resources Code, Occupations Code, Parks and Wildlife Code, Property Code, Special District Local Laws Code, Tax Code (Title 1 of which was a substantive revision), Transportation Code, Utilities Code, and Water Code. Council staff also assisted the state bar in the Business Organizations Code, Penal Code, and Family Code projects, which were substantive revisions, and revised miscellaneous criminal procedure provisions as Title 2 of the Code of Criminal Procedure. In addition, as part of its continuing statutory revision program, the council is carrying out a nonsubstantive revision of various portions of the Code of Criminal Procedure.

The revised provisions of the Code of Criminal Procedure included in this revision are placed in Title 1 of the Code of Criminal Procedure. That title is divided into chapters by subject matter and articles for distinct provisions of law. Articles are numbered decimally, with the number to the left of the decimal the same as the number of the chapter in which the article is contained. Except for certain provisions that are added to existing Chapter 1 of the Code of Criminal Procedure, the revised provisions are added as new chapters to Title 1 and include subchapters for organization. Gaps have been left in chapter and article numbering to accommodate later expansions of the law.

This revisor's report reflects the enactment of Chapter 469 (H.B. 4173), Acts of the 86th Legislature, Regular Session, 2019, the Texas Legislative Council staff's revision of portions of the Code of Criminal Procedure. The revisor's report states the Revised Law, which is the text of the new law, and then provides the Source Law, which is the text of the former law from which the new law was derived. If further explanation of either the revised law or the source law is required, a Revisor's Note is included after the source law. All substance of the source law is revised in the

revised law or the reason for its omission is explained in a revisor's note.

Note that this revision does not take effect until January 1, 2021, to provide all affected persons an opportunity to review the revision more closely.

Because of the extensive reorganization of many statutes, and even provisions within a statute, it may be helpful to refer to the source law for a given chapter as a whole, so that it may be read in its former context, and to refer to the disposition table, which shows where the former statutes, as revised, appear in this code. The disposition table is printed as Appendix C to the revisor's report.

The revision required conforming amendments to several statutes. These amendments, also enacted into law by Chapter 469 (H.B. 4173), Acts of the 86th Legislature, Regular Session, 2019, are printed in Appendix A to the revisor's report. Appendix A also includes a section listing the laws repealed effective January 1, 2021, and a section stating the legislature's intent that the code be a nonsubstantive revision.

In reviewing this revisor's report, the reader should keep in mind that:

(1) Chapter 311, Government Code (Code Construction Act), applies to the construction of each provision in the Code of Criminal Procedure that is enacted under Section 43, Article III, Texas Constitution (authorizing the continuing statutory revision program), in the same manner as to a code enacted under the continuing statutory revision program, except as otherwise expressly provided by the Code of Criminal Procedure. Chapter 311 sets out certain principles of statutory construction applicable to the revised law and also provides some definitions. The chapter is printed as Appendix B to this report.

(2) The proposed provisions are written in modern American English. Where possible, the present tense is used, the active voice is used in preference to the passive voice, and the singular is used in preference to the plural.

(3) This is a nonsubstantive revision. The Texas Legislative Council staff's authority does not include improving the substance of the source law. The sole purpose of the revision is to compile all the relevant law, arrange it in a logical fashion, and rewrite it without altering its sense, meaning, or legal effect. If a particular source law statute is ambiguous and the ambiguity cannot be resolved without a potential substantive effect, the ambiguity is preserved.

This revision project is under the direction of Mark Wimmer and Allison Zaby, Legislative Counsels, of the Texas Legislative Council's legal division staff. Questions may be directed to Mr. Wimmer and Ms. Zaby at P.O. Box 12128, Capitol Station, Austin, Texas 78711-2128, or by telephone at (512) 463-1151.

1 CODE OF CRIMINAL PROCEDURE

2 TITLE 1. CODE OF CRIMINAL PROCEDURE

3 CHAPTER 1. GENERAL PROVISIONS

4 ARTICLE 1.025. SEVERABILITY

5 ARTICLE 1.026. CONSTRUCTION

6 CHAPTER 7B. PROTECTIVE ORDERS

7 CHAPTER 19A. GRAND JURY ORGANIZATION

8 CHAPTER 20A. GRAND JURY PROCEEDINGS

9 CHAPTER 56A. RIGHTS OF CRIME VICTIMS

10 CHAPTER 56B. CRIME VICTIMS' COMPENSATION

11 CHAPTER 58. CONFIDENTIALITY OF IDENTIFYING INFORMATION AND

12 MEDICAL RECORDS OF CERTAIN CRIME VICTIMS

13 CHAPTER 1. GENERAL PROVISIONS

14 Art. 1.025. SEVERABILITY 1

15 Art. 1.026. CONSTRUCTION 2

16 CHAPTER 1. GENERAL PROVISIONS

17 Revised Law

18 Art. 1.025. SEVERABILITY. If any provision of this code or

19 its application to any person or circumstance is held invalid, the

20 invalidity does not affect other provisions or applications of the

21 code that can be given effect without the invalid provision or

22 application, and to this end the provisions of this code are

23 severable. (Code Crim. Proc., Art. 54.01.)

24 Source Law

25 Art. 54.01. SEVERABILITY CLAUSE. If any

26 provision, section or clause of this Act or

27 application thereof to any person or circumstances is

28 held invalid, such invalidity shall not affect other

29 provisions or applications hereof which can be given

30 effect without the invalid provision, section or

31 clause, and to this end the provisions of this Act are

32 declared to be severable.

33 Revisor's Note

34 (1) Article 54.01, Code of Criminal Procedure,

35 refers to "any provision, section or clause" of the

36 act. The revised law omits "section" and "clause" as

37 included in the meaning of "provision."

1 (2) Article 54.01, Code of Criminal Procedure,
 2 is a severability provision that extends to any
 3 provision of this "Act." The provision was added by
 4 Chapter 722 (S.B. 107), Acts of the 59th Legislature,
 5 Regular Session, 1965, which enacted the Code of
 6 Criminal Procedure in its entirety. Accordingly, the
 7 severability provision in Article 54.01 applies to the
 8 articles added in that act. Subsequent amendments to
 9 or reenactments of the Code of Criminal Procedure are
 10 subject to a substantively identical severability
 11 provision in Section 311.032(c), Government Code (Code
 12 Construction Act). See Ex parte Torres, 943 S.W.2d
 13 469, 473 n.5 (Tex. Crim. App. 1997). Therefore, the
 14 revised law substitutes "code" for "Act" because all
 15 portions of the Code of Criminal Procedure are subject
 16 to the same severability provision.

17 (3) Article 54.01, Code of Criminal Procedure,
 18 states that an invalid provision or application does
 19 not affect other provisions or applications that may
 20 be given effect "without the invalid provision." The
 21 revised law adds "or application" for clarity and
 22 consistency in the terminology used within the
 23 article.

24 Revised Law

25 Art. 1.026. CONSTRUCTION. The articles contained in
 26 Chapter 722 (S.B. 107), Acts of the 59th Legislature, Regular
 27 Session, 1965, as revised, rewritten, changed, combined, and
 28 codified, may not be construed as a continuation of former laws
 29 except as otherwise provided in that Act. (Code Crim. Proc., Art.
 30 54.02, Sec. 2(a) (part).)

31 Source Law

32 (a) . . . the articles contained in this Act, as
 33 revised, rewritten, changed, combined, and codified,
 34 may not be construed as a continuation of former laws
 35 except as otherwise provided in this Act. . . .

1 Revisor's Note

2 (1) The first portion of Section 2(a), Article
3 54.02, Code of Criminal Procedure, as added by Chapter
4 722 (S.B. 107), Acts of the 59th Legislature, Regular
5 Session, 1965, recites legislative findings regarding
6 procedural requirements for the enactment of the 1965
7 Code of Criminal Procedure. The revised law omits that
8 provision because it served its purpose on the
9 effective date of the act and is executed law. The
10 omitted law reads:

11 Sec. 2. (a) All laws and parts of
12 laws relating to criminal procedure omitted
13 from this Act have been intentionally
14 omitted, and all additions to and changes in
15 such procedure have been intentionally
16 made. This Act shall be construed to be an
17 independent Act of the Legislature, enacted
18 under its caption, and

19 (2) The last sentence of Section 2(a), Article
20 54.02, Code of Criminal Procedure, as added by Chapter
21 722 (S.B. 107), Acts of the 59th Legislature, Regular
22 Session, 1965, saves from repeal criminal procedure
23 provisions in the Revised Civil Statutes of Texas,
24 1925, and the Penal Code of Texas, 1925. The revised
25 law omits that provision for the reason stated in
26 Revisor's Note (1). The omitted law reads:

27 (a) . . . The existing statutes of
28 the Revised Civil Statutes of Texas, 1925,
29 as amended, and of the Penal Code of Texas,
30 1925, as amended, which contain special or
31 specific provisions of criminal procedure
32 covering specific instances are not
33 repealed by this Act.

34 Revisor's Note
35 (End of Chapter)

36 (1) Section 1(a), Article 54.02, Code of
37 Criminal Procedure, as added by Chapter 722
38 (S.B. 107), Acts of the 59th Legislature, Regular
39 Session, 1965, generally repeals laws relating to
40 criminal procedure that were not otherwise included in
41 that act as part of the 1965 Code of Criminal

1 Procedure. Because those laws were repealed on the
2 effective date of the act, the revised law omits
3 Section 1(a) as executed. The omitted law reads:

4 Art. 54.02. REPEALING CLAUSE

5 Sec. 1. (a) Except as otherwise
6 provided in this Article 54.02, all laws
7 relating to criminal procedure in this
8 State that are not embraced, incorporated,
9 or included in this Act and that have not
10 been enacted during the Regular Session of
11 the 59th Legislature are repealed.

12 (2) Section 1(b), Article 54.02, Code of
13 Criminal Procedure, as added by Chapter 722
14 (S.B. 107), Acts of the 59th Legislature, Regular
15 Session, 1965, lists certain articles of the Code of
16 Criminal Procedure of Texas, 1925, that were saved
17 from the general repeal of criminal procedure laws
18 provided in Section 1(a), Article 54.02, Code of
19 Criminal Procedure. Because those articles were saved
20 from repeal on the effective date of the act, the
21 revised law omits Section 1(b) as executed. The
22 omitted law reads:

23 (b) None of the following articles of
24 the Code of Criminal Procedure of Texas,
25 1925, in force on the effective date of this
26 Act, is repealed: 52; 52-1 through 52-161,
27 both inclusive; 367D through 367K, both
28 inclusive; 781B-1, 781B-2; 944 through
29 951, both inclusive; 1009 through 1035,
30 both inclusive; 1037 through 1056, both
31 inclusive; 1058 through 1064, both
32 inclusive; and 1075 through 1082, both
33 inclusive.

34 (3) Section 2(b), Article 54.02, Code of
35 Criminal Procedure, as added by Chapter 722
36 (S.B. 107), Acts of the 59th Legislature, Regular
37 Session, 1965, refers to a person under recognizance
38 or bond on the effective date of the act and continues
39 that person's recognizance or bond after that date.
40 The revised law omits Section 2(b) because it served
41 its purpose on the effective date of the act and is
42 executed law. The omitted law reads:

1 (b) A person under recognizance or
2 bond on the effective date of this Act
3 continues under such recognizance or bond
4 pending final disposition of any action
5 pending against him.

6 (4) Article 54.03, Code of Criminal Procedure,
7 as added by Chapter 722 (S.B. 107), Acts of the 59th
8 Legislature, Regular Session, 1965, suspends the
9 constitutional rule requiring bills to be read on
10 three consecutive days and states the effective date
11 of the act. The revised law omits Article 54.03 as
12 executed because it served its purpose on the
13 effective date of the act and is executed law. The
14 omitted law reads:

15 Art. 54.03. EMERGENCY CLAUSE. The
16 fact that the laws relating to criminal
17 procedure in this State have not been
18 completely revised and re-codified in more
19 than a century past and the further fact
20 that the administration of justice, in the
21 field of criminal law, has undergone
22 changes, through judicial construction and
23 interpretation of constitutional
24 provisions, which have been, in certain
25 instances, modified or nullified, as the
26 case may be, necessitates important changes
27 requiring the revision or modernization of
28 the laws relating to criminal procedure,
29 and the further fact that it is desirable and
30 desirable to strengthen, and to conform,
31 various provisions in such laws to current
32 interpretation and application, emphasizes
33 the importance of this legislation and all
34 of which, together with the crowded
35 condition of the calendar in both Houses,
36 create an emergency and an imperative
37 public necessity that the Constitutional
38 Rule requiring bills to be read on three
39 several days be suspended, and said Rule is
40 hereby suspended, and that this Act shall
41 take effect and be in force and effect from
42 and after 12 o'clock Meridian on the 1st day
43 of January, Anno Domini, 1966, and it is so
44 enacted.

45 CHAPTER 7B. PROTECTIVE ORDERS

46 SUBCHAPTER A. PROTECTIVE ORDER FOR VICTIMS OF SEXUAL ASSAULT OR
47 ABUSE, STALKING, OR TRAFFICKING

48 Art. 7B.001. APPLICATION FOR PROTECTIVE ORDER 6
49 Art. 7B.002. TEMPORARY EX PARTE ORDER 8
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51 ORDER 8

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6 SUBCHAPTER B. STALKING PROTECTIVE ORDER

7 Art. 7B.051. REQUEST FOR PROTECTIVE ORDER 14

8 Art. 7B.052. REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE

9 ORDER 15

10 Art. 7B.053. ENFORCEMENT 16

11 SUBCHAPTER C. PROTECTIVE ORDER PROHIBITING OFFENSE MOTIVATED BY

12 BIAS OR PREJUDICE

13 Art. 7B.101. REQUEST FOR PROTECTIVE ORDER 16

14 Art. 7B.102. REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE

15 ORDER 17

16 Art. 7B.103. ENFORCEMENT 17

17 Art. 7B.104. REPORTING 18

18 CHAPTER 7B. PROTECTIVE ORDERS

19 SUBCHAPTER A. PROTECTIVE ORDER FOR VICTIMS OF SEXUAL ASSAULT OR

20 ABUSE, STALKING, OR TRAFFICKING

21 Revised Law

22 Art. 7B.001. APPLICATION FOR PROTECTIVE ORDER. (a) The

23 following persons may file an application for a protective order

24 under this subchapter without regard to the relationship between

25 the applicant and the alleged offender:

26 (1) a person who is the victim of an offense under

27 Section 21.02, 21.11, 22.011, 22.021, or 42.072, Penal Code;

28 (2) a person who is the victim of an offense under

29 Section 20A.02, 20A.03, or 43.05, Penal Code;

30 (3) a parent or guardian acting on behalf of a person

31 younger than 17 years of age who is the victim of an offense listed

32 in Subdivision (1);

33 (4) a parent or guardian acting on behalf of a person

34 younger than 18 years of age who is the victim of an offense listed

1 in Subdivision (2); or

2 (5) a prosecuting attorney acting on behalf of a
3 person described by Subdivision (1), (2), (3), or (4).

4 (b) An application for a protective order under this
5 subchapter may be filed in:

6 (1) a district court, juvenile court having the
7 jurisdiction of a district court, statutory county court, or
8 constitutional county court in:

9 (A) the county in which the applicant resides;

10 (B) the county in which the alleged offender
11 resides; or

12 (C) any county in which an element of the alleged
13 offense occurred; or

14 (2) any court with jurisdiction over a protective
15 order under Title 4, Family Code, involving the same parties named
16 in the application. (Code Crim. Proc., Art. 7A.01.)

17 Source Law

18 Art. 7A.01. APPLICATION FOR PROTECTIVE ORDER.

19 (a) The following persons may file an application for
20 a protective order under this chapter without regard
21 to the relationship between the applicant and the
22 alleged offender:

23 (1) a person who is the victim of an
24 offense under Section 21.02, 21.11, 22.011, 22.021, or
25 42.072, Penal Code;

26 (2) a person who is the victim of an
27 offense under Section 20A.02, 20A.03, or 43.05, Penal
28 Code;

29 (3) a parent or guardian acting on behalf
30 of a person younger than 17 years of age who is the
31 victim of an offense listed in Subdivision (1);

32 (4) a parent or guardian acting on behalf
33 of a person younger than 18 years of age who is the
34 victim of an offense listed in Subdivision (2); or

35 (5) a prosecuting attorney acting on
36 behalf of a person described by Subdivision (1), (2),
37 (3), or (4).

38 (b) An application for a protective order under
39 this chapter may be filed in:

40 (1) a district court, juvenile court
41 having the jurisdiction of a district court, statutory
42 county court, or constitutional county court in:

43 (A) the county in which the applicant
44 resides;

45 (B) the county in which the alleged
46 offender resides; or

47 (C) any county in which an element of
48 the alleged offense occurred; or

49 (2) any court with jurisdiction over a
50 protective order under Title 4, Family Code, involving

1 the same parties named in the application.

2 Revised Law

3 Art. 7B.002. TEMPORARY EX PARTE ORDER. If the court finds
4 from the information contained in an application for a protective
5 order that there is a clear and present danger of sexual assault or
6 abuse, stalking, trafficking, or other harm to the applicant, the
7 court, without further notice to the alleged offender and without a
8 hearing, may issue a temporary ex parte order for the protection of
9 the applicant or any other member of the applicant's family or
10 household. (Code Crim. Proc., Art. 7A.02.)

11 Source Law

12 Art. 7A.02. TEMPORARY EX PARTE ORDER. If the
13 court finds from the information contained in an
14 application for a protective order that there is a
15 clear and present danger of sexual assault or abuse,
16 stalking, trafficking, or other harm to the applicant,
17 the court, without further notice to the alleged
18 offender and without a hearing, may enter a temporary
19 ex parte order for the protection of the applicant or
20 any other member of the applicant's family or
21 household.

22 Revisor's Note

23 Article 7A.02, Code of Criminal Procedure,
24 provides that a judge may "enter" a temporary ex parte
25 order. The revised law substitutes "issue" for
26 "enter" because in context the terms are synonymous
27 and "issue" is more commonly used.

28 Revised Law

29 Art. 7B.003. REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE
30 ORDER. (a) At the close of a hearing on an application for a
31 protective order under this subchapter, the court shall find
32 whether there are reasonable grounds to believe that the applicant
33 is the victim of sexual assault or abuse, stalking, or trafficking.

34 (b) If the court finds that there are reasonable grounds to
35 believe that the applicant is the victim of sexual assault or abuse,
36 stalking, or trafficking, the court shall issue a protective order
37 that includes a statement of the required findings. (Code Crim.
38 Proc., Art. 7A.03.)

1 Source Law

2 Art. 7A.03. REQUIRED FINDINGS; ISSUANCE OF
3 PROTECTIVE ORDER. (a) At the close of a hearing on an
4 application for a protective order under this chapter,
5 the court shall find whether there are reasonable
6 grounds to believe that the applicant is the victim of
7 sexual assault or abuse, stalking, or trafficking.

8 (b) If the court makes a finding described by
9 Subsection (a), the court shall issue a protective
10 order that includes a statement of the required
11 findings.

12 Revisor's Note

13 Article 7A.03(b), Code of Criminal Procedure,
14 requires a court to issue a protective order if the
15 court "makes a finding described by Subsection (a)."
16 The revised law substitutes "finds that there are
17 reasonable grounds to believe that the applicant is
18 the victim of sexual assault or abuse, stalking, or
19 trafficking" for the quoted language for clarity and
20 to more accurately describe the finding that is
21 required to trigger the issuance of the protective
22 order.

23 Revised Law

24 Art. 7B.004. HEARSAY STATEMENT OF CHILD VICTIM. In a
25 hearing on an application for a protective order under this
26 subchapter, a statement that is made by a child younger than 14
27 years of age who is the victim of an offense under Section 21.02,
28 21.11, 22.011, or 22.021, Penal Code, and that describes the
29 offense committed against the child is admissible as evidence in
30 the same manner that a child's statement regarding alleged abuse
31 against the child is admissible under Section 104.006, Family Code,
32 in a suit affecting the parent-child relationship. (Code Crim.
33 Proc., Art. 7A.035.)

34 Source Law

35 Art. 7A.035. HEARSAY STATEMENT OF CHILD VICTIM.
36 In a hearing on an application for a protective order
37 under this chapter, a statement that is made by a child
38 younger than 14 years of age who is the victim of an
39 offense under Section 21.02, 21.11, 22.011, or 22.021,
40 Penal Code, and that describes the offense committed
41 against the child is admissible as evidence in the same
42 manner that a child's statement regarding alleged

1 abuse against the child is admissible under Section
2 104.006, Family Code, in a suit affecting the
3 parent-child relationship.

4 Revised Law

5 Art. 7B.005. CONDITIONS SPECIFIED BY PROTECTIVE ORDER. (a)

6 In a protective order issued under this subchapter, the court may:

7 (1) order the alleged offender to take action as
8 specified by the court that the court determines is necessary or
9 appropriate to prevent or reduce the likelihood of future harm to
10 the applicant or a member of the applicant's family or household; or

11 (2) prohibit the alleged offender from:

12 (A) communicating:

13 (i) directly or indirectly with the
14 applicant or any member of the applicant's family or household in a
15 threatening or harassing manner; or

16 (ii) in any manner with the applicant or any
17 member of the applicant's family or household except through the
18 applicant's attorney or a person appointed by the court, if the
19 court finds good cause for the prohibition;

20 (B) going to or near the residence, place of
21 employment or business, or child-care facility or school of the
22 applicant or any member of the applicant's family or household;

23 (C) engaging in conduct directed specifically
24 toward the applicant or any member of the applicant's family or
25 household, including following the person, that is reasonably
26 likely to harass, annoy, alarm, abuse, torment, or embarrass the
27 person; and

28 (D) possessing a firearm, unless the alleged
29 offender is a peace officer, as defined by Section 1.07, Penal Code,
30 actively engaged in employment as a sworn, full-time paid employee
31 of a state agency or political subdivision.

32 (b) In a protective order that includes a condition
33 described by Subsection (a)(2)(B), the court shall specifically
34 describe each prohibited location and the minimum distance from the
35 location, if any, that the alleged offender must maintain. This

1 subsection does not apply to a protective order with respect to
2 which the court has received a request to maintain confidentiality
3 of information revealing the locations.

4 (c) In a protective order, the court may suspend a license
5 to carry a handgun issued under Section 411.177, Government Code,
6 that is held by the alleged offender. (Code Crim. Proc., Art.
7 7A.05.)

8 Source Law

9 Art. 7A.05. CONDITIONS SPECIFIED BY ORDER. (a)
10 In a protective order issued under this chapter, the
11 court may:

12 (1) order the alleged offender to take
13 action as specified by the court that the court
14 determines is necessary or appropriate to prevent or
15 reduce the likelihood of future harm to the applicant
16 or a member of the applicant's family or household; or

17 (2) prohibit the alleged offender from:

18 (A) communicating:

19 (i) directly or indirectly with
20 the applicant or any member of the applicant's family
21 or household in a threatening or harassing manner; or

22 (ii) in any manner with the
23 applicant or any member of the applicant's family or
24 household except through the applicant's attorney or a
25 person appointed by the court, if the court finds good
26 cause for the prohibition;

27 (B) going to or near the residence,
28 place of employment or business, or child-care
29 facility or school of the applicant or any member of
30 the applicant's family or household;

31 (C) engaging in conduct directed
32 specifically toward the applicant or any member of the
33 applicant's family or household, including following
34 the person, that is reasonably likely to harass,
35 annoy, alarm, abuse, torment, or embarrass the person;
36 and

37 (D) possessing a firearm, unless the
38 alleged offender is a peace officer, as defined by
39 Section 1.07, Penal Code, actively engaged in
40 employment as a sworn, full-time paid employee of a
41 state agency or political subdivision.

42 (b) In an order under Subsection (a)(2)(B), the
43 court shall specifically describe each prohibited
44 location and the minimum distance from the location,
45 if any, that the alleged offender must maintain. This
46 subsection does not apply to an order with respect to
47 which the court has received a request to maintain
48 confidentiality of information revealing the
49 locations.

50 (c) In a protective order, the court may suspend
51 a license to carry a handgun issued under Section
52 411.177, Government Code, that is held by the alleged
53 offender.

54 Revisor's Note

55 Article 7A.05(b), Code of Criminal Procedure,
56 refers to an order "under" Subsection (a)(2)(B) of

1 that article. However, Article 7A.05(a)(2)(B), Code
2 of Criminal Procedure, merely describes certain
3 conditions the court may require for a protective
4 order issued under Article 7A.03, Code of Criminal
5 Procedure. The revised law substitutes "that includes
6 a condition described by" for "under" for clarity and
7 to more accurately describe the content of Article
8 7A.05(a)(2)(B), Code of Criminal Procedure.

9 Revised Law

10 Art. 7B.006. WARNING ON PROTECTIVE ORDER. (a) Each
11 protective order issued under this subchapter, including a
12 temporary ex parte order, must contain the following prominently
13 displayed statements in boldfaced type, in capital letters, or
14 underlined:

15 "A PERSON WHO VIOLATES THIS ORDER MAY BE PUNISHED FOR
16 CONTEMPT OF COURT BY A FINE OF AS MUCH AS \$500 OR BY CONFINEMENT IN
17 JAIL FOR AS LONG AS SIX MONTHS, OR BOTH."

18 "NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS
19 ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY
20 PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS
21 VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT
22 UNLESS A COURT CHANGES THE ORDER."

23 "IT IS UNLAWFUL FOR ANY PERSON, OTHER THAN A PEACE OFFICER, AS
24 DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT
25 AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL
26 SUBDIVISION, WHO IS SUBJECT TO A PROTECTIVE ORDER TO POSSESS A
27 FIREARM OR AMMUNITION."

28 (b) Each protective order issued under this subchapter,
29 except for a temporary ex parte order, must contain the following
30 prominently displayed statement in boldfaced type, in capital
31 letters, or underlined:

32 "A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED
33 BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY
34 CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR, OR BOTH. AN ACT THAT

1 RESULTS IN A SEPARATE OFFENSE MAY BE PROSECUTED AS A SEPARATE
2 OFFENSE IN ADDITION TO A VIOLATION OF THIS ORDER." (Code Crim.
3 Proc., Art. 7A.06.)

4 Source Law

5 Art. 7A.06. WARNING ON PROTECTIVE ORDER. (a)
6 Each protective order issued under this chapter,
7 including a temporary ex parte order, must contain the
8 following prominently displayed statements in
9 boldfaced type, capital letters, or underlined:

10 "A PERSON WHO VIOLATES THIS ORDER MAY BE PUNISHED
11 FOR CONTEMPT OF COURT BY A FINE OF AS MUCH AS \$500 OR BY
12 CONFINEMENT IN JAIL FOR AS LONG AS SIX MONTHS, OR
13 BOTH."

14 "NO PERSON, INCLUDING A PERSON WHO IS PROTECTED
15 BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE
16 OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME
17 IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS
18 ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT
19 CHANGES THE ORDER."

20 "IT IS UNLAWFUL FOR ANY PERSON, OTHER THAN A PEACE
21 OFFICER, AS DEFINED BY SECTION 1.07, PENAL CODE,
22 ACTIVELY ENGAGED IN EMPLOYMENT AS A SWORN, FULL-TIME
23 PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL
24 SUBDIVISION, WHO IS SUBJECT TO A PROTECTIVE ORDER TO
25 POSSESS A FIREARM OR AMMUNITION."

26 (b) Each protective order issued under this
27 chapter, except for a temporary ex parte order, must
28 contain the following prominently displayed statement
29 in boldfaced type, capital letters, or underlined:

30 "A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT
31 PROHIBITED BY THE ORDER MAY BE PUNISHABLE BY A FINE OF
32 AS MUCH AS \$4,000 OR BY CONFINEMENT IN JAIL FOR AS LONG
33 AS ONE YEAR, OR BOTH. AN ACT THAT RESULTS IN A SEPARATE
34 OFFENSE MAY BE PROSECUTED AS A SEPARATE OFFENSE IN
35 ADDITION TO A VIOLATION OF THIS ORDER."

36 Revised Law

37 Art. 7B.007. DURATION OF PROTECTIVE ORDER; RESCISSION. (a)
38 A protective order issued under Article 7B.003 may be effective for
39 the duration of the lives of the offender and victim or for any
40 shorter period stated in the order. If a period is not stated in the
41 order, the order is effective until the second anniversary of the
42 date the order was issued.

43 (b) The following persons may file at any time an
44 application with the court to rescind the protective order:

45 (1) a victim of an offense listed in Article
46 7B.001(a)(1) who is 17 years of age or older or a parent or guardian
47 acting on behalf of a victim who is younger than 17 years of age; or

48 (2) a victim of an offense listed in Article
49 7B.001(a)(2) or a parent or guardian acting on behalf of a victim

1 who is younger than 18 years of age.

2 (c) To the extent of any conflict with Section 85.025,
3 Family Code, this article prevails. (Code Crim. Proc., Art.
4 7A.07.)

5 Source Law

6 Art. 7A.07. DURATION OF PROTECTIVE ORDER. (a)
7 A protective order issued under Article 7A.03 may be
8 effective for the duration of the lives of the offender
9 and victim or for any shorter period stated in the
10 order. If a period is not stated in the order, the
11 order is effective until the second anniversary of the
12 date the order was issued.

13 (b) The following persons may file at any time
14 an application with the court to rescind the
15 protective order:

16 (1) a victim of an offense listed in
17 Article 7A.01(a)(1) who is 17 years of age or older or
18 a parent or guardian acting on behalf of a victim who
19 is younger than 17 years of age; or

20 (2) a victim of an offense listed in
21 Article 7A.01(a)(2) or a parent or guardian acting on
22 behalf of a victim who is younger than 18 years of age.

23 (d) To the extent of any conflict with Section
24 85.025, Family Code, this article prevails.

25 Revised Law

26 Art. 7B.008. APPLICATION OF OTHER LAW. To the extent
27 applicable, except as otherwise provided by this subchapter, Title
28 4, Family Code, applies to a protective order issued under this
29 subchapter. (Code Crim. Proc., Art. 7A.04.)

30 Source Law

31 Art. 7A.04. APPLICATION OF OTHER LAW. To the
32 extent applicable, except as otherwise provided by
33 this chapter, Title 4, Family Code, applies to a
34 protective order issued under this chapter.

35 SUBCHAPTER B. STALKING PROTECTIVE ORDER

36 Revised Law

37 Art. 7B.051. REQUEST FOR PROTECTIVE ORDER. (a) At any
38 proceeding related to an offense under Section 42.072, Penal Code,
39 in which the defendant appears before the court, a person may
40 request the court to issue a protective order under Title 4, Family
41 Code, for the protection of the person.

42 (b) The request under Subsection (a) is made by filing an
43 application for a protective order in the same manner as an
44 application for a protective order under Title 4, Family Code.

1 (Code Crim. Proc., Art. 6.09(a).)

2 Source Law

3 Art. 6.09. STALKING PROTECTIVE ORDER. (a) At
4 any proceeding related to an offense under Section
5 42.072, Penal Code, in which the defendant appears
6 before the court, a person may request the court to
7 render a protective order under Title 4, Family Code,
8 for the protection of the person. The request is made
9 by filing "An Application for a Protective Order" in
10 the same manner as an application for a protective
11 order under Title 4, Family Code.

12 Revisor's Note

13 Article 6.09(a), Code of Criminal Procedure,
14 refers to a request for a court to "render" a
15 protective order. Throughout this chapter, the
16 revised law substitutes "issue" for "render" because
17 in context the terms are synonymous and "issue" is more
18 commonly used.

19 Revised Law

20 Art. 7B.052. REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE
21 ORDER. The court shall issue a protective order in the manner
22 provided by Title 4, Family Code, if, in lieu of the finding that
23 family violence occurred and is likely to occur in the future as
24 required by Section 85.001, Family Code, the court finds that:

25 (1) probable cause exists to believe that an offense
26 under Section 42.072, Penal Code, was committed; and

27 (2) the nature of the scheme or course of conduct
28 engaged in by the defendant in committing the offense indicates the
29 defendant is likely in the future to engage in conduct prohibited by
30 Section 42.072(a)(1), (2), or (3), Penal Code. (Code Crim. Proc.,
31 Art. 6.09(b).)

32 Source Law

33 (b) The court shall render a protective order in
34 the manner provided by Title 4, Family Code, if, in
35 lieu of the finding that family violence occurred and
36 is likely to occur in the future as required by Section
37 85.001, Family Code, the court finds that probable
38 cause exists to believe that an offense under Section
39 42.072, Penal Code, occurred and that the nature of the
40 scheme or course of conduct engaged in by the defendant
41 in the commission of the offense indicates that the
42 defendant is likely to engage in the future in conduct
43 prohibited by Section 42.072(a)(1), (2), or (3), Penal

1 Code.

2 Revised Law

3 Art. 7B.053. ENFORCEMENT. The procedure for the
4 enforcement of a protective order under Title 4, Family Code,
5 applies to the fullest extent practicable to the enforcement of a
6 protective order under this subchapter, including provisions
7 relating to findings, contents, duration, warning, delivery, law
8 enforcement duties, and modification. (Code Crim. Proc., Art.
9 6.09(c).)

10 Source Law

11 (c) The procedure for the enforcement of a
12 protective order under Title 4, Family Code, applies
13 to the fullest extent practicable to the enforcement
14 of a protective order under this article, including
15 provisions relating to findings, contents, duration,
16 warning, delivery, law enforcement duties, and
17 modification.

18 SUBCHAPTER C. PROTECTIVE ORDER PROHIBITING OFFENSE MOTIVATED BY
19 BIAS OR PREJUDICE

20 Revised Law

21 Art. 7B.101. REQUEST FOR PROTECTIVE ORDER. A person may
22 request the court to issue a protective order under Title 4, Family
23 Code, for the protection of the person at any proceeding:

24 (1) in which the defendant appears in constitutional
25 county court, statutory county court, or district court;

26 (2) that is related to an offense under Title 5, Penal
27 Code, or Section 28.02, 28.03, or 28.08, Penal Code; and

28 (3) in which it is alleged that the defendant
29 committed the offense because of bias or prejudice as described by
30 Article 42.014. (Code Crim. Proc., Art. 6.08(a).)

31 Source Law

32 Art. 6.08. PROTECTIVE ORDER PROHIBITING OFFENSE
33 CAUSED BY BIAS OR PREJUDICE. (a) At any proceeding in
34 which the defendant appears in constitutional county
35 court, statutory county court, or district court that
36 is related to an offense under Title 5, Penal Code, or
37 Section 28.02, 28.03, or 28.08, Penal Code, in which it
38 is alleged that the defendant committed the offense
39 because of bias or prejudice as described by Article
40 42.014, a person may request the court to render a
41 protective order under Title 4, Family Code, for the
42 protection of the person.

1 Revised Law

2 Art. 7B.102. REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE
3 ORDER. The court shall issue a protective order in the manner
4 provided by Title 4, Family Code, if, in lieu of the finding that
5 family violence occurred and is likely to occur in the future as
6 required by Section 85.001, Family Code, the court finds that:

7 (1) probable cause exists to believe that an offense
8 under Title 5, Penal Code, or Section 28.02, 28.03, or 28.08, Penal
9 Code, was committed;

10 (2) the defendant committed the offense because of
11 bias or prejudice; and

12 (3) the nature of the scheme or course of conduct
13 engaged in by the defendant in committing the offense indicates the
14 defendant is likely in the future to:

15 (A) engage in conduct prohibited by Title 5,
16 Penal Code, or Section 28.02, 28.03, or 28.08, Penal Code; and

17 (B) engage in that conduct described by Paragraph
18 (A) because of bias or prejudice. (Code Crim. Proc., Art. 6.08(b).)

19 Source Law

20 (b) The court shall render a protective order in
21 the manner provided by Title 4, Family Code, if, in
22 lieu of the finding that family violence occurred and
23 is likely to occur in the future as required by Section
24 85.001, Family Code, the court finds that probable
25 cause exists to believe that an offense under Title 5,
26 Penal Code, or Section 28.02, 28.03, or 28.08, Penal
27 Code, occurred, that the defendant committed the
28 offense because of bias or prejudice, and that the
29 nature of the scheme or course of conduct engaged in by
30 the defendant in the commission of the offense
31 indicates that the defendant is likely to engage in the
32 future in conduct prohibited by Title 5, Penal Code, or
33 Section 28.02, 28.03, or 28.08, Penal Code, and
34 committed because of bias or prejudice.

35 Revised Law

36 Art. 7B.103. ENFORCEMENT. The procedure for the
37 enforcement of a protective order under Title 4, Family Code,
38 applies to the fullest extent practicable to the enforcement of a
39 protective order under this subchapter, including provisions
40 relating to findings, contents, duration, warning, delivery, law
41 enforcement duties, and modification, except that:

1 (1) the printed statement on the warning must refer to
2 the prosecution of subsequent offenses committed because of bias or
3 prejudice;

4 (2) the court shall require a constable to serve a
5 protective order issued under this subchapter; and

6 (3) the clerk of the court shall forward a copy of a
7 protective order issued under this subchapter to the Department of
8 Public Safety with a designation indicating that the order was
9 issued to prevent offenses committed because of bias or prejudice.

10 (Code Crim. Proc., Art. 6.08(c).)

11 Source Law

12 (c) The procedure for the enforcement of a
13 protective order under Title 4, Family Code, applies
14 to the fullest extent practicable to the enforcement
15 of a protective order under this article, including
16 provisions relating to findings, contents, duration,
17 warning, delivery, law enforcement duties, and
18 modification, except that:

19 (1) the printed statement on the warning
20 must refer to the prosecution of subsequent offenses
21 committed because of bias or prejudice;

22 (2) the court shall require a constable to
23 serve a protective order issued under this article;
24 and

25 (3) the clerk of the court shall forward a
26 copy of a protective order issued under this article to
27 the Department of Public Safety with a designation
28 indicating that the order was issued to prevent
29 offenses committed because of bias or prejudice.

30 Revised Law

31 Art. 7B.104. REPORTING. For an original or modified
32 protective order issued under this subchapter, on receipt of the
33 order from the clerk of the court, a law enforcement agency shall
34 immediately, but not later than the 10th day after the date the
35 order is received, enter the information required by Section
36 411.042(b)(6), Government Code, into the statewide law enforcement
37 information system maintained by the Department of Public Safety.

38 (Code Crim. Proc., Art. 6.08(d).)

39 Source Law

40 (d) For an original or modified protective order
41 rendered under this article, on receipt of the order
42 from the clerk of the court, a law enforcement agency
43 shall immediately, but not later than the 10th day
44 after the date the order is received, enter the
45 information required by Section 411.042(b)(6),

1 Government Code, into the statewide law enforcement
2 information system maintained by the Department of
3 Public Safety.

4 CHAPTER 19A. GRAND JURY ORGANIZATION

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8 CHAPTER 19A. GRAND JURY ORGANIZATION

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Revised Law

11 Art. 19A.001. DEFINITIONS. In this chapter:

12 (1) "Array" means the whole body of persons summoned
13 to serve as grand jurors before the grand jurors have been
14 impaneled.

15 (2) "Panel" means the whole body of grand jurors.
16 (Code Crim. Proc., Arts. 19.28, 19.29 (part).)

17 Source Law

18 Art. 19.28. "ARRAY". By the "array" of grand
19 jurors is meant the whole body of persons summoned to
20 serve as such before they have been impaneled.

21 Art. 19.29. . . . By "panel" is meant the whole
22 body of grand jurors.

23 SUBCHAPTER B. SELECTION AND SUMMONS OF PROSPECTIVE GRAND JURORS

24 Revised Law

25 Art. 19A.051. SELECTION AND SUMMONS OF PROSPECTIVE GRAND
26 JURORS. (a) The district judge shall direct that the number of
27 prospective grand jurors the judge considers necessary to ensure an
28 adequate number of grand jurors under Article 19A.201 be selected
29 and summoned, with return on summons.

30 (b) The prospective grand jurors shall be selected and
31 summoned in the same manner as for the selection and summons of
32 panels for the trial of civil cases in the district courts.

33 (c) The judge shall test the qualifications for and excuses
34 from service as a grand juror and impanel the completed grand jury
35 as provided by this chapter. (Code Crim. Proc., Art. 19.01.)

1 Source Law

2 Art. 19.01. SELECTION AND SUMMONS OF
3 PROSPECTIVE GRAND JURORS. The district judge shall
4 direct that the number of prospective grand jurors the
5 judge considers necessary to ensure an adequate number
6 of jurors under Article 19.26 be selected and
7 summoned, with return on summons, in the same manner as
8 for the selection and summons of panels for the trial
9 of civil cases in the district courts. The judge shall
10 try the qualifications for and excuses from service as
11 a grand juror and impanel the completed grand jury as
12 provided by this chapter.

13 Revisor's Note

14 Article 19.01, Code of Criminal Procedure, refers
15 to trying the qualifications of a prospective grand
16 juror. Throughout this chapter, the revised law
17 substitutes "test" for "try" for clarity and
18 consistency in the terminology used within the chapter
19 and because the terms are synonymous.

20 Revised Law

21 Art. 19A.052. QUALIFIED PERSONS SUMMONED. On directing the
22 sheriff to summon grand jurors, the court shall instruct the
23 sheriff to not summon a person to serve as a grand juror who does not
24 possess the qualifications prescribed by law. (Code Crim. Proc.,
25 Art. 19.20.)

26 Source Law

27 Art. 19.20. TO SUMMON QUALIFIED PERSONS. On
28 directing the sheriff to summon grand jurors, the
29 court shall instruct the sheriff that the sheriff must
30 not summon any person to serve as a grand juror who
31 does not possess the qualifications prescribed by law.

32 Revised Law

33 Art. 19A.053. ADDITIONAL QUALIFIED PERSONS SUMMONED. (a)
34 If fewer than 16 persons summoned to serve as grand jurors are found
35 to be in attendance and qualified to serve, the court shall order
36 the sheriff to summon an additional number of persons considered
37 necessary to constitute a grand jury of 12 grand jurors and four
38 alternate grand jurors.

39 (b) The sheriff shall summon the additional prospective
40 grand jurors under Subsection (a) in person to attend before the
41 court immediately. (Code Crim. Proc., Arts. 19.18, 19.19.)

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Source Law

Art. 19.18. IF LESS THAN SIXTEEN ATTEND. When less than sixteen of those summoned to serve as grand jurors are found to be in attendance and qualified to so serve, the court shall order the sheriff to summon such additional number of persons as may be deemed necessary to constitute a grand jury of twelve persons and four alternates.
Art. 19.19. JURORS TO ATTEND FORTHWITH. The jurors provided for in Article 19.18 shall be summoned in person to attend before the court forthwith.

Revised Law

Art. 19A.054. FAILURE TO ATTEND. The court, by an order entered on the record, may impose a fine of not less than \$100 and not more than \$500 on a legally summoned grand juror who fails to attend without a reasonable excuse. (Code Crim. Proc., Art. 19.16.)

Source Law

Art. 19.16. ABSENT JUROR FINED. A juror legally summoned, failing to attend without a reasonable excuse, may, by order of the court entered on the record, be fined not less than \$100 nor more than \$500.

SUBCHAPTER C. GRAND JUROR QUALIFICATIONS; EXCUSES FROM SERVICE

Revised Law

Art. 19A.101. GRAND JUROR QUALIFICATIONS. A person may be selected or serve as a grand juror only if the person:
(1) is at least 18 years of age;
(2) is a citizen of the United States;
(3) is a resident of this state and of the county in which the person is to serve;
(4) is qualified under the constitution and other laws to vote in the county in which the grand jury is sitting, regardless of whether the person is registered to vote;
(5) is of sound mind and good moral character;
(6) is able to read and write;
(7) has not been convicted of misdemeanor theft or a felony;
(8) is not under indictment or other legal accusation for misdemeanor theft or a felony;
(9) is not related within the third degree by consanguinity or second degree by affinity, as determined under

1 Chapter 573, Government Code, to any person selected to serve or
2 serving on the same grand jury;

3 (10) has not served as a grand juror in the year before
4 the date on which the term of court for which the person has been
5 selected as a grand juror begins; and

6 (11) is not a complainant in any matter to be heard by
7 the grand jury during the term of court for which the person has
8 been selected as a grand juror. (Code Crim. Proc., Art. 19.08.)

9 Source Law

10 Art. 19.08. QUALIFICATIONS. A person may be
11 selected or serve as a grand juror only if the person:

12 (1) is at least 18 years of age;

13 (2) is a citizen of the United States;

14 (3) is a resident of this state, and of the
15 county in which the person is to serve;

16 (4) is qualified under the Constitution
17 and laws to vote in the county in which the grand jury
18 is sitting, regardless of whether the person is
19 registered to vote;

20 (5) is of sound mind and good moral
21 character;

22 (6) is able to read and write;

23 (7) has not been convicted of misdemeanor
24 theft or a felony;

25 (8) is not under indictment or other legal
26 accusation for misdemeanor theft or a felony;

27 (9) is not related within the third degree
28 of consanguinity or second degree of affinity, as
29 determined under Chapter 573, Government Code, to any
30 person selected to serve or serving on the same grand
31 jury;

32 (10) has not served as grand juror in the
33 year before the date on which the term of court for
34 which the person has been selected as grand juror
35 begins; and

36 (11) is not a complainant in any matter to
37 be heard by the grand jury during the term of court for
38 which the person has been selected as a grand juror.

39 Revised Law

40 Art. 19A.102. TESTING QUALIFICATIONS OF PROSPECTIVE GRAND
41 JURORS. (a) When at least 14 persons summoned to serve as grand
42 jurors are present, the court shall test the qualifications of the
43 prospective grand jurors to serve as grand jurors.

44 (b) Before impaneling a grand juror, the court or a person
45 under the direction of the court must interrogate under oath each
46 person who is presented to serve as a grand juror regarding the
47 person's qualifications.

48 (c) In testing the qualifications of a person to serve as a

1 grand juror, the court or a person under the direction of the court
2 shall ask:

3 (1) "Are you a citizen of this state and county, and
4 qualified to vote in this county, under the constitution and laws of
5 this state?";

6 (2) "Are you able to read and write?";

7 (3) "Have you ever been convicted of misdemeanor theft
8 or any felony?"; and

9 (4) "Are you under indictment or other legal
10 accusation for misdemeanor theft or for any felony?". (Code Crim.
11 Proc., Arts. 19.21, 19.22, 19.23.)

12 Source Law

13 Art. 19.21. TO TEST QUALIFICATIONS. When as
14 many as fourteen persons summoned to serve as grand
15 jurors are in attendance upon the court, it shall
16 proceed to test their qualifications as such.

17 Art. 19.22. INTERROGATED. Each person who is
18 presented to serve as a grand juror shall, before being
19 impaneled, be interrogated on oath by the court or
20 under his direction, touching his qualifications.

21 Art. 19.23. MODE OF TEST. In trying the
22 qualifications of any person to serve as a grand juror,
23 that person shall be asked:

24 1. Are you a citizen of this state and county,
25 and qualified to vote in this county, under the
26 Constitution and laws of this state?

27 2. Are you able to read and write?

28 3. Have you ever been convicted of misdemeanor
29 theft or any felony?

30 4. Are you under indictment or other legal
31 accusation for misdemeanor theft or for any felony?

32 Revised Law

33 Art. 19A.103. QUALIFIED GRAND JURORS ACCEPTED. If, by the
34 person's answer, it appears to the court that the person is a
35 qualified grand juror, the court shall accept the person as a grand
36 juror unless it is shown that the person:

37 (1) is not of sound mind or of good moral character; or

38 (2) is in fact not qualified to serve as a grand juror.

39 (Code Crim. Proc., Art. 19.24.)

40 Source Law

41 Art. 19.24. QUALIFIED JUROR ACCEPTED. When, by
42 the answer of the person, it appears to the court that
43 he is a qualified juror, he shall be accepted as such,
44 unless it be shown that he is not of sound mind or of
45 good moral character, or unless it be shown that he is

1 in fact not qualified to serve as a grand juror.

2 Revised Law

3 Art. 19A.104. PERSONAL INFORMATION CONFIDENTIAL. (a)

4 Except as provided by Subsection (c), information collected by the
5 court, court personnel, or prosecuting attorney during the grand
6 jury selection process about a person who serves as a grand juror is
7 confidential and may not be disclosed by the court, court
8 personnel, or prosecuting attorney.

9 (b) Information that is confidential under Subsection (a)
10 includes a person's:

- 11 (1) home address;
- 12 (2) home telephone number;
- 13 (3) social security number;
- 14 (4) driver's license number; and
- 15 (5) other personal information.

16 (c) On a showing of good cause, the court shall permit
17 disclosure of the information sought to a party to the proceeding.
18 (Code Crim. Proc., Art. 19.42.)

19 Source Law

20 Art. 19.42. PERSONAL INFORMATION ABOUT GRAND
21 JURORS. (a) Except as provided by Subsection (b),
22 information collected by the court, court personnel,
23 or prosecuting attorney during the grand jury
24 selection process about a person who serves as a grand
25 juror, including the person's home address, home
26 telephone number, social security number, driver's
27 license number, and other personal information, is
28 confidential and may not be disclosed by the court,
29 court personnel, or prosecuting attorney.

30 (b) On a showing of good cause, the court shall
31 permit disclosure of the information sought to a party
32 to the proceeding.

33 Revised Law

34 Art. 19A.105. EXCUSES FROM GRAND JURY SERVICE. (a) The
35 court shall excuse from serving any summoned person who does not
36 possess the requisite qualifications.

37 (b) The following qualified persons may be excused from
38 grand jury service:

- 39 (1) a person older than 70 years of age;
- 40 (2) a person responsible for the care of a child

1 younger than 18 years of age;

2 (3) a student of a public or private secondary school;

3 (4) a person enrolled in and in actual attendance at an
4 institution of higher education; and

5 (5) any other person the court determines has a
6 reasonable excuse from service. (Code Crim. Proc., Art. 19.25.)

7 Source Law

8 Art. 19.25. EXCUSES FROM SERVICE. Any person
9 summoned who does not possess the requisite
10 qualifications shall be excused by the court from
11 serving. The following qualified persons may be
12 excused from grand jury service:

13 (1) a person older than 70 years;

14 (2) a person responsible for the care of a child
15 younger than 18 years;

16 (3) a student of a public or private secondary
17 school;

18 (4) a person enrolled and in actual attendance
19 at an institution of higher education; and

20 (5) any other person that the court determines
21 has a reasonable excuse from service.

22 SUBCHAPTER D. CHALLENGE TO ARRAY OR GRAND JUROR

23 Revised Law

24 Art. 19A.151. ANY PERSON MAY CHALLENGE. (a) Before the
25 grand jury is impaneled, any person may challenge the array of grand
26 jurors or any person presented as a grand juror. The court may not
27 hear objections to the qualifications and legality of the grand
28 jury in any other way.

29 (b) A person confined in jail in the county shall, on the
30 person's request, be brought into court to make a challenge
31 described by Subsection (a). (Code Crim. Proc., Art. 19.27.)

32 Source Law

33 Art. 19.27. ANY PERSON MAY CHALLENGE. Before
34 the grand jury has been impaneled, any person may
35 challenge the array of jurors or any person presented
36 as a grand juror. In no other way shall objections to
37 the qualifications and legality of the grand jury be
38 heard. Any person confined in jail in the county shall
39 upon his request be brought into court to make such
40 challenge.

41 Revised Law

42 Art. 19A.152. CHALLENGE TO ARRAY. (a) A challenge to the
43 array may be made only for the following causes:

44 (1) that the persons summoned as grand jurors are not

1 in fact the persons selected by the method provided by Article
2 19A.051; or

3 (2) that the officer who summoned the grand jurors
4 acted corruptly in summoning any grand juror.

5 (b) A challenge to the array must be made in writing. (Code
6 Crim. Proc., Art. 19.30.)

7 Source Law

8 Art. 19.30. CHALLENGE TO "ARRAY". A challenge
9 to the "array" shall be made in writing for these
10 causes only:

11 1. That those summoned as grand jurors are not
12 in fact those selected by the method provided by
13 Article 19.01; and

14 2. That the officer who summoned the grand
15 jurors acted corruptly in summoning any one or more of
16 them.

17 Revised Law

18 Art. 19A.153. CHALLENGE TO GRAND JUROR. (a) A challenge to
19 a grand juror may be made orally for any of the following causes:

20 (1) that the grand juror is insane;

21 (2) that the grand juror has a defect in the organs of
22 feeling or hearing, or a bodily or mental defect or disease that
23 renders the grand juror unfit for grand jury service, or that the
24 grand juror is legally blind and the court in its discretion is not
25 satisfied that the grand juror is fit for grand jury service in that
26 particular case;

27 (3) that the grand juror is a witness in or a target of
28 an investigation of a grand jury;

29 (4) that the grand juror served on a petit jury in a
30 former trial of the same alleged conduct or offense that the grand
31 jury is investigating;

32 (5) that the grand juror has a bias or prejudice in
33 favor of or against the person accused or suspected of committing an
34 offense that the grand jury is investigating;

35 (6) that from hearsay, or otherwise, there is
36 established in the mind of the grand juror a conclusion as to the
37 guilt or innocence of the person accused or suspected of committing
38 an offense that the grand jury is investigating that would

1 influence the grand juror's vote on the presentment of an
2 indictment;

3 (7) that the grand juror is related within the third
4 degree by consanguinity or affinity, as determined under Chapter
5 573, Government Code, to a person accused or suspected of
6 committing an offense that the grand jury is investigating or to a
7 person who is a victim of an offense that the grand jury is
8 investigating;

9 (8) that the grand juror has a bias or prejudice
10 against any phase of the law on which the state is entitled to rely
11 for an indictment;

12 (9) that the grand juror is not a qualified grand
13 juror; or

14 (10) that the grand juror is the prosecutor on an
15 accusation against the person making the challenge.

16 (b) A challenge under Subsection (a)(3) may be made ex
17 parte. The court shall review and rule on the challenge in an in
18 camera proceeding. The court shall seal any record of the
19 challenge.

20 (c) In this article, "legally blind" has the meaning
21 assigned by Article 35.16(a). (Code Crim. Proc., Art. 19.31.)

22 Source Law

23 Art. 19.31. CHALLENGE TO JUROR. (a) A
24 challenge to a particular grand juror may be made
25 orally for any of the following causes:

- 26 1. That the juror is insane;
- 27 2. That the juror has such defect in the organs
28 of feeling or hearing, or such bodily or mental defect
29 or disease as to render the juror unfit for jury
30 service, or that the juror is legally blind and the
31 court in its discretion is not satisfied that the juror
32 is fit for jury service in that particular case;
- 33 3. That the juror is a witness in or a target of
34 an investigation of a grand jury;
- 35 4. That the juror served on a petit jury in a
36 former trial of the same alleged conduct or offense
37 that the grand jury is investigating;
- 38 5. That the juror has a bias or prejudice in
39 favor of or against the person accused or suspected of
40 committing an offense that the grand jury is
41 investigating;
- 42 6. That from hearsay, or otherwise, there is
43 established in the mind of the juror such a conclusion
44 as to the guilt or innocence of the person accused or
45 suspected of committing an offense that the grand jury

1 is investigating as would influence the juror's vote on
2 the presentment of an indictment;

3 7. That the juror is related within the third
4 degree by consanguinity or affinity, as determined
5 under Chapter 573, Government Code, to a person
6 accused or suspected of committing an offense that the
7 grand jury is investigating or to a person who is a
8 victim of an offense that the grand jury is
9 investigating;

10 8. That the juror has a bias or prejudice
11 against any phase of the law upon which the state is
12 entitled to rely for an indictment;

13 9. That the juror is not a qualified juror; and

14 10. That the juror is the prosecutor upon an
15 accusation against the person making the challenge.

16 (b) A challenge under Subsection (a)(3) may be
17 made ex parte and shall be reviewed and ruled on in an
18 in camera proceeding. The court shall seal any record
19 of the challenge.

20 (c) In this article, "legally blind" has the
21 meaning assigned by Article 35.16(a).

22 Revised Law

23 Art. 19A.154. DETERMINATION OF VALIDITY OF CHALLENGE. When
24 a person challenges the array or a grand juror, the court shall hear
25 proof and decide in a summary manner whether the challenge is well
26 founded. (Code Crim. Proc., Art. 19.32.)

27 Source Law

28 Art. 19.32. SUMMARILY DECIDED. When a
29 challenge to the array or to any individual has been
30 made, the court shall hear proof and decide in a
31 summary manner whether the challenge be well-founded
32 or not.

33 Revised Law

34 Art. 19A.155. ADDITIONAL PROSPECTIVE GRAND JURORS SUMMONED
35 FOLLOWING CHALLENGE. (a) If the court sustains a challenge to the
36 array, the court shall order another grand jury to be summoned.

37 (b) If, because of a challenge to any particular grand
38 juror, fewer than 12 grand jurors remain, the court shall order the
39 panel to be completed. (Code Crim. Proc., Art. 19.33.)

40 Source Law

41 Art. 19.33. OTHER JURORS SUMMONED. The court
42 shall order another grand jury to be summoned if the
43 challenge to the array be sustained, or order the panel
44 to be completed if by challenge to any particular grand
45 juror their number be reduced below twelve.

46 SUBCHAPTER E. IMPANELING OF GRAND JURY

47 Revised Law

48 Art. 19A.201. GRAND JURY IMPANELED. (a) When at least 16

1 qualified grand jurors are found to be present, the court shall
2 select 12 fair and impartial persons as grand jurors and 4
3 additional persons as alternate grand jurors to serve on
4 disqualification or unavailability of a grand juror during the term
5 of the grand jury. The grand jurors and the alternate grand jurors
6 must be randomly selected from a fair cross section of the
7 population of the area served by the court.

8 (b) The court shall impanel the grand jurors and alternate
9 grand jurors, unless a challenge is made to the array or to a
10 particular person presented to serve as a grand juror or an
11 alternate grand juror.

12 (c) A grand juror is considered to be impaneled after the
13 grand juror's qualifications have been tested and the grand juror
14 has been sworn. (Code Crim. Proc., Arts. 19.26(a), (b) (part),
15 19.29 (part).)

16 Source Law

17 Art. 19.26. JURY IMPANELED. (a) When at least
18 sixteen qualified jurors are found to be present, the
19 court shall select twelve fair and impartial persons
20 to serve as grand jurors and four additional persons to
21 serve as alternate grand jurors. The grand jurors and
22 the alternate grand jurors shall be randomly selected
23 from a fair cross section of the population of the area
24 served by the court.

25 (b) The court shall proceed to impanel the grand
26 jury, unless a challenge is made, which may be to the
27 array or to any particular person presented to serve as
28 a grand juror or an alternate. In addition, the court
29 shall impanel four alternates to serve on
30 disqualification or unavailability of a juror during
31 the term of the grand jury. . . .

32 Art. 19.29. "IMPANELED" AND "PANEL". A grand
33 juror is said to be "impaneled" after his
34 qualifications have been tried and he has been sworn.
35 . . .

36 Revised Law

37 Art. 19A.202. OATH OF GRAND JURORS. The court or a person
38 under the direction of the court shall administer the following
39 oath to the grand jurors when the grand jury is completed: "You
40 solemnly swear that you will diligently inquire into, and true
41 presentment make, of all such matters and things as shall be given
42 you in charge; the State's counsel, your fellows and your own, you

1 shall keep secret, unless required to disclose the same in the
2 course of a judicial proceeding in which the truth or falsity of
3 evidence given in the grand jury room, in a criminal case, shall be
4 under investigation. You shall present no person from envy, hatred
5 or malice; neither shall you leave any person unrepresented for love,
6 fear, favor, affection or hope of reward; but you shall present
7 things truly as they come to your knowledge, according to the best
8 of your understanding, so help you God." (Code Crim. Proc., Art.
9 19.34 (part).)

10 Source Law

11 Art. 19.34. OATH OF GRAND JURORS. When the
12 grand jury is completed, . . . the following oath
13 shall be administered by the court, or under its
14 direction, to the jurors: "You solemnly swear that you
15 will diligently inquire into, and true presentment
16 make, of all such matters and things as shall be given
17 you in charge; the State's counsel, your fellows and
18 your own, you shall keep secret, unless required to
19 disclose the same in the course of a judicial
20 proceeding in which the truth or falsity of evidence
21 given in the grand jury room, in a criminal case, shall
22 be under investigation. You shall present no person
23 from envy, hatred or malice; neither shall you leave
24 any person unrepresented for love, fear, favor,
25 affection or hope of reward; but you shall present
26 things truly as they come to your knowledge, according
27 to the best of your understanding, so help you God".

28 Revised Law

29 Art. 19A.203. FOREPERSON. (a) When the grand jury is
30 completed, the court shall appoint one of the grand jurors as
31 foreperson.

32 (b) If the foreperson is for any cause absent or unable or
33 disqualified to act, the court shall appoint another grand juror as
34 foreperson. (Code Crim. Proc., Arts. 19.34 (part), 19.39.)

35 Source Law

36 Art. 19.34. OATH OF GRAND JURORS. When the
37 grand jury is completed, the court shall appoint one of
38 the number foreman; and

39 Art. 19.39. ANOTHER FOREMAN APPOINTED. If the
40 foreman of the grand jury is from any cause absent or
41 unable or disqualified to act, the court shall appoint
42 in his place some other member of the body.

43 Revised Law

44 Art. 19A.204. COURT INSTRUCTIONS. The court shall instruct

1 the grand jury regarding the grand jurors' duty. (Code Crim. Proc.,
2 Art. 19.35.)

3 Source Law

4 Art. 19.35. TO INSTRUCT JURY. The court shall
5 instruct the grand jury as to their duty.

6 SUBCHAPTER F. ORGANIZATION AND TERM OF GRAND JURY

7 Revised Law

8 Art. 19A.251. QUORUM. Nine grand jurors constitute a
9 quorum for the purpose of discharging a duty or exercising a right
10 properly belonging to the grand jury. (Code Crim. Proc., Art.
11 19.40.)

12 Source Law

13 Art. 19.40. QUORUM. Nine members shall be a
14 quorum for the purpose of discharging any duty or
15 exercising any right properly belonging to the grand
16 jury.

17 Revised Law

18 Art. 19A.252. DISQUALIFICATION OR UNAVAILABILITY OF GRAND
19 JUROR. (a) On learning that a grand juror has become disqualified
20 or unavailable during the term of the grand jury, the attorney
21 representing the state shall prepare an order for the court:

22 (1) identifying the disqualified or unavailable grand
23 juror;

24 (2) stating the basis for the disqualification or
25 unavailability;

26 (3) dismissing the disqualified or unavailable grand
27 juror from the grand jury; and

28 (4) naming one of the alternate grand jurors as a
29 member of the grand jury.

30 (b) The procedure established by this article may be used on
31 disqualification or unavailability of a second or subsequent grand
32 juror during the term of the grand jury.

33 (c) For purposes of this article, a grand juror is
34 unavailable if the grand juror is unable to participate fully in the
35 duties of the grand jury because of:

36 (1) the death of the grand juror;

1 (2) a physical or mental illness of the grand juror; or
2 (3) any other reason the court determines constitutes
3 good cause for dismissing the grand juror. (Code Crim. Proc., Art.
4 19.26(b) (part).)

5 Source Law

6 (b) . . . On learning that a grand juror has
7 become disqualified or unavailable during the term of
8 the grand jury, the attorney representing the state
9 shall prepare an order for the court identifying the
10 disqualified or unavailable juror, stating the basis
11 for the disqualification or unavailability,
12 dismissing the disqualified or unavailable juror from
13 the grand jury, and naming one of the alternates as a
14 member of the grand jury. The procedure established by
15 this subsection may be used on disqualification or
16 unavailability of a second or subsequent grand juror
17 during the term of the grand jury. For purposes of
18 this subsection, a juror is unavailable if the juror is
19 unable to participate fully in the duties of the grand
20 jury because of the death of the juror, a physical or
21 mental illness of the juror, or any other reason the
22 court determines constitutes good cause for dismissing
23 the juror.

24 Revisor's Note

25 (1) Article 19.26(b), Code of Criminal
26 Procedure, refers to the procedure for dismissing a
27 disqualified or unavailable grand juror "established
28 by this subsection," meaning Article 19.26(b). The
29 applicable provisions of Article 19.26(b)
30 establishing the procedure for dismissing a
31 disqualified or unavailable grand juror are revised as
32 Article 19A.252 of this chapter, and the revised law is
33 drafted accordingly.

34 (2) Article 19.26(b), Code of Criminal
35 Procedure, describes when a grand juror is considered
36 unavailable "[f]or purposes of this subsection,"
37 meaning, for purposes of dismissing an unavailable
38 grand juror, Article 19.26(b). The applicable
39 provisions of Article 19.26(b) relating to dismissing
40 an unavailable grand juror are revised as Article
41 19A.252 of this chapter, and the revised law is drafted
42 accordingly.

1 Revised Law

2 Art. 19A.253. RECUSAL OF GRAND JUROR. (a) A grand juror
3 who, during the course of the grand juror's service on the grand
4 jury, determines that the grand juror could be subject to a valid
5 challenge for cause under Article 19A.153, shall recuse himself or
6 herself from grand jury service until the cause no longer exists.

7 (b) A grand juror who knowingly fails to recuse himself or
8 herself under Subsection (a) may be held in contempt of court.

9 (c) A person authorized to be present in the grand jury room
10 shall report a known violation of Subsection (a) to the court.

11 (d) The court shall instruct the grand jury regarding the
12 duty imposed by this article. (Code Crim. Proc., Art. 19.315.)

13 Source Law

14 Art. 19.315. RECUSAL OF JUROR. (a) If, during
15 the course of a juror's service on the grand jury, the
16 juror determines that the juror could be subject to a
17 valid challenge for cause under Article 19.31, the
18 juror shall recuse himself or herself from grand jury
19 service until the cause no longer exists. A person who
20 knowingly fails to recuse himself or herself under
21 this subsection may be held in contempt of court. A
22 person authorized to be present in the grand jury room
23 shall report a known violation of this subsection to
24 the court.

25 (b) The court shall instruct the grand jury as
26 to the duty imposed by Subsection (a).

27 Revised Law

28 Art. 19A.254. REASSEMBLY OF GRAND JURY. A grand jury
29 discharged by the court for the term may be reassembled by the court
30 at any time during the term. (Code Crim. Proc., Art. 19.41.)

31 Source Law

32 Art. 19.41. REASSEMBLED. A grand jury
33 discharged by the court for the term may be reassembled
34 by the court at any time during the term.

35 Revised Law

36 Art. 19A.255. EXTENSION OF TERM. (a) If, before the
37 expiration of the term for which the grand jury was impaneled, the
38 foreperson or a majority of the grand jurors declares in open court
39 that the grand jury's investigation of the matters before the grand
40 jury cannot be concluded before the expiration of the term, the
41 judge of the district court in which the grand jury was impaneled

1 may, by an order entered on the minutes of the court, extend, from
2 time to time, the period during which the grand jury serves, for the
3 purpose of concluding the investigation of matters then before the
4 grand jury.

5 (b) The extended period during which the grand jury serves
6 under Subsection (a) may not exceed a total of 90 days after the
7 expiration date of the term for which the grand jury was impaneled.

8 (c) All indictments pertaining to the investigation for
9 which the extension was granted returned by the grand jury during
10 the extended period are as valid as if returned before the
11 expiration of the term. (Code Crim. Proc., Art. 19.07.)

12 Source Law

13 Art. 19.07. EXTENSION BEYOND TERM OF PERIOD FOR
14 WHICH GRAND JURORS SHALL SIT. If prior to the
15 expiration of the term for which the grand jury was
16 impaneled, it is made to appear by a declaration of the
17 foreman or of a majority of the grand jurors in open
18 court, that the investigation by the grand jury of the
19 matters before it cannot be concluded before the
20 expiration of the term, the judge of the district court
21 in which said grand jury was impaneled may, by the
22 entry of an order on the minutes of said court, extend,
23 from time to time, for the purpose of concluding the
24 investigation of matters then before it, the period
25 during which said grand jury shall sit, for not to
26 exceed a total of ninety days after the expiration of
27 the term for which it was impaneled, and all
28 indictments pertaining thereto returned by the grand
29 jury within said extended period shall be as valid as
30 if returned before the expiration of the term.

31 SUBCHAPTER G. BAILIFFS

32 Revised Law

33 Art. 19A.301. BAILIFFS APPOINTED; COMPENSATION. (a) The
34 court and the district attorney may each appoint one or more
35 bailiffs to attend to the grand jury.

36 (b) The court, or a person under the direction of the court,
37 shall administer the following oath to each bailiff at the time of
38 appointment: "You solemnly swear that you will faithfully and
39 impartially perform all the duties of bailiff of the grand jury, and
40 that you will keep secret the proceedings of the grand jury, so help
41 you God."

42 (c) Bailiffs appointed under this article shall be

1 compensated in an amount set by the applicable county commissioners
2 court. (Code Crim. Proc., Art. 19.36.)

3 Source Law

4 Art. 19.36. BAILIFFS APPOINTED. The court and
5 the district attorney may each appoint one or more
6 bailiffs to attend upon the grand jury, and at the time
7 of appointment, the following oath shall be
8 administered to each of them by the court, or under its
9 direction: "You solemnly swear that you will
10 faithfully and impartially perform all the duties of
11 bailiff of the grand jury, and that you will keep
12 secret the proceedings of the grand jury, so help you
13 God". Such bailiffs shall be compensated in a sum to
14 be set by the commissioners court of said county.

15 Revised Law

16 Art. 19A.302. BAILIFF'S DUTIES. (a) A bailiff shall:

- 17 (1) obey the instructions of the foreperson;
18 (2) summon all witnesses; and
19 (3) perform all duties the foreperson requires of the
20 bailiff.

21 (b) One bailiff shall always be with the grand jury if two or
22 more bailiffs are appointed. (Code Crim. Proc., Art. 19.37.)

23 Source Law

24 Art. 19.37. BAILIFF'S DUTIES. A bailiff is to
25 obey the instructions of the foreman, to summon all
26 witnesses, and generally, to perform all such duties
27 as the foreman may require of him. One bailiff shall
28 be always with the grand jury, if two or more are
29 appointed.

30 Revised Law

31 Art. 19A.303. BAILIFF'S VIOLATION OF DUTY. (a) A bailiff
32 may not:

- 33 (1) take part in the discussions or deliberations of
34 the grand jury; or
35 (2) be present when the grand jury is discussing or
36 voting on a question.

37 (b) The grand jury shall report to the court any violation
38 of duty by a bailiff. The court may punish the bailiff for the
39 violation as for contempt. (Code Crim. Proc., Art. 19.38.)

40 Source Law

41 Art. 19.38. BAILIFF VIOLATING DUTY. No bailiff
42 shall take part in the discussions or deliberations of

1 the grand jury nor be present when they are discussing
 2 or voting upon a question. The grand jury shall report
 3 to the court any violation of duty by a bailiff and the
 4 court may punish him for such violation as for
 5 contempt.

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15 CHAPTER 20A. GRAND JURY PROCEEDINGS

16 SUBCHAPTER A. GENERAL PROVISIONS

17 Revised Law

18 Art. 20A.001. DEFINITIONS. In this chapter:

19 (1) "Attorney representing the state" means the

20 attorney general, district attorney, criminal district attorney,

21 or county attorney.

22 (2) "Foreperson" means the foreperson of the grand

23 jury appointed under Article 19A.203. (Code Crim. Proc., Art.

24 20.03 (part); New.)

25 Source Law

26 Art. 20.03. ATTORNEY REPRESENTING STATE

27 ENTITLED TO APPEAR. "The attorney representing the

28 State" means the Attorney General, district attorney,

29 criminal district attorney, or county attorney. . . .

30 Revisor's Note

31 (1) Article 20.03, Code of Criminal Procedure,

32 defines "attorney representing the State" to mean the

33 attorney general, district attorney, criminal

34 district attorney, or county attorney. Article 20.03

35 was first added to Chapter 20, Code of Criminal

1 Procedure, by Chapter 722 (S.B. 107), Acts of the 59th
2 Legislature, Regular Session, 1965. At that time, the
3 definition of "attorney representing the State"
4 provided by Article 20.03 was the first reference in
5 Chapter 20 to the attorney representing the state. It
6 is clear from the context that the definition was
7 intended to apply chapter-wide, and the revised law is
8 drafted accordingly.

9 (2) The definition of "foreperson" is added to
10 the revised law for clarity and the convenience of the
11 reader.

12 SUBCHAPTER B. DUTIES OF GRAND JURY AND GRAND JURORS

13 Revised Law

14 Art. 20A.051. DUTIES OF GRAND JURY. The grand jury shall
15 inquire into all offenses subject to indictment of which any grand
16 juror may have knowledge or of which the grand jury is informed by
17 the attorney representing the state or by any other credible
18 person. (Code Crim. Proc., Art. 20.09.)

19 Source Law

20 Art. 20.09. DUTIES OF GRAND JURY. The grand
21 jury shall inquire into all offenses liable to
22 indictment of which any member may have knowledge, or
23 of which they shall be informed by the attorney
24 representing the State, or any other credible person.

25 Revised Law

26 Art. 20A.052. DUTIES AND POWERS OF FOREPERSON. (a) The
27 foreperson shall:

28 (1) preside over the grand jury's sessions; and

29 (2) conduct the grand jury's business and proceedings
30 in an orderly manner.

31 (b) The foreperson may appoint one or more of the grand
32 jurors to act as clerks for the grand jury. (Code Crim. Proc., Art.
33 20.07.)

34 Source Law

35 Art. 20.07. FOREMAN SHALL PRESIDE. The foreman
36 shall preside over the sessions of the grand jury, and
37 conduct its business and proceedings in an orderly

1 manner. He may appoint one or more members of the body
2 to act as clerks for the grand jury.

3 Revised Law

4 Art. 20A.053. MEETING AND ADJOURNMENT. The grand jury
5 shall meet and adjourn at times agreed on by a majority of the grand
6 jury, except that the grand jury may not adjourn for more than three
7 consecutive days unless the court consents to the adjournment.
8 With the court's consent, the grand jury may adjourn for a longer
9 period and shall conform the grand jury's adjournments as closely
10 as possible to the court's adjournments. (Code Crim. Proc., Art.
11 20.08.)

12 Source Law

13 Art. 20.08. ADJOURNMENTS. The grand jury shall
14 meet and adjourn at times agreed upon by a majority of
15 the body; but they shall not adjourn, at any one time,
16 for more than three days, unless by consent of the
17 court. With the consent of the court, they may adjourn
18 for a longer time, and shall as near as may be, conform
19 their adjournments to those of the court.

20 Revisor's Note

21 Article 20.08, Code of Criminal Procedure,
22 provides that the grand jury may not adjourn "at any
23 one time" for more than three days. For clarity, the
24 revised law substitutes "consecutive" for "at any one
25 time" because in context the terms are synonymous and
26 "consecutive" is more commonly used.

27 SUBCHAPTER C. GRAND JURY ROOM; PERSONS AUTHORIZED TO BE PRESENT

28 Revised Law

29 Art. 20A.101. GRAND JURY ROOM. After the grand jury is
30 organized, the grand jury shall discharge the grand jury's duties
31 in a suitable place that the sheriff shall prepare for the grand
32 jury's sessions. (Code Crim. Proc., Art. 20.01.)

33 Source Law

34 Art. 20.01. GRAND JURY ROOM. After the grand
35 jury is organized they shall proceed to the discharge
36 of their duties in a suitable place which the sheriff
37 shall prepare for their sessions.

38 Revised Law

39 Art. 20A.102. PERSONS WHO MAY BE PRESENT IN GRAND JURY ROOM.

1 (a) While the grand jury is conducting proceedings, only the
2 following persons may be present in the grand jury room:

- 3 (1) a grand juror;
- 4 (2) a bailiff;
- 5 (3) the attorney representing the state;
- 6 (4) a witness:
 - 7 (A) while the witness is being examined; or
 - 8 (B) when the witness's presence is necessary to
 - 9 assist the attorney representing the state in examining another
 - 10 witness or presenting evidence to the grand jury;
- 11 (5) an interpreter, if necessary;
- 12 (6) a stenographer or a person operating an electronic
- 13 recording device, as provided by Article 20A.201; and
- 14 (7) a person operating a video teleconferencing system
- 15 for use under Article 20A.259.

16 (b) While the grand jury is deliberating, only a grand juror
17 may be present in the grand jury room. (Code Crim. Proc., Art.
18 20.011.)

19 Source Law

20 Art. 20.011. WHO MAY BE PRESENT IN GRAND JURY
21 ROOM. (a) Only the following persons may be present
22 in a grand jury room while the grand jury is conducting
23 proceedings:
24 (1) grand jurors;
25 (2) bailiffs;
26 (3) the attorney representing the state;
27 (4) witnesses while being examined or when
28 necessary to assist the attorney representing the
29 state in examining other witnesses or presenting
30 evidence to the grand jury;
31 (5) interpreters, if necessary;
32 (6) a stenographer or person operating an
33 electronic recording device, as provided by Article
34 20.012; and
35 (7) a person operating a video
36 teleconferencing system for use under Article 20.151.
37 (b) Only a grand juror may be in a grand jury
38 room while the grand jury is deliberating.

39 Revised Law

40 Art. 20A.103. ATTORNEY REPRESENTING STATE ENTITLED TO
41 APPEAR. The attorney representing the state is entitled to appear
42 before the grand jury and inform the grand jury of offenses subject
43 to indictment at any time except when the grand jury is discussing

1 the propriety of finding an indictment or is voting on an
2 indictment. (Code Crim. Proc., Art. 20.03 (part).)

3 Source Law

4 Art. 20.03. . . . The attorney representing
5 the State, is entitled to go before the grand jury and
6 inform them of offenses liable to indictment at any
7 time except when they are discussing the propriety of
8 finding an indictment or voting upon the same.

9 Revised Law

10 Art. 20A.104. PERSONS WHO MAY ADDRESS GRAND JURY. No person
11 may address the grand jury about a matter before the grand jury
12 other than the attorney representing the state, a witness, or the
13 accused or suspected person or the attorney for the accused or
14 suspected person if approved by the attorney representing the
15 state. (Code Crim. Proc., Art. 20.04 (part).)

16 Source Law

17 Art. 20.04. . . . No person may address the
18 grand jury about a matter before the grand jury other
19 than the attorney representing the State, a witness,
20 or the accused or suspected person or the attorney for
21 the accused or suspected person if approved by the
22 State's attorney.

23 Revisor's Note

24 Article 20.04, Code of Criminal Procedure, refers
25 to the "State's attorney." Throughout this chapter,
26 the revised law substitutes "attorney representing the
27 state" for "State's attorney" and other similar
28 references for clarity and consistency in the
29 terminology used within the chapter and because
30 "attorney representing the state" is the defined term
31 under Article 20.03, Code of Criminal Procedure,
32 revised in relevant part in this chapter as Article
33 20A.001(1).

34 SUBCHAPTER D. ADVICE TO GRAND JURY

35 Revised Law

36 Art. 20A.151. ADVICE FROM ATTORNEY REPRESENTING STATE. The
37 grand jury may send for the attorney representing the state and ask
38 the attorney's advice on any matter of law or on any question

1 regarding the discharge of the grand jury's duties. (Code Crim.
2 Proc., Art. 20.05.)

3 Source Law

4 Art. 20.05. MAY SEND FOR ATTORNEY. The grand
5 jury may send for the attorney representing the state
6 and ask his advice upon any matter of law or upon any
7 question arising respecting the proper discharge of
8 their duties.

9 Revisor's Note

10 Article 20.05, Code of Criminal Procedure, refers
11 to questions "arising respecting" the "proper"
12 discharge of the grand jury's duties. The revised law
13 substitutes "regarding" for "arising respecting"
14 because in context the language is synonymous and
15 "regarding" is more commonly used. The revised law
16 also omits "proper" as unnecessary because the quoted
17 language does not add to the clear meaning of the law.

18 Revised Law

19 Art. 20A.152. ADVICE FROM COURT. (a) The grand jury may
20 seek and receive advice from the court regarding any matter before
21 the grand jury. For that purpose, the grand jury shall go into
22 court in a body.

23 (b) The grand jury shall ensure that the manner in which the
24 grand jury's questions are asked does not divulge the particular
25 accusation pending before the grand jury.

26 (c) The grand jury may submit questions to the court in
27 writing. The court may respond to those questions in writing. (Code
28 Crim. Proc., Art. 20.06.)

29 Source Law

30 Art. 20.06. ADVICE FROM COURT. The grand jury
31 may also seek and receive advice from the court
32 touching any matter before them, and for this purpose,
33 shall go into court in a body; but they shall so guard
34 the manner of propounding their questions as not to
35 divulge the particular accusation that is pending
36 before them; or they may propound their questions in
37 writing, upon which the court may give them the desired
38 information in writing.

1 SUBCHAPTER E. RECORDING AND DISCLOSURE OF GRAND JURY PROCEEDINGS

2 Revised Law

3 Art. 20A.201. RECORDING OF ACCUSED OR SUSPECTED PERSON'S
4 TESTIMONY; RETENTION OF RECORDS. (a) The examination of an accused
5 or suspected person before the grand jury and that person's
6 testimony shall be recorded by a stenographer or by use of an
7 electronic device capable of recording sound.

8 (b) The validity of a grand jury proceeding is not affected
9 by an unintentional failure to record all or part of the examination
10 or testimony under Subsection (a).

11 (c) The attorney representing the state shall maintain
12 possession of all records other than stenographer's notes made
13 under Subsection (a) and any typewritten transcription of those
14 records, except as otherwise provided by this subchapter. (Code
15 Crim. Proc., Art. 20.012.)

16 Source Law

17 Art. 20.012. RECORDING OF CERTAIN TESTIMONY.
18 (a) Questions propounded by the grand jury or the
19 attorney representing the state to a person accused or
20 suspected and the testimony of that person to the grand
21 jury shall be recorded either by a stenographer or by
22 use of an electronic device capable of recording
23 sound.

24 (b) The validity of a grand jury proceeding is
25 not affected by an unintentional failure to record all
26 or part of questions propounded or testimony made
27 under Subsection (a).

28 (c) The attorney representing the state shall
29 maintain possession of all records other than
30 stenographer's notes made under this article and any
31 typewritten transcription of those records, except as
32 provided by Article 20.02.

33 Revisor's Note

34 (1) Article 20.012(a), Code of Criminal
35 Procedure, refers to "[q]uestions" propounded by the
36 grand jury or the attorney representing the state to an
37 accused or suspected person. The revised law
38 substitutes "examination" for "questions" for clarity
39 and consistency in the terminology used within the
40 chapter.

41 (2) Article 20.012(a), Code of Criminal

1 Procedure, requires questions "propounded by the grand
2 jury or the attorney representing the state" to an
3 accused or suspected person to be recorded. The
4 revised law omits the quoted language as unnecessary
5 because only the grand jury and the attorney
6 representing the state may question a witness under
7 Article 20.04, Code of Criminal Procedure, revised in
8 relevant part in this chapter as Article 20A.257(a).

9 (3) Article 20.012(c), Code of Criminal
10 Procedure, provides that the attorney representing the
11 state shall maintain possession of certain records
12 "except as provided by Article 20.02," meaning Article
13 20.02, Code of Criminal Procedure. The provisions of
14 Article 20.02 that provide exceptions to the
15 requirement that the attorney representing the state
16 maintain possession of those records are revised in
17 this subchapter. The revised law is drafted
18 accordingly.

19 Revised Law

20 Art. 20A.202. PROCEEDINGS SECRET. (a) Grand jury
21 proceedings are secret.

22 (b) A subpoena or summons relating to a grand jury
23 proceeding or investigation must be kept secret to the extent and
24 for as long as necessary to prevent the unauthorized disclosure of a
25 matter before the grand jury. This subsection may not be construed
26 to limit a disclosure permitted by Article 20A.204(b), (c), or (d)
27 or 20A.205(a) or (b). (Code Crim. Proc., Arts. 20.02(a), (h).)

28 Source Law

29 Art. 20.02. PROCEEDINGS SECRET. (a) The
30 proceedings of the grand jury shall be secret.

31 (h) A subpoena or summons relating to a grand
32 jury proceeding or investigation must be kept secret
33 to the extent and for as long as necessary to prevent
34 the unauthorized disclosure of a matter before the
35 grand jury. This subsection may not be construed to
36 limit a disclosure permitted by Subsection (c), (d),
37 or (e).

1 Revised Law

2 Art. 20A.203. DISCLOSURE BY PERSON IN PROCEEDING
3 PROHIBITED. (a) A grand juror, bailiff, interpreter, stenographer
4 or person operating an electronic recording device, person
5 preparing a typewritten transcription of a stenographic or
6 electronic recording, or person operating a video teleconferencing
7 system for use under Article 20A.259 who discloses anything
8 transpiring before the grand jury in the course of the grand jury's
9 official duties, regardless of whether the thing transpiring is
10 recorded, may be punished by a fine not to exceed \$500, as for
11 contempt of court, by a term of confinement not to exceed 30 days,
12 or both.

13 (b) A witness who reveals any matter about which the witness
14 is examined or that the witness observes during a grand jury
15 proceeding, other than when the witness is required to give
16 evidence on that matter in due course, may be punished by a fine not
17 to exceed \$500, as for contempt of court, and by a term of
18 confinement not to exceed six months. (Code Crim. Proc., Arts.
19 20.02(b), 20.16(b).)

20 Source Law

21 [Art. 20.02]

22 (b) A grand juror, bailiff, interpreter,
23 stenographer or person operating an electronic
24 recording device, person preparing a typewritten
25 transcription of a stenographic or electronic
26 recording, or person operating a video
27 teleconferencing system for use under Article 20.151
28 who discloses anything transpiring before the grand
29 jury, regardless of whether the thing transpiring is
30 recorded, in the course of the official duties of the
31 grand jury, is liable to a fine as for contempt of the
32 court, not exceeding \$500, imprisonment not exceeding
33 30 days, or both the fine and imprisonment.

34 [Art. 20.16]

35 (b) A witness who reveals any matter about which
36 the witness is interrogated or that the witness has
37 observed during the proceedings of the grand jury,
38 other than when required to give evidence thereof in
39 due course, shall be liable to a fine as for contempt
40 of court, not exceeding \$500, and to imprisonment not
41 exceeding six months.

42 Revisor's Note

43 (1) Article 20.02(b), Code of Criminal

1 Procedure, provides that a person "is liable to"
2 punishment under certain circumstances. The revised
3 law substitutes "may be punished by" for "is liable to"
4 because in context the phrases are synonymous and "may
5 be punished by" is more consistent with modern usage.

6 (2) Articles 20.02(b) and 20.16(b), Code of
7 Criminal Procedure, refer to "imprisonment." The
8 revised law substitutes "confinement" for
9 "imprisonment" to conform to the penalty structure and
10 terminology of the Penal Code.

11 (3) Article 20.16(b), Code of Criminal
12 Procedure, refers to a witness being "interrogated."
13 Throughout this chapter, the revised law substitutes
14 "examined" for "interrogated" for the reason stated in
15 Revisor's Note (1) to Article 20A.201.

16 (4) Article 20.16(b), Code of Criminal
17 Procedure, states that a witness who reveals certain
18 information relating to a grand jury proceeding "shall
19 be liable to" certain punishment. The revised law
20 substitutes "may be punished by" for "shall be liable
21 to" because in context the phrases are synonymous and
22 "may be punished by" is more consistent with modern
23 usage.

24 Revised Law

25 Art. 20A.204. DISCLOSURE BY ATTORNEY REPRESENTING STATE.

26 (a) The attorney representing the state may not disclose anything
27 transpiring before the grand jury except as permitted by this
28 article or Article 20A.205(a) or (b).

29 (b) In performing the attorney's duties, the attorney
30 representing the state may disclose or permit a disclosure of a
31 record made under Article 20A.201 or a typewritten transcription of
32 that record, or may make or permit a disclosure otherwise
33 prohibited by Article 20A.203, to a grand juror serving on the grand
34 jury before which the record was made, another grand jury, a law

1 enforcement agency, or a prosecuting attorney, as the attorney
2 representing the state determines is necessary to assist the
3 attorney in the performance of the attorney's duties.

4 (c) The attorney representing the state shall warn any
5 person authorized to receive information under Subsection (b) of
6 the person's duty to maintain the secrecy of the information.

7 (d) A person who receives information under Subsection (b)
8 and discloses that information for purposes other than those
9 permitted by that subsection may be punished for contempt in the
10 same manner as a person who violates Article 20A.203(a). (Code
11 Crim. Proc., Arts. 20.02(c), (g).)

12 Source Law

13 (c) A disclosure of a record made under Article
14 20.012, a disclosure of a typewritten transcription of
15 that record, or a disclosure otherwise prohibited by
16 Subsection (b) or Article 20.16 may be made by the
17 attorney representing the state in performing the
18 attorney's duties to a grand juror serving on the grand
19 jury before whom the record was made, another grand
20 jury, a law enforcement agency, or a prosecuting
21 attorney, as permitted by the attorney representing
22 the state and determined by the attorney as necessary
23 to assist the attorney in the performance of the
24 attorney's duties. The attorney representing the
25 state shall warn any person the attorney authorizes to
26 receive information under this subsection of the
27 person's duty to maintain the secrecy of the
28 information. Any person who receives information
29 under this subsection and discloses the information
30 for purposes other than those permitted by this
31 subsection is subject to punishment for contempt in
32 the same manner as persons who violate Subsection (b).

33 (g) The attorney representing the state may not
34 disclose anything transpiring before the grand jury
35 except as permitted by Subsections (c), (d), and (e).

36 Revisor's Note

37 Article 20.02(c), Code of Criminal Procedure,
38 provides that the attorney representing the state may
39 make a disclosure otherwise prohibited under
40 "Subsection (b) or Article 20.16" under certain
41 circumstances. The provisions of Articles 20.02(b)
42 and 20.16 prohibiting disclosure are revised in
43 relevant part in this chapter as Article 20A.203, and
44 the revised law is drafted accordingly.

1 Revised Law

2 Art. 20A.205. PETITION FOR DISCLOSURE BY DEFENDANT. (a)

3 The defendant may petition a court to order the disclosure of
4 information made secret by Article 20A.202, 20A.203(a), or 20A.204,
5 including a recording or typewritten transcription under Article
6 20A.201, as a matter preliminary to or in connection with a judicial
7 proceeding. The court may order disclosure of the information if
8 the defendant shows a particularized need.

9 (b) A petition for disclosure under Subsection (a) must be
10 filed in the district court in which the case is pending. The
11 defendant must also file a copy of the petition with the attorney
12 representing the state, the parties to the judicial proceeding, and
13 any other person the court requires. Each person who receives a
14 copy of the petition under this subsection is entitled to appear
15 before the court. The court shall provide interested parties with
16 an opportunity to appear and present arguments for or against the
17 requested disclosure.

18 (c) A person who receives information under this article and
19 discloses that information may be punished for contempt in the same
20 manner as a person who violates Article 20A.203(a). (Code
21 Crim. Proc., Arts. 20.02(d), (e), (f).)

22 Source Law

23 (d) The defendant may petition a court to order
24 the disclosure of information otherwise made secret by
25 this article or the disclosure of a recording or
26 typewritten transcription under Article 20.012 as a
27 matter preliminary to or in connection with a judicial
28 proceeding. The court may order disclosure of the
29 information, recording, or transcription on a showing
30 by the defendant of a particularized need.

31 (e) A petition for disclosure under Subsection
32 (d) must be filed in the district court in which the
33 case is pending. The defendant must also file a copy
34 of the petition with the attorney representing the
35 state, the parties to the judicial proceeding, and any
36 other persons required by the court to receive a copy
37 of the petition. All persons receiving a petition
38 under this subsection are entitled to appear before
39 the court. The court shall provide interested parties
40 with an opportunity to appear and present arguments
41 for the continuation of or end to the requirement of
42 secrecy.

43 (f) A person who receives information under
44 Subsection (d) or (e) and discloses that information
45 is subject to punishment for contempt in the same

1 manner as a person who violates Subsection (b).

2 Revisor's Note

3 Article 20.02(d), Code of Criminal Procedure,
4 provides that a defendant may petition a court to order
5 the disclosure of information otherwise made secret by
6 "this article." The provisions of Article 20.02 that
7 make information secret are revised in relevant part
8 in this chapter as Articles 20A.202, 20A.203(a), and
9 20A.204, and the revised law is drafted accordingly.

10 SUBCHAPTER F. WITNESSES

11 Revised Law

12 Art. 20A.251. IN-COUNTY WITNESS. (a) In term time or
13 vacation, the foreperson or the attorney representing the state may
14 issue a summons or attachment for any witness in the county in which
15 the grand jury sits.

16 (b) A summons or attachment issued under Subsection (a) may
17 require the witness to appear before the grand jury at a specified
18 time, or immediately, without stating the matter under
19 investigation. (Code Crim. Proc., Art. 20.10.)

20 Source Law

21 Art. 20.10. ATTORNEY OR FOREMAN MAY ISSUE
22 PROCESS. The attorney representing the state, or the
23 foreman, in term time or vacation, may issue a summons
24 or attachment for any witness in the county where they
25 are sitting; which summons or attachment may require
26 the witness to appear before them at a time fixed, or
27 forthwith, without stating the matter under
28 investigation.

29 Revisor's Note

30 (1) Article 20.10, Code of Criminal Procedure,
31 provides that the attorney representing the state or
32 the foreperson may issue a summons or attachment for
33 any witness in the county where "they" are sitting.
34 The article further provides that the summons or
35 attachment may require the witness to appear before
36 "them." The revised law substitutes "the grand jury"
37 for "they" and "them" because it is clear from the
38 context that those pronouns refer to the grand jury.

1 (2) Article 20.10, Code of Criminal Procedure,
2 provides that a summons or attachment may require a
3 witness to appear before the grand jury "forthwith."
4 Throughout this chapter, the revised law substitutes
5 "immediately" for "forthwith" because in context the
6 terms are synonymous and "immediately" is more
7 consistent with modern usage.

8 Revised Law

9 Art. 20A.252. OUT-OF-COUNTY WITNESS. (a) The foreperson
10 or the attorney representing the state may cause a subpoena or
11 attachment for a witness to be issued to any county in the state by
12 submitting a written application to the district court stating the
13 name and residence of the witness and that the witness's testimony
14 is believed to be material.

15 (b) A subpoena or attachment issued under this article:

16 (1) is returnable to the grand jury in session or to
17 the next grand jury for the county in which the subpoena or
18 attachment was issued, as determined by the applicant; and

19 (2) shall be served and returned in the manner
20 prescribed by Chapter 24.

21 (c) A subpoena issued under this article may require the
22 witness to appear and produce records and documents.

23 (d) A witness subpoenaed under this article shall be
24 compensated as provided by this code.

25 (e) An attachment issued under this article must command the
26 sheriff or any constable of the county in which the witness resides
27 to serve the witness and to bring the witness before the grand jury
28 at a time and place specified in the attachment.

29 (f) The attorney representing the state may cause an
30 attachment to be issued under this article in term time or vacation.

31 (Code Crim. Proc., Arts. 20.11, 20.12.)

32 Source Law

33 Art. 20.11. OUT-OF-COUNTY WITNESSES.
34 Sec. 1. The foreman or the attorney
35 representing the State may, upon written application

1 to the district court stating the name and residence of
2 the witness and that his testimony is believed to be
3 material, cause a subpoena or an attachment to be
4 issued to any county in the State for such witness,
5 returnable to the grand jury then in session, or to the
6 next grand jury for the county from whence the same
7 issued, as such foreman or attorney may desire. The
8 subpoena may require the witness to appear and produce
9 records and documents. An attachment shall command
10 the sheriff or any constable of the county where the
11 witness resides to serve the witness, and have him
12 before the grand jury at the time and place specified
13 in the writ.

14 Sec. 2. A subpoena or attachment issued
15 pursuant to this article shall be served and returned
16 in the manner prescribed in Chapter 24 of this code.

17 A witness subpoenaed pursuant to this article
18 shall be compensated as provided in this code.

19 Art. 20.12. ATTACHMENT IN VACATION. The
20 attorney representing the state may cause an
21 attachment for a witness to be issued, as provided in
22 the preceding Article, either in term time or in
23 vacation.

24 Revised Law

25 Art. 20A.253. EXECUTION OF PROCESS. (a) A bailiff or other
26 officer who receives process to be served from the grand jury shall
27 immediately execute the process and return the process to:

28 (1) the foreperson, if the grand jury is in session; or

29 (2) the district clerk, if the grand jury is not in
30 session.

31 (b) If the process is returned unexecuted, the return must
32 state why the process was not executed. (Code Crim. Proc.,
33 Art. 20.13.)

34 Source Law

35 Art. 20.13. EXECUTION OF PROCESS. The bailiff
36 or other officer who receives process to be served from
37 a grand jury shall forthwith execute the same and
38 return it to the foreman, if the grand jury be in
39 session; and if the grand jury be not in session, the
40 process shall be returned to the district clerk. If
41 the process is returned not executed, the return shall
42 state why it was not executed.

43 Revised Law

44 Art. 20A.254. EVASION OF PROCESS. If the court determines
45 that a witness for whom an attachment has been issued to appear
46 before the grand jury is in any manner wilfully evading the service
47 of the summons or attachment, the court may fine the witness, as for
48 contempt, in an amount not to exceed \$500. (Code Crim. Proc.,
49 Art. 20.14.)

1 Source Law

2 Art. 20.14. EVASION OF PROCESS. If it be made
3 to appear satisfactorily to the court that a witness
4 for whom an attachment has been issued to go before the
5 grand jury is in any manner wilfully evading the
6 service of such summons or attachment, the court may
7 fine such witness, as for contempt, not exceeding five
8 hundred dollars.

9 Revised Law

10 Art. 20A.255. WITNESS REFUSAL TO TESTIFY. (a) If a witness
11 brought in any manner before a grand jury refuses to testify, the
12 witness's refusal shall be communicated to the attorney
13 representing the state or to the court.

14 (b) The court may compel a witness described by Subsection
15 (a) to answer a proper question by imposing a fine not to exceed
16 \$500 and by committing the witness to jail until the witness is
17 willing to testify. (Code Crim. Proc., Art. 20.15.)

18 Source Law

19 Art. 20.15. WHEN WITNESS REFUSES TO TESTIFY.
20 When a witness, brought in any manner before a grand
21 jury, refuses to testify, such fact shall be made known
22 to the attorney representing the State or to the court;
23 and the court may compel the witness to answer the
24 question, if it appear to be a proper one, by imposing
25 a fine not exceeding five hundred dollars, and by
26 committing the party to jail until he is willing to
27 testify.

28 Revisor's Note

29 (1) Article 20.15, Code of Criminal Procedure,
30 provides that a witness's refusal to testify shall be
31 "made known" to the attorney representing the state or
32 to the court. The revised law substitutes
33 "communicated" for "made known" because in context the
34 phrases are synonymous and "communicated" is more
35 consistent with modern usage.

36 (2) Article 20.15, Code of Criminal Procedure,
37 provides that the court may compel a witness to answer
38 a "question, if it appear to be a proper one." The
39 Texas Court of Criminal Appeals has interpreted the
40 quoted language to mean that a court may compel a
41 witness to answer a question only if the question is

1 proper. See *Ex parte Edone*, 740 S.W.2d 446 (Tex. Crim.
2 App. 1987). Accordingly, the revised law substitutes a
3 "proper question" for the quoted language for clarity.

4 (3) Article 20.15, Code of Criminal Procedure,
5 provides that the court may compel a witness to answer
6 a question by committing the "party" to jail. It is
7 clear from the context that the "party" is the witness
8 who refuses to testify. The revised law is drafted
9 accordingly.

10 Revised Law

11 Art. 20A.256. WITNESS OATH. Before each witness is
12 examined, the foreperson or a person under the foreperson's
13 direction shall administer the following oath to the witness: "You
14 solemnly swear that you will not reveal, by your words or conduct,
15 and will keep secret any matter about which you may be examined or
16 that you have observed during the proceedings of the grand jury, and
17 that you will answer truthfully the questions asked of you by the
18 grand jury, or under its direction, so help you God." (Code Crim.
19 Proc., Art. 20.16(a).)

20 Source Law

21 Art. 20.16. OATHS TO WITNESSES. (a) The
22 following oath shall be administered by the foreman,
23 or under the foreman's direction, to each witness
24 before being interrogated: "You solemnly swear that
25 you will not reveal, by your words or conduct, and will
26 keep secret any matter about which you may be
27 interrogated or that you have observed during the
28 proceedings of the grand jury, and that you will answer
29 truthfully the questions asked of you by the grand
30 jury, or under its direction, so help you God."

31 Revised Law

32 Art. 20A.257. EXAMINATION OF WITNESSES. (a) Only a grand
33 juror or the attorney representing the state may examine a witness
34 before the grand jury.

35 (b) The attorney representing the state shall advise the
36 grand jury regarding the proper mode of examining a witness.

37 (c) If a felony has been committed in any county in the grand
38 jury's jurisdiction, and the name of the offender is known or

1 unknown or if it is uncertain when or how the felony was committed,
2 the grand jury shall first state the subject matter under
3 investigation to a witness called before the grand jury and may then
4 ask questions relevant to the transaction in general terms and in a
5 manner that enables a determination as to whether the witness has
6 knowledge of the violation of any particular law by any person, and
7 if so, by what person. (Code Crim. Proc., Arts. 20.04 (part),
8 20.18.)

9 Source Law

10 Art. 20.04. ATTORNEY MAY EXAMINE WITNESSES.
11 The attorney representing the State may examine the
12 witnesses before the grand jury and shall advise as to
13 the proper mode of interrogating them. No person other
14 than the attorney representing the State or a grand
15 juror may question a witness before the grand
16 jury. . . .

17 Art. 20.18. HOW WITNESS QUESTIONED. When a
18 felony has been committed in any county within the
19 jurisdiction of the grand jury, and the name of the
20 offender is known or unknown or where it is uncertain
21 when or how the felony was committed, the grand jury
22 shall first state to the witness called the subject
23 matter under investigation, then may ask pertinent
24 questions relative to the transaction in general terms
25 and in such a manner as to determine whether he has
26 knowledge of the violation of any particular law by any
27 person, and if so, by what person.

28 Revisor's Note

29 (1) Article 20.04, Code of Criminal Procedure,
30 specifies the persons who may "question" a witness
31 before the grand jury. The revised law substitutes
32 "examine" for "question" for the reason stated in
33 Revisor's Note (1) to Article 20A.201.

34 (2) Article 20.18, Code of Criminal Procedure,
35 authorizes the grand jury to ask a witness "pertinent
36 questions relative" to the transaction under
37 investigation. The revised law substitutes "questions
38 relevant" for the quoted language because in context
39 the phrases are synonymous and "questions relevant" is
40 more concise.

41 Revised Law

42 Art. 20A.258. EXAMINATION OF ACCUSED OR SUSPECTED PERSON.

1 (a) Before the examination of an accused or suspected person who is
2 subpoenaed to appear before the grand jury, the person shall be:

3 (1) provided the warnings described by Subsection (b)
4 orally and in writing; and

5 (2) given a reasonable opportunity to:

6 (A) retain counsel or apply to the court for an
7 appointed attorney; and

8 (B) consult with counsel before appearing before
9 the grand jury.

10 (b) The warnings required under Subsection (a)(1) must
11 consist of the following:

12 "Your testimony before this grand jury is under oath. Any
13 material question that is answered falsely before this grand jury
14 subjects you to being prosecuted for aggravated perjury. You have
15 the right to refuse to make answers to any question, the answer to
16 which would incriminate you in any manner. You have the right to
17 have a lawyer present outside this chamber to advise you before
18 making answers to questions you feel might incriminate you. Any
19 testimony you give may be used against you at any subsequent
20 proceeding. If you are unable to employ a lawyer, you have the
21 right to have a lawyer appointed to advise you before making an
22 answer to a question, the answer to which you feel might incriminate
23 you."

24 (c) In examining an accused or suspected person, the grand
25 jury shall:

26 (1) first state:

27 (A) the offense of which the person is accused or
28 suspected;

29 (B) the county in which the offense is alleged to
30 have been committed; and

31 (C) as closely as possible, the time the offense
32 was committed; and

33 (2) direct the examination to the offense under
34 investigation. (Code Crim. Proc., Art. 20.17.)

1 Source Law

2 Art. 20.17. HOW SUSPECT OR ACCUSED QUESTIONED.
3 (a) The grand jury, in propounding questions to the
4 person accused or suspected, shall first state the
5 offense with which he is suspected or accused, the
6 county where the offense is said to have been committed
7 and as nearly as may be, the time of commission of the
8 offense, and shall direct the examination to the
9 offense under investigation.

10 (b) Prior to any questioning of an accused or
11 suspected person who is subpoenaed to appear before
12 the grand jury, the accused or suspected person shall
13 be furnished a written copy of the warnings contained
14 in Subsection (c) of this section and shall be given a
15 reasonable opportunity to retain counsel or apply to
16 the court for an appointed attorney and to consult with
17 counsel prior to appearing before the grand jury.

18 (c) If an accused or suspected person is
19 subpoenaed to appear before a grand jury prior to any
20 questions before the grand jury, the person accused or
21 suspected shall be orally warned as follows:

22 (1) "Your testimony before this grand jury
23 is under oath";

24 (2) "Any material question that is
25 answered falsely before this grand jury subjects you
26 to being prosecuted for aggravated perjury";

27 (3) "You have the right to refuse to make
28 answers to any question, the answer to which would
29 incriminate you in any manner";

30 (4) "You have the right to have a lawyer
31 present outside this chamber to advise you before
32 making answers to questions you feel might incriminate
33 you";

34 (5) "Any testimony you give may be used
35 against you at any subsequent proceeding";

36 (6) "If you are unable to employ a lawyer,
37 you have the right to have a lawyer appointed to advise
38 you before making an answer to a question, the answer
39 to which you feel might incriminate you."

40 Revisor's Note

41 (1) Article 20.17(a), Code of Criminal
42 Procedure, refers to the county where an offense is
43 "said" to have been committed. The revised law
44 substitutes "alleged" for "said" because in context
45 the terms are synonymous and "alleged" is more
46 commonly used.

47 (2) Article 20.17(a), Code of Criminal
48 Procedure, states certain requirements for a grand
49 jury that is "propounding questions" to an accused or
50 suspected person. Articles 20.17(b) and (c), Code of
51 Criminal Procedure, provide that certain steps must be
52 taken before any "questioning" of or "questions" to an

1 accused or suspected person subpoenaed to appear
2 before the grand jury. The revised law substitutes
3 "examining" and "examination" for the quoted language
4 for the reason stated in Revisor's Note (1) to Article
5 20A.201.

6 Revised Law

7 Art. 20A.259. PEACE OFFICER TESTIMONY BY VIDEO
8 TELECONFERENCING. (a) With the consent of the foreperson and the
9 attorney representing the state, a peace officer summoned to
10 testify before the grand jury may testify through the use of a
11 closed circuit video teleconferencing system that provides a
12 simultaneous, encrypted, compressed full motion video and
13 interactive communication of image and sound between the officer,
14 the grand jury, and the attorney representing the state.

15 (b) In addition to being administered the oath required
16 under Article 20A.256, before being examined, a peace officer
17 testifying through the use of a closed circuit video
18 teleconferencing system under this article shall affirm that the
19 officer's testimony:

20 (1) cannot be heard by any person other than a person
21 in the grand jury room; and

22 (2) is not being recorded or otherwise preserved by
23 any person at the location from which the officer is testifying.

24 (c) Testimony received from a peace officer under this
25 article shall be recorded in the same manner as other testimony
26 taken before the grand jury and shall be preserved. (Code Crim.
27 Proc., Art. 20.151.)

28 Source Law

29 Art. 20.151. CERTAIN TESTIMONY BY VIDEO
30 TELECONFERENCING. (a) With the consent of the
31 foreman of the grand jury and the attorney
32 representing the state, a peace officer summoned to
33 testify before the grand jury may testify through the
34 use of a closed circuit video teleconferencing system
35 that provides an encrypted, simultaneous, compressed
36 full motion video and interactive communication of
37 image and sound between the peace officer, the
38 attorney representing the state, and the grand jury.

39 (b) In addition to being administered the oath

1 described by Article 20.16(a), before being
2 interrogated, a peace officer testifying through the
3 use of a closed circuit video teleconferencing system
4 under this article shall affirm that:

5 (1) no person other than a person in the
6 grand jury room is capable of hearing the peace
7 officer's testimony; and

8 (2) the peace officer's testimony is not
9 being recorded or otherwise preserved by any person at
10 the location from which the peace officer is
11 testifying.

12 (c) Testimony received from a peace officer
13 under this article shall be recorded in the same manner
14 as other testimony taken before the grand jury and
15 shall be preserved.

16 SUBCHAPTER G. INDICTMENT

17 Revised Law

18 Art. 20A.301. VOTING ON INDICTMENT. After all the
19 testimony accessible to the grand jury has been given with respect
20 to any criminal accusation, the grand jury shall vote on the
21 presentment of an indictment. If at least nine grand jurors concur
22 in finding the bill, the foreperson shall make a memorandum of the
23 vote with any information enabling the attorney representing the
24 state to prepare the indictment. (Code Crim. Proc., Art. 20.19.)

25 Source Law

26 Art. 20.19. GRAND JURY SHALL VOTE. After all
27 the testimony which is accessible to the grand jury
28 shall have been given in respect to any criminal
29 accusation, the vote shall be taken as to the
30 presentment of an indictment, and if nine members
31 concur in finding the bill, the foreman shall make a
32 memorandum of the same with such data as will enable
33 the attorney who represents the State to write the
34 indictment.

35 Revisor's Note

36 (1) Article 20.19, Code of Criminal Procedure,
37 requires "nine" grand jurors to concur in finding the
38 bill. It is clear from the context that the indictment
39 is valid if nine or more grand jurors concur in finding
40 the bill, and the revised law is drafted accordingly.

41 (2) Article 20.19, Code of Criminal Procedure,
42 provides that a vote shall be taken on the presentment
43 of an indictment and requires the foreperson to make a
44 memorandum of "the same." It is clear from the context
45 that "the same" refers to the vote taken on the

1 presentment of the indictment, and the revised law is
2 drafted accordingly.

3 Revised Law

4 Art. 20A.302. PREPARATION OF INDICTMENT. (a) The attorney
5 representing the state shall prepare, with as little delay as
6 possible, each indictment found by the grand jury and shall deliver
7 the indictment to the foreperson. The attorney shall endorse on the
8 indictment the name of each witness on whose testimony the
9 indictment was found.

10 (b) The foreperson shall officially sign each indictment
11 prepared and delivered under Subsection (a). (Code Crim. Proc.,
12 Art. 20.20.)

13 Source Law

14 Art. 20.20. INDICTMENT PREPARED. The attorney
15 representing the State shall prepare all indictments
16 which have been found, with as little delay as
17 possible, and deliver them to the foreman, who shall
18 sign the same officially, and said attorney shall
19 endorse thereon the names of the witnesses upon whose
20 testimony the same was found.

21 Revised Law

22 Art. 20A.303. PRESENTMENT OF INDICTMENT. When an
23 indictment is ready to be presented, the grand jury shall, through
24 the foreperson, deliver the indictment to the judge or court clerk.
25 At least nine grand jurors must be present to deliver the
26 indictment. (Code Crim. Proc., Art. 20.21.)

27 Source Law

28 Art. 20.21. INDICTMENT PRESENTED. When the
29 indictment is ready to be presented, the grand jury
30 shall through their foreman, deliver the indictment to
31 the judge or clerk of the court. At least nine members
32 of the grand jury must be present on such occasion.

33 Revised Law

34 Art. 20A.304. PRESENTMENT OF INDICTMENT ENTERED IN RECORD.
35 (a) If the defendant is in custody or under bond at the time the
36 indictment is presented, the fact of the presentment shall be
37 entered in the court's record, noting briefly the style of the
38 criminal action, the file number of the indictment, and the
39 defendant's name.

1 (b) If the defendant is not in custody or under bond at the
2 time the indictment is presented, the indictment may not be made
3 public and the entry in the court's record relating to the
4 indictment must be delayed until the *capias* is served and the
5 defendant is placed in custody or under bond. (Code Crim. Proc.,
6 Art. 20.22.)

7 Source Law

8 Art. 20.22. PRESENTMENT ENTERED OF RECORD.

9 (a) The fact of a presentment of indictment by a grand
10 jury shall be entered in the record of the court, if
11 the defendant is in custody or under bond, noting
12 briefly the style of the criminal action, the file
13 number of the indictment, and the defendant's name.

14 (b) If the defendant is not in custody or under
15 bond at the time of the presentment of indictment, the
16 indictment may not be made public and the entry in the
17 record of the court relating to the indictment must be
18 delayed until the *capias* is served and the defendant is
19 placed in custody or under bond.

20 NOTE REGARDING THE FOLLOWING REVISION OF CHAPTER 56, CODE OF

21 CRIMINAL PROCEDURE

22 Chapter 56, Code of Criminal Procedure, consists of
23 Subchapters A, B, and C. Subchapter A relates to crime victims'
24 rights and is revised as Chapter 56A, Code of Criminal Procedure.
25 Subchapter B relates to crime victims' compensation and is revised
26 as Chapter 56B, Code of Criminal Procedure. Subchapter C relates to
27 an address confidentiality program for victims of certain criminal
28 offenses and is revised as Subchapter B, Chapter 58, Code of
29 Criminal Procedure.

30 As originally enacted, Chapter 56, Code of Criminal
31 Procedure, consisted only of provisions related to crime victims'
32 rights and was not organized into subchapters. See Section 1,
33 Chapter 588 (H.B. 235), Acts of the 69th Legislature, Regular
34 Session, 1985. In the 73rd Legislature, the existing articles of
35 Chapter 56 were designated as Subchapter A and provisions relating
36 to crime victims' compensation were added to that chapter as
37 Subchapter B. See Section 6, Chapter 268 (S.B. 248), Acts of the
38 73rd Legislature, Regular Session, 1993. However, that act did not
39 revise several references to "this chapter" that existed in the

1 articles designated as Subchapter A. As a result, certain
 2 provisions that were originally intended to refer only to what
 3 became a specific subchapter of Chapter 56 instead refer to the
 4 entirety of Chapter 56. See Articles 56.01 (revised as Articles
 5 56A.001 and 56B.003, Code of Criminal Procedure), 56.05(b) and (c)
 6 (revised as Articles 56A.160(d) and 56A.604, Code of Criminal
 7 Procedure), and 56.08(a)(2) (revised as Article 56A.451(a)(5)(A),
 8 Code of Criminal Procedure). In addition, amendments have been
 9 made to Subchapters A and B that refer to the entirety of Chapter
 10 56, but the context clearly indicates that the reference should be
 11 to only Subchapter A or B, respectively. See, e.g., Articles
 12 56.04(d-1) (revised as Article 56A.152, Code of Criminal Procedure)
 13 and 56.542(j) (revised as Article 56B.264, Code of Criminal
 14 Procedure).

15 Throughout the revision of Chapter 56, revisor's notes are
 16 included to explain any instance in which a reference to "this
 17 chapter" is revised to refer to a more specific portion of the
 18 revised law, as opposed to the entirety of Chapters 56A and 56B and
 19 Subchapter B, Chapter 58. If the reference is revised to continue
 20 to refer to the entirety of Chapters 56A and 56B and Subchapter B,
 21 Chapter 58, a revisor's note is not included.

22 CHAPTER 56A. RIGHTS OF CRIME VICTIMS

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23 CHAPTER 56A. RIGHTS OF CRIME VICTIMS

24 SUBCHAPTER A. GENERAL PROVISIONS

25 Revised Law

26 Art. 56A.001. DEFINITIONS. Except as otherwise provided by

27 this chapter, in this chapter:

28 (1) "Board" means the Board of Pardons and Paroles.

29 (2) "Clearinghouse" means the Texas Crime Victim

30 Clearinghouse.

31 (3) "Close relative of a deceased victim" means a

32 person who:

33 (A) was the spouse of a deceased victim at the

34 time of the victim's death; or

1 (B) is a parent or adult brother, sister, or
2 child of a deceased victim.

3 (4) "Department" means the Texas Department of
4 Criminal Justice.

5 (5) "Guardian of a victim" means a person who is the
6 legal guardian of the victim, regardless of whether the legal
7 relationship between the guardian and victim exists because of the
8 age of the victim or the physical or mental incompetency of the
9 victim.

10 (6) "Sexual assault" means an offense under the
11 following provisions of the Penal Code:

12 (A) Section 21.02;

13 (B) Section 21.11(a)(1);

14 (C) Section 22.011; or

15 (D) Section 22.021.

16 (7) "Victim" means a person who:

17 (A) is the victim of the offense of:

18 (i) sexual assault;

19 (ii) kidnapping;

20 (iii) aggravated robbery;

21 (iv) trafficking of persons; or

22 (v) injury to a child, elderly individual,
23 or disabled individual; or

24 (B) has suffered personal injury or death as a
25 result of the criminal conduct of another. (Code Crim. Proc., Art.
26 56.01; New.)

27 Source Law

28 Art. 56.01. DEFINITIONS. In this chapter:

29 (1) "Close relative of a deceased victim"
30 means a person who was the spouse of a deceased victim
31 at the time of the victim's death or who is a parent or
32 adult brother, sister, or child of the deceased
33 victim.

34 (2) "Guardian of a victim" means a person
35 who is the legal guardian of the victim, whether or not
36 the legal relationship between the guardian and victim
37 exists because of the age of the victim or the physical
38 or mental incompetency of the victim.

39 (2-a) "Sexual assault" means an offense
40 under Section 21.02, 21.11(a)(1), 22.011, or 22.021,

1 Penal Code.

2 (3) "Victim" means a person who is the
3 victim of the offense of sexual assault, kidnapping,
4 aggravated robbery, trafficking of persons, or injury
5 to a child, elderly individual, or disabled individual
6 or who has suffered personal injury or death as a
7 result of the criminal conduct of another.

8 Revisor's Note

9 The revised law adds the definitions of "board,"
10 "clearinghouse," and "department" for the convenience
11 of the reader and to avoid the frequent, unnecessary
12 repetition of the substance of the definitions. The
13 revised law also adds "[e]xcept as otherwise provided
14 by this chapter" because Article 56.065(a), Code of
15 Criminal Procedure, revised as Article 56A.301,
16 provides a definition of "department" for purposes of
17 Subchapter G of this chapter that differs from the
18 chapter-wide definition added to the revised law in
19 this article.

20 SUBCHAPTER B. CRIME VICTIMS' RIGHTS

21 Revised Law

22 Art. 56A.051. GENERAL RIGHTS. (a) A victim, guardian of a
23 victim, or close relative of a deceased victim is entitled to the
24 following rights within the criminal justice system:

25 (1) the right to receive from a law enforcement agency
26 adequate protection from harm and threats of harm arising from
27 cooperation with prosecution efforts;

28 (2) the right to have the magistrate consider the
29 safety of the victim or the victim's family in setting the amount of
30 bail for the defendant;

31 (3) if requested, the right to be informed:

32 (A) by the attorney representing the state of
33 relevant court proceedings, including appellate proceedings, and
34 to be informed if those proceedings have been canceled or
35 rescheduled before the event; and

36 (B) by an appellate court of the court's
37 decisions, after the decisions are entered but before the decisions

1 are made public;

2 (4) when requested, the right to be informed:

3 (A) by a peace officer concerning the defendant's
4 right to bail and the procedures in criminal investigations; and

5 (B) by the office of the attorney representing
6 the state concerning the general procedures in the criminal justice
7 system, including general procedures in guilty plea negotiations
8 and arrangements, restitution, and the appeals and parole process;

9 (5) the right to provide pertinent information to a
10 community supervision and corrections department conducting a
11 presentencing investigation concerning the impact of the offense on
12 the victim and the victim's family by testimony, written statement,
13 or any other manner before any sentencing of the defendant;

14 (6) the right to receive information regarding
15 compensation to victims of crime as provided by Chapter 56B,
16 including information related to the costs that may be compensated
17 under that chapter and the amount of compensation, eligibility for
18 compensation, and procedures for application for compensation
19 under that chapter, the payment for a forensic medical examination
20 under Article 56A.252 for a victim of an alleged sexual assault, and
21 when requested, to referral to available social service agencies
22 that may offer additional assistance;

23 (7) the right to:

24 (A) be informed, on request, of parole
25 procedures;

26 (B) participate in the parole process;

27 (C) provide to the board for inclusion in the
28 defendant's file information to be considered by the board before
29 the parole of any defendant convicted of any offense subject to this
30 chapter; and

31 (D) be notified, if requested, of parole
32 proceedings concerning a defendant in the victim's case and of the
33 defendant's release;

34 (8) the right to be provided with a waiting area,

1 separate or secure from other witnesses, including the defendant
2 and relatives of the defendant, before testifying in any proceeding
3 concerning the defendant; if a separate waiting area is not
4 available, other safeguards should be taken to minimize the
5 victim's contact with the defendant and the defendant's relatives
6 and witnesses, before and during court proceedings;

7 (9) the right to the prompt return of any of the
8 victim's property that is held by a law enforcement agency or the
9 attorney representing the state as evidence when the property is no
10 longer required for that purpose;

11 (10) the right to have the attorney representing the
12 state notify the victim's employer, if requested, that the victim's
13 cooperation and testimony is necessary in a proceeding that may
14 require the victim to be absent from work for good cause;

15 (11) the right to request victim-offender mediation
16 coordinated by the victim services division of the department;

17 (12) the right to be informed of the uses of a victim
18 impact statement and the statement's purpose in the criminal
19 justice system as described by Subchapter D, to complete the victim
20 impact statement, and to have the victim impact statement
21 considered:

22 (A) by the attorney representing the state and
23 the judge before sentencing or before a plea bargain agreement is
24 accepted; and

25 (B) by the board before a defendant is released
26 on parole;

27 (13) for a victim of an assault or sexual assault who
28 is younger than 17 years of age or whose case involves family
29 violence, as defined by Section 71.004, Family Code, the right to
30 have the court consider the impact on the victim of a continuance
31 requested by the defendant; if requested by the attorney
32 representing the state or by the defendant's attorney, the court
33 shall state on the record the reason for granting or denying the
34 continuance; and

1 (14) if the offense is a capital felony, the right to:

2 (A) receive by mail from the court a written
3 explanation of defense-initiated victim outreach if the court has
4 authorized expenditures for a defense-initiated victim outreach
5 specialist;

6 (B) not be contacted by the victim outreach
7 specialist unless the victim, guardian, or relative has consented
8 to the contact by providing a written notice to the court; and

9 (C) designate a victim service provider to
10 receive all communications from a victim outreach specialist acting
11 on behalf of any person.

12 (b) A victim, guardian of a victim, or close relative of a
13 deceased victim is entitled to the right to be present at all public
14 court proceedings related to the offense, subject to the approval
15 of the judge in the case.

16 (c) The office of the attorney representing the state and
17 the sheriff, police, and other law enforcement agencies shall
18 ensure to the extent practicable that a victim, guardian of a
19 victim, or close relative of a deceased victim is provided the
20 rights granted by this subchapter and, on request, an explanation
21 of those rights. (Code Crim. Proc., Arts. 56.02(a), (b), (c).)

22 Source Law

23 Art. 56.02. CRIME VICTIMS' RIGHTS. (a) A
24 victim, guardian of a victim, or close relative of a
25 deceased victim is entitled to the following rights
26 within the criminal justice system:

27 (1) the right to receive from law
28 enforcement agencies adequate protection from harm and
29 threats of harm arising from cooperation with
30 prosecution efforts;

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

35 (3) the right, if requested, to be
36 informed:

37 (A) by the attorney representing the
38 state of relevant court proceedings, including
39 appellate proceedings, and to be informed if those
40 proceedings have been canceled or rescheduled prior to
41 the event; and

42 (B) by an appellate court of
43 decisions of the court, after the decisions are
44 entered but before the decisions are made public;

45 (4) the right to be informed, when

1 requested, by a peace officer concerning the
2 defendant's right to bail and the procedures in
3 criminal investigations and by the district attorney's
4 office concerning the general procedures in the
5 criminal justice system, including general procedures
6 in guilty plea negotiations and arrangements,
7 restitution, and the appeals and parole process;

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

14 (6) the right to receive information
15 regarding compensation to victims of crime as provided
16 by Subchapter B, including information related to the
17 costs that may be compensated under that subchapter
18 and the amount of compensation, eligibility for
19 compensation, and procedures for application for
20 compensation under that subchapter, the payment for a
21 medical examination under Article 56.06 for a victim
22 of a sexual assault, and when requested, to referral to
23 available social service agencies that may offer
24 additional assistance;

25 (7) the right to be informed, upon
26 request, of parole procedures, to participate in the
27 parole process, to be notified, if requested, of
28 parole proceedings concerning a defendant in the
29 victim's case, to provide to the Board of Pardons and
30 Paroles for inclusion in the defendant's file
31 information to be considered by the board prior to the
32 parole of any defendant convicted of any crime subject
33 to this subchapter, and to be notified, if requested,
34 of the defendant's release;

35 (8) the right to be provided with a waiting
36 area, separate or secure from other witnesses,
37 including the offender and relatives of the offender,
38 before testifying in any proceeding concerning the
39 offender; if a separate waiting area is not available,
40 other safeguards should be taken to minimize the
41 victim's contact with the offender and the offender's
42 relatives and witnesses, before and during court
43 proceedings;

44 (9) the right to prompt return of any
45 property of the victim that is held by a law
46 enforcement agency or the attorney for the state as
47 evidence when the property is no longer required for
48 that purpose;

49 (10) the right to have the attorney for the
50 state notify the employer of the victim, if requested,
51 of the necessity of the victim's cooperation and
52 testimony in a proceeding that may necessitate the
53 absence of the victim from work for good cause;

54 (11) the right to request victim-offender
55 mediation coordinated by the victim services division
56 of the Texas Department of Criminal Justice;

57 (12) the right to be informed of the uses
58 of a victim impact statement and the statement's
59 purpose in the criminal justice system, to complete
60 the victim impact statement, and to have the victim
61 impact statement considered:

62 (A) by the attorney representing the
63 state and the judge before sentencing or before a plea
64 bargain agreement is accepted; and

65 (B) by the Board of Pardons and
66 Paroles before an inmate is released on parole;

67 (13) for a victim of an assault or sexual
68 assault who is younger than 17 years of age or whose

1 case involves family violence, as defined by Section
2 71.004, Family Code, the right to have the court
3 consider the impact on the victim of a continuance
4 requested by the defendant; if requested by the
5 attorney representing the state or by counsel for the
6 defendant, the court shall state on the record the
7 reason for granting or denying the continuance; and

8 (14) if the offense is a capital felony,
9 the right to:

10 (A) receive by mail from the court a
11 written explanation of defense-initiated victim
12 outreach if the court has authorized expenditures for
13 a defense-initiated victim outreach specialist;

14 (B) not be contacted by the victim
15 outreach specialist unless the victim, guardian, or
16 relative has consented to the contact by providing a
17 written notice to the court; and

18 (C) designate a victim service
19 provider to receive all communications from a victim
20 outreach specialist acting on behalf of any person.

21 (b) A victim, guardian of a victim, or close
22 relative of a deceased victim is entitled to the right
23 to be present at all public court proceedings related
24 to the offense, subject to the approval of the judge in
25 the case.

26 (c) The office of the attorney representing the
27 state, and the sheriff, police, and other law
28 enforcement agencies shall ensure to the extent
29 practicable that a victim, guardian of a victim, or
30 close relative of a deceased victim is afforded the
31 rights granted by this article and Article 56.021 and,
32 on request, an explanation of those rights.

33 Revisor's Note

34 (1) Article 56.02(a)(2), Code of Criminal
35 Procedure, refers to a magistrate considering the
36 safety of the victim or the victim's family "as an
37 element in fixing the amount of bail." The revised law
38 omits "as an element" as unnecessary because the
39 phrase does not add to the clear meaning of the law.
40 The revised law substitutes "setting" for "fixing"
41 because in this context the terms are synonymous and
42 "setting" is more consistent with modern usage.

43 (2) Article 56.02(a)(2), Code of Criminal
44 Procedure, refers to the "accused," Articles
45 56.02(a)(5) and (8), Code of Criminal Procedure, refer
46 to the "offender," and Article 56.02(a)(12)(B), Code
47 of Criminal Procedure, refers to an "inmate."
48 Throughout this chapter, the revised law substitutes
49 "defendant" for these terms in the context of a right
50 of a victim or witness because the terms are synonymous

1 and "defendant" is more commonly used in Subchapter A,
2 Chapter 56, Code of Criminal Procedure, revised as
3 this chapter.

4 (3) Article 56.02(a)(4), Code of Criminal
5 Procedure, refers to the "district attorney's office."
6 The revised law substitutes "office of the attorney
7 representing the state" for the quoted language
8 because the terms are synonymous and "office of the
9 attorney representing the state" is more commonly used
10 in the Code of Criminal Procedure.

11 (4) Article 56.02(a)(5), Code of Criminal
12 Procedure, refers to a "probation department"
13 conducting a presentencing investigation. Section
14 1.20(h), Chapter 785 (H.B. 2335), Acts of the 71st
15 Legislature, Regular Session, 1989, provides that a
16 reference in law to a "probation department" means a
17 community supervision and corrections department
18 established under Article 42.131, Code of Criminal
19 Procedure. Section 7.11, Chapter 76 (S.B. 959), Acts
20 of the 74th Legislature, Regular Session, 1995,
21 transferred the substance of Article 42.131, Code of
22 Criminal Procedure, to Chapter 76, Government Code.
23 Because Chapter 76, Government Code, is the only law
24 under which a community supervision and corrections
25 department is established, it is unnecessary to
26 include a reference to that law. The revised law is
27 drafted accordingly.

28 (5) Article 56.02(a)(6), Code of Criminal
29 Procedure, refers to "the payment for a medical
30 examination under Article 56.06 for a victim of a
31 sexual assault." The provision of Article 56.06, Code
32 of Criminal Procedure, that relates to the payment of
33 costs for a medical examination is revised in this
34 chapter as Article 56A.252, and the revised law

1 throughout this chapter is drafted accordingly.

2 Throughout this chapter, in the context of an
3 examination under Article 56.06, Code of Criminal
4 Procedure, the revised law substitutes "forensic
5 medical examination" for "medical examination" and
6 substitutes "alleged sexual assault" for "sexual
7 assault" for clarity and consistency with the
8 terminology used in Article 56.06, revised as
9 Subchapter F of this chapter.

10 (6) Articles 56.02(a)(9) and (10), Code of
11 Criminal Procedure, refer to an "attorney for the
12 state." Throughout this chapter, the revised law
13 substitutes "attorney representing the state" for
14 "attorney for the state" because the terms are
15 synonymous and "attorney representing the state" is
16 more commonly used in the Code of Criminal Procedure.

17 (7) Article 56.02(a)(12), Code of Criminal
18 Procedure, refers to the "uses of a victim impact
19 statement and the statement's purpose in the criminal
20 justice system." The provisions that describe the
21 uses and purposes of a victim impact statement are in
22 Article 56.03, Code of Criminal Procedure, revised in
23 Subchapter D of this chapter, and the revised law adds
24 a cross-reference to that subchapter for the
25 convenience of the reader.

26 Revised Law

27 Art. 56A.052. ADDITIONAL RIGHTS OF VICTIMS OF SEXUAL
28 ASSAULT, STALKING, OR TRAFFICKING. (a) If the offense is a sexual
29 assault, a victim, guardian of a victim, or close relative of a
30 deceased victim is entitled to the following rights within the
31 criminal justice system:

32 (1) if requested, the right to a disclosure of
33 information regarding:

34 (A) any evidence that was collected during the

1 investigation of the offense, unless disclosing the information
2 would interfere with the investigation or prosecution of the
3 offense, in which event the victim, guardian, or relative shall be
4 informed of the estimated date on which that information is
5 expected to be disclosed; and

6 (B) the status of any analysis being performed of
7 any evidence described by Paragraph (A);

8 (2) if requested, the right to be notified:

9 (A) at the time a request is submitted to a crime
10 laboratory to process and analyze any evidence that was collected
11 during the investigation of the offense;

12 (B) at the time of the submission of a request to
13 compare any biological evidence collected during the investigation
14 of the offense with DNA profiles maintained in a state or federal
15 DNA database; and

16 (C) of the results of the comparison described by
17 Paragraph (B), unless disclosing the results would interfere with
18 the investigation or prosecution of the offense, in which event the
19 victim, guardian, or relative shall be informed of the estimated
20 date on which those results are expected to be disclosed;

21 (3) if requested, the right to counseling regarding
22 acquired immune deficiency syndrome (AIDS) and human
23 immunodeficiency virus (HIV) infection; and

24 (4) for the victim, the right to:

25 (A) testing for acquired immune deficiency
26 syndrome (AIDS), human immunodeficiency virus (HIV) infection,
27 antibodies to HIV, or infection with any other probable causative
28 agent of AIDS; and

29 (B) a forensic medical examination to the extent
30 provided by Subchapters F and G if, within 96 hours of the offense:

31 (i) the offense is reported to a law
32 enforcement agency; or

33 (ii) a forensic medical examination is
34 otherwise conducted at a health care facility.

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

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

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

17 (1) the right to be informed:

18 (A) that the victim or the victim's parent or
19 guardian, as applicable, may file an application for a protective
20 order under Article 7B.001;

21 (B) of the court in which the application for a
22 protective order may be filed; and

23 (C) that, on request of the victim or of the
24 victim's parent or guardian, as applicable, and subject to the
25 Texas Disciplinary Rules of Professional Conduct, the attorney
26 representing the state may file the application for a protective
27 order on behalf of the victim;

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

32 (3) if the victim or the victim's parent or guardian,
33 as applicable, is present when the defendant is convicted or placed
34 on deferred adjudication community supervision, the right to:

1 (A) be given by the court the information
2 described by Subdivision (1); and

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

7 (4) if the victim or the victim's parent or guardian,
8 as applicable, is not present when the defendant is convicted or
9 placed on deferred adjudication community supervision, the right to
10 be given by the attorney representing the state the information
11 described by Subdivision (1). (Code Crim. Proc., Art. 56.021.)

12 Source Law

13 Art. 56.021. RIGHTS OF VICTIM OF SEXUAL ASSAULT
14 OR ABUSE, STALKING, OR TRAFFICKING. (a) In addition
15 to the rights enumerated in Article 56.02, if the
16 offense is a sexual assault, the victim, guardian of a
17 victim, or close relative of a deceased victim is
18 entitled to the following rights within the criminal
19 justice system:

20 (1) if requested, the right to a
21 disclosure of information regarding any evidence that
22 was collected during the investigation of the offense,
23 unless disclosing the information would interfere with
24 the investigation or prosecution of the offense, in
25 which event the victim, guardian, or relative shall be
26 informed of the estimated date on which that
27 information is expected to be disclosed;

28 (2) if requested, the right to a
29 disclosure of information regarding the status of any
30 analysis being performed of any evidence that was
31 collected during the investigation of the offense;

32 (3) if requested, the right to be
33 notified:

34 (A) at the time a request is
35 submitted to a crime laboratory to process and analyze
36 any evidence that was collected during the
37 investigation of the offense;

38 (B) at the time of the submission of a
39 request to compare any biological evidence collected
40 during the investigation of the offense with DNA
41 profiles maintained in a state or federal DNA
42 database; and

43 (C) of the results of the comparison
44 described by Paragraph (B), unless disclosing the
45 results would interfere with the investigation or
46 prosecution of the offense, in which event the victim,
47 guardian, or relative shall be informed of the
48 estimated date on which those results are expected to
49 be disclosed;

50 (4) if requested, the right to counseling
51 regarding acquired immune deficiency syndrome (AIDS)
52 and human immunodeficiency virus (HIV) infection;

53 (5) for the victim of the offense, testing
54 for acquired immune deficiency syndrome (AIDS), human
55 immunodeficiency virus (HIV) infection, antibodies to

1 HIV, or infection with any other probable causative
2 agent of AIDS; and

3 (6) to the extent provided by Articles
4 56.06 and 56.065, for the victim of the offense, the
5 right to a forensic medical examination if, within 96
6 hours of the offense, the offense is reported to a law
7 enforcement agency or a forensic medical examination
8 is otherwise conducted at a health care facility.

9 (b) A victim, guardian, or relative who requests
10 to be notified under Subsection (a)(3) must provide a
11 current address and phone number to the attorney
12 representing the state and the law enforcement agency
13 that is investigating the offense. The victim,
14 guardian, or relative must inform the attorney
15 representing the state and the law enforcement agency
16 of any change in the address or phone number.

17 (c) A victim, guardian, or relative may
18 designate a person, including an entity that provides
19 services to victims of sexual assault, to receive any
20 notice requested under Subsection (a)(3).

21 (d) This subsection applies only to a victim of
22 an offense under Section 20A.02, 20A.03, 21.02, 21.11,
23 22.011, 22.021, 42.072, or 43.05, Penal Code. In
24 addition to the rights enumerated in Article 56.02
25 and, if applicable, Subsection (a) of this article, a
26 victim described by this subsection or a parent or
27 guardian of the victim is entitled to the following
28 rights within the criminal justice system:

29 (1) the right to request that the attorney
30 representing the state, subject to the Texas
31 Disciplinary Rules of Professional Conduct, file an
32 application for a protective order under Article 7A.01
33 on behalf of the victim;

34 (2) the right to be informed:

35 (A) that the victim or the victim's
36 parent or guardian, as applicable, may file an
37 application for a protective order under Article
38 7A.01;

39 (B) of the court in which the
40 application for a protective order may be filed; and

41 (C) that, on request of the victim or
42 of the victim's parent or guardian, as applicable, and
43 subject to the Texas Disciplinary Rules of
44 Professional Conduct, the attorney representing the
45 state may file the application for a protective order;

46 (3) if the victim or the victim's parent or
47 guardian, as applicable, is present when the defendant
48 is convicted or placed on deferred adjudication
49 community supervision, the right to be given by the
50 court the information described by Subdivision (2)
51 and, if the court has jurisdiction over applications
52 for protective orders that are filed under Article
53 7A.01, the right to file an application for a
54 protective order immediately following the defendant's
55 conviction or placement on deferred adjudication
56 community supervision; and

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

63 Revisor's Note

64 (1) Article 56.021(a), Code of Criminal
65 Procedure, provides rights that are "[i]n addition to

1 the rights enumerated in Article 56.02." Article
2 56.021(d), Code of Criminal Procedure, provides rights
3 that are "[i]n addition to the rights enumerated in
4 Article 56.02 and, if applicable, Subsection (a) of
5 this article." The revised law omits the quoted
6 provisions because an accepted general principle of
7 statutory construction requires that a statute be
8 given cumulative effect with other statutes unless the
9 statute provides otherwise or unless the statute
10 conflicts with another statute. That general principle
11 applies to the revised law.

12 (2) Article 56.021(a)(5), Code of Criminal
13 Procedure, provides that a victim of a sexual assault
14 is entitled to certain rights, including "testing for
15 acquired immune deficiency syndrome (AIDS), human
16 immunodeficiency virus (HIV) infection, antibodies to
17 HIV, or infection with any other probable causative
18 agent of AIDS." The revised law adds to the quoted
19 language the phrase "the right to" for consistency
20 with the preceding language in the subsection clearly
21 granting this right to a victim of a sexual assault.

22 (3) Article 56.021(b), Code of Criminal
23 Procedure, refers to requests for notifications under
24 Subsection (a)(3) of that article by "[a] victim,
25 guardian, or relative," and Article 56.021(c), Code of
26 Criminal Procedure, provides that "[a] victim,
27 guardian, or relative" may designate a person to
28 receive those notifications. The revised law
29 substitutes "a victim, guardian of a victim, or close
30 relative of a deceased victim" for the quoted language
31 for clarity and consistency in the terminology used
32 within the article because it is clear that the victim,
33 guardian, or relative referred to in Articles
34 56.021(b) and (c), Code of Criminal Procedure, is the

1 victim, guardian of a victim, or close relative of a
2 deceased victim who has the right to the notifications
3 under Subsection (a)(3).

4 Revised Law

5 Art. 56A.053. FAILURE TO PROVIDE RIGHT OR SERVICE. (a) A
6 judge, attorney representing the state, peace officer, or law
7 enforcement agency is not liable for a failure or inability to
8 provide a right granted by this subchapter.

9 (b) The failure or inability of any person to provide a
10 right or service granted by this subchapter may not be used by a
11 defendant in a criminal case as a ground for appeal, a ground to set
12 aside the conviction or sentence, or a ground in a habeas corpus
13 petition. (Code Crim. Proc., Art. 56.02(d) (part).)

14 Source Law

15 (d) A judge, attorney for the state, peace
16 officer, or law enforcement agency is not liable for a
17 failure or inability to provide a right enumerated in
18 this article or Article 56.021. The failure or
19 inability of any person to provide a right or service
20 enumerated in this article or Article 56.021 may not be
21 used by a defendant in a criminal case as a ground for
22 appeal, a ground to set aside the conviction or
23 sentence, or a ground in a habeas corpus petition.
24 . . .

25 Revised Law

26 Art. 56A.054. STANDING. A victim, guardian of a victim, or
27 close relative of a deceased victim does not have standing to:

28 (1) participate as a party in a criminal proceeding;
29 or

30 (2) contest the disposition of any charge. (Code
31 Crim. Proc., Art. 56.02(d) (part).)

32 Source Law

33 (d) . . . A victim, guardian of a victim, or
34 close relative of a deceased victim does not have
35 standing to participate as a party in a criminal
36 proceeding or to contest the disposition of any
37 charge.

38 SUBCHAPTER C. ADDITIONAL PROTECTIONS FOR VICTIMS AND WITNESSES

39 Revised Law

40 Art. 56A.101. VICTIM PRIVACY. (a) As far as reasonably

1 practical, the address of the victim may not be a part of the court
2 file except as necessary to identify the place of the offense.

3 (b) The phone number of the victim may not be a part of the
4 court file. (Code Crim. Proc., Art. 56.09.)

5 Source Law

6 Art. 56.09. VICTIM'S RIGHT TO PRIVACY. As far
7 as reasonably practical, the address of the victim may
8 not be a part of the court file except as necessary to
9 identify the place of the crime. The phone number of
10 the victim may not be a part of the court file.

11 Revised Law

12 Art. 56A.102. VICTIM OR WITNESS DISCOVERY ATTENDANCE.
13 Unless absolutely necessary, a victim or witness who is not
14 confined may not be required to attend a deposition in a
15 correctional facility. (Code Crim. Proc., Art. 56.10.)

16 Source Law

17 Art. 56.10. VICTIM'S DISCOVERY ATTENDANCE.
18 Unless absolutely necessary, victims or witnesses who
19 are not incarcerated may not be required to attend
20 depositions in a correctional facility.

21 Revisor's Note

22 Article 56.10, Code of Criminal Procedure,
23 prohibits requiring a victim or witness to attend a
24 deposition in a correctional facility if the victim or
25 witness is not "incarcerated." The revised law
26 substitutes "confined" for "incarcerated" because, in
27 the context of a general reference to a person who may
28 be incarcerated, the terms are synonymous and
29 "confined" is more commonly used in the Code of
30 Criminal Procedure.

31 SUBCHAPTER D. VICTIM IMPACT STATEMENT

32 Revised Law

33 Art. 56A.151. VICTIM IMPACT STATEMENT; INFORMATION
34 BOOKLET. (a) The clearinghouse, with the participation of the
35 board and the community justice assistance division of the
36 department, shall develop a form to be used by law enforcement
37 agencies, attorneys representing the state, and other participants

1 in the criminal justice system to record the impact of an offense on
2 a victim of the offense, guardian of a victim, or close relative of
3 a deceased victim and to provide the agencies, attorneys, and
4 participants with information needed to contact the victim,
5 guardian, or relative if needed at any stage of a prosecution of a
6 person charged with the offense. The clearinghouse, with the
7 participation of the board and the community justice assistance
8 division of the department, shall also develop a victims'
9 information booklet that provides a general explanation of the
10 criminal justice system to victims of an offense, guardians of
11 victims, and relatives of deceased victims.

12 (b) The victim impact statement must be in a form designed
13 to:

14 (1) inform a victim, guardian of a victim, or close
15 relative of a deceased victim with a clear statement of rights
16 granted by Subchapter B; and

17 (2) collect the following information:

18 (A) the name of the victim of the offense or, if
19 the victim has a legal guardian or is deceased, the name of a
20 guardian or close relative of the victim;

21 (B) the address and telephone number of the
22 victim, guardian, or relative through which the victim, guardian,
23 or relative may be contacted;

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

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

30 (E) a statement of any psychological services
31 requested as a result of the offense;

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

1 (G) a statement regarding whether the victim,
2 guardian, or relative wants to be notified of any parole hearing for
3 the defendant;

4 (H) if the victim is a child, whether there is an
5 existing court order granting to the defendant possession of or
6 access to the victim; and

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

10 (c) The victim impact statement must include an explanation
11 regarding the procedures by which a victim, guardian of a victim, or
12 close relative of a deceased victim may obtain information
13 concerning the release of the defendant from the department.

14 (d) Not later than December 1 of each odd-numbered year, the
15 clearinghouse, with the participation of the board and the
16 community justice assistance division of the department, shall
17 update the victim impact statement form and any other information
18 provided by the community justice assistance division to victims,
19 guardians of victims, and relatives of deceased victims, if
20 necessary, to reflect changes in law relating to criminal justice
21 and the rights of victims and guardians and relatives of victims.
22 (Code Crim. Proc., Arts. 56.03(a), (b), (h), (i) (part).)

23 Source Law

24 Art. 56.03. VICTIM IMPACT STATEMENT. (a) The
25 Texas Crime Victim Clearinghouse, with the
26 participation of the community justice assistance
27 division of the Texas Department of Criminal Justice
28 and the Board of Pardons and Paroles, shall develop a
29 form to be used by law enforcement agencies,
30 prosecutors, and other participants in the criminal
31 justice system to record the impact of an offense on a
32 victim of the offense, guardian of a victim, or a close
33 relative of a deceased victim and to provide the
34 agencies, prosecutors, and participants with
35 information needed to contact the victim, guardian, or
36 relative if needed at any stage of a prosecution of a
37 person charged with the offense. The Texas Crime
38 Victim Clearinghouse, with the participation of the
39 community justice assistance division of the Texas
40 Department of Criminal Justice and the Board of
41 Pardons and Paroles, shall also develop a victims'
42 information booklet that provides a general
43 explanation of the criminal justice system to victims
44 of an offense, guardians of victims, and relatives of

1 deceased victims.

2 (b) The victim impact statement must be in a
3 form designed to inform a victim, guardian of a victim,
4 or a close relative of a deceased victim with a clear
5 statement of rights provided by Articles 56.02 and
6 56.021 and to collect the following information:

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

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

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

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

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

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

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

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

38 (h) Not later than December 1 of each
39 odd-numbered year, the Texas Crime Victim
40 Clearinghouse, with the participation of the community
41 justice assistance division of the Texas Department of
42 Criminal Justice and the Board of Pardons and Paroles,
43 shall update the victim impact statement form and any
44 other information provided by the commission to
45 victims, guardians of victims, and relatives of
46 deceased victims, if necessary, to reflect changes in
47 law relating to criminal justice and the rights of
48 victims and guardians and relatives of victims.

49 (i) In addition to the information described by
50 Subsections (b)(1)-(8), the victim impact statement
51 must be in a form designed to collect information on
52 whether, if the victim is a child, there is an existing
53 court order granting to the defendant possession of or
54 access to the victim. . . .

55 Revisor's Note

56 (1) Article 56.03(a), Code of Criminal
57 Procedure, refers to "prosecutors." Throughout this
58 chapter, the revised law substitutes "attorney
59 representing the state" for "prosecutor" or
60 "prosecuting attorney" because the terms are

1 synonymous and "attorney representing the state" is
2 more commonly used in the Code of Criminal Procedure.

3 (2) Article 56.03(b)(7), Code of Criminal
4 Procedure, refers to the notification "in the future"
5 of any parole hearing for a defendant. The revised law
6 omits "in the future" as unnecessary because the
7 quoted language does not add to the clear meaning of
8 the law.

9 (3) Article 56.03(b)(7), Code of Criminal
10 Procedure, requires a victim impact statement to be in
11 a form designed to provide certain information to a
12 victim, guardian of a victim, or close relative of a
13 deceased victim and to be in a form designed to collect
14 certain information from those persons, including an
15 explanation of the procedures by which they may obtain
16 information concerning a defendant's release from the
17 Texas Department of Criminal Justice. It is clear from
18 the context that the victim impact statement must
19 include an explanation of the applicable procedures in
20 the information provided to a victim, guardian, or
21 relative as opposed to collecting that explanation
22 from the victim, guardian, or relative. The revised
23 law is drafted accordingly.

24 (4) Article 56.03(h), Code of Criminal
25 Procedure, requires the Texas Crime Victim
26 Clearinghouse, with the participation of the community
27 justice assistance division of the Texas Department of
28 Criminal Justice and the Board of Pardons and Paroles,
29 to update certain information provided by "the
30 commission." As originally enacted, Article 56.03(h)
31 required the Texas Crime Victim Clearinghouse, with
32 the participation of the "Texas Adult Probation
33 Commission" and the Board of Pardons and Paroles, to
34 update certain information provided by "the

1 commission." See Section 3, Chapter 929 (H.B. 1552),
2 Acts of the 70th Legislature, Regular Session, 1987.
3 Section 1.20(f)(1), Chapter 785 (H.B. 2335), Acts of
4 the 71st Legislature, Regular Session, 1989, provides
5 that a reference in law to the "Texas Adult Probation
6 Commission" means the community justice assistance
7 division of the Texas Department of Criminal Justice.
8 Section 25.038, Chapter 87 (S.B. 1969), Acts of the
9 81st Legislature, Regular Session, 2009, amended
10 Article 56.03(h) by striking the reference to the
11 "Texas Adult Probation Commission" and substituting
12 "community justice assistance division of the Texas
13 Department of Criminal Justice" but did not revise the
14 subsequent reference to "the commission" in that
15 subsection to conform with Chapter 785. The revised
16 law substitutes "community justice assistance
17 division" for "commission" to correct the error.

18 (5) Article 56.03(i), Code of Criminal
19 Procedure, requires a victim impact statement to be in
20 a form designed to collect certain information
21 concerning a child victim that is "[i]n addition to the
22 information described by Subsections (b)(1)-(8)." The
23 revised law omits the quoted language for the reason
24 stated in Revisor's Note (1) to Article 56A.052.

25 Revised Law

26 Art. 56A.152. RECOMMENDATIONS TO ENSURE SUBMISSION OF
27 STATEMENT. The victim services division of the department, in
28 consultation with the board, law enforcement agencies, offices of
29 attorneys representing the state, and other participants in the
30 criminal justice system, shall develop recommendations to ensure
31 that completed victim impact statements are submitted to the
32 department as provided by Article 56A.159(b). (Code Crim. Proc.,
33 Art. 56.04(d-1).)

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Source Law

(d-1) The victim services division of the Texas Department of Criminal Justice, in consultation with the Board of Pardons and Paroles, law enforcement agencies, prosecutors' offices, and other participants in the criminal justice system, shall develop recommendations to ensure that completed victim impact statements are submitted to the Texas Department of Criminal Justice as provided by this chapter.

Revisor's Note

Article 56.04(d-1), Code of Criminal Procedure, requires the victim services division of the Texas Department of Criminal Justice to develop recommendations to ensure victim impact statements are submitted to the department as provided by "this chapter." The provision of Chapter 56 relating to the submission of victim impact statements to the Texas Department of Criminal Justice is Article 56.04(e), revised in relevant part as Article 56A.159(b) of this chapter, and the revised law is drafted accordingly.

Revised Law

Art. 56A.153. NOTIFICATION TO COURT REGARDING RELEASE OF DEFENDANT WITH ACCESS TO CHILD VICTIM. If information collected under Article 56A.151(b)(2)(H) indicates the defendant is granted possession of or access to a child victim under court order and the department subsequently imprisons the defendant as a result of the defendant's commission of the offense, the victim services division of the department shall contact the court that issued the order before the department releases the defendant on parole or to mandatory supervision. (Code Crim. Proc., Art. 56.03(i) (part).)

Source Law

(i) . . . [the victim impact statement must be in a form designed to collect information on whether, if the victim is a child, there is an existing court order granting to the defendant possession of or access to the victim.] If information collected under this subsection indicates the defendant is granted access or possession under court order and the defendant is subsequently confined by the Texas Department of Criminal Justice as a result of the commission of the offense, the victim services office of the department shall contact the court issuing the order before the defendant is released from the

1 department on parole or mandatory supervision.

2 Revisor's Note

3 (1) Article 56.03(i), Code of Criminal
4 Procedure, requires the court to be notified if
5 information is collected "under this subsection"
6 indicating that a defendant has possession of or
7 access to a child victim under an order issued by that
8 court. The provision of Subsection (i) relating to the
9 collection of that information is revised as Article
10 56A.151(b)(2)(H) of this chapter, and the revised law
11 is drafted accordingly.

12 (2) Article 56.03(i), Code of Criminal
13 Procedure, refers to a defendant being "confined by"
14 the Texas Department of Criminal Justice. The revised
15 law substitutes "imprisons" for "confined" because, in
16 the context of the Texas Department of Criminal
17 Justice, the terms are synonymous and "imprisons" is
18 more commonly used.

19 (3) Article 56.03(i), Code of Criminal
20 Procedure, requires the "victim services office" of
21 the Texas Department of Criminal Justice to contact
22 the court in certain situations before the department
23 releases a defendant on parole or to mandatory
24 supervision. The revised law substitutes "victim
25 services division" for the quoted language for clarity
26 and consistency with the other references in this
27 chapter.

28 Revised Law

29 Art. 56A.154. CHANGE OF ADDRESS. If a victim, guardian of a
30 victim, or close relative of a deceased victim states on a victim
31 impact statement that the victim, guardian, or relative wants to be
32 notified of parole proceedings, the victim, guardian, or relative
33 must notify the board of any change of address. (Code Crim. Proc.,
34 Art. 56.03(d).)

1 Source Law

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

8 Revised Law

9 Art. 56A.155. DISCOVERY OF STATEMENT. A victim impact
10 statement is subject to discovery under Article 39.14 before the
11 testimony of the victim is taken only if the court determines that
12 the statement contains exculpatory material. (Code Crim. Proc.,
13 Art. 56.03(g).)

14 Source Law

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

20 Revised Law

21 Art. 56A.156. INSPECTION OF STATEMENT BY COURT; DISCLOSURE
22 OF CONTENTS. The court may not inspect a victim impact statement
23 until after a finding of guilt or until deferred adjudication
24 community supervision is ordered and the contents of the statement
25 may not be disclosed to any person unless:

- 26 (1) the defendant pleads guilty or nolo contendere or
27 is convicted of the offense; or
28 (2) the defendant authorizes the court in writing to
29 inspect the statement. (Code Crim. Proc., Art. 56.03(f).)

30 Source Law

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

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

40 Revisor's Note

41 Article 56.03(f), Code of Criminal Procedure,
42 provides that a court may not inspect a victim impact

1 statement until after a finding of guilt or until
2 "deferred adjudication is ordered." The revised law
3 substitutes "deferred adjudication community
4 supervision" for "deferred adjudication" because in
5 this context the terms are synonymous and "deferred
6 adjudication community supervision" is the term used
7 in Subchapter C, Chapter 42A, Code of Criminal
8 Procedure.

9 Revised Law

10 Art. 56A.157. CONSIDERATION OF STATEMENT BY COURT. (a)
11 Before imposing a sentence, a court shall, as applicable, inquire
12 as to whether a victim impact statement has been returned to the
13 attorney representing the state and, if a statement has been
14 returned to the attorney, consider the information provided in the
15 statement.

16 (b) On inquiry by the sentencing court, the attorney
17 representing the state shall make a copy of the statement available
18 for consideration by the court. (Code Crim. Proc., Arts. 56.03(e)
19 (part), 56.04(e) (part).)

20 Source Law

21 [Art. 56.03]

22 (e) Prior to the imposition of a sentence by the
23 court in a criminal case, the court shall, as
24 applicable in the case, inquire as to whether a victim
25 impact statement has been returned to the attorney
26 representing the state and, if a victim impact
27 statement has been returned to the attorney
28 representing the state, consider the information
29 provided in the statement. . . .

30 [Art. 56.04]

31 (e) On inquiry by the court, the attorney
32 representing the state shall make available a copy of a
33 victim impact statement for consideration by the court
34 sentencing the defendant. . . .

35 Revisor's Note

36 Article 56.03(e), Code of Criminal Procedure,
37 refers to the imposition of a sentence by the court "in
38 a criminal case" and requires the court, as applicable
39 "in the case," to inquire as to whether a victim impact
40 statement has been returned to the attorney

1 representing the state and to consider the information
2 in the statement. Article 56.04(e), Code of Criminal
3 Procedure, requires the attorney representing the
4 state to make a copy of the statement available to the
5 court sentencing "the defendant." The revised law
6 omits the quoted phrases as unnecessary because the
7 imposition of a sentence occurs only with regard to a
8 criminal case or proceeding and only with regard to a
9 defendant.

10 Revised Law

11 Art. 56A.158. DEFENDANT RESPONSE TO STATEMENT. Before
12 sentencing a defendant, a court shall permit the defendant or the
13 defendant's attorney a reasonable period to:

14 (1) read the victim impact statement, excluding the
15 victim's name, address, and telephone number;

16 (2) comment on the statement; and

17 (3) with the approval of the court, introduce
18 testimony or other information alleging a factual inaccuracy in the
19 statement. (Code Crim. Proc., Art. 56.03(e) (part).)

20 Source Law

21 (e) . . . Before sentencing the defendant, the
22 court shall permit the defendant or the defendant's
23 counsel a reasonable time to read the statement,
24 excluding the victim's name, address, and telephone
25 number, comment on the statement, and, with the
26 approval of the court, introduce testimony or other
27 information alleging a factual inaccuracy in the
28 statement. . . .

29 Revised Law

30 Art. 56A.159. TRANSFER OF STATEMENT AFTER SENTENCING. (a)
31 If a court sentences a defendant to a period of community
32 supervision, the attorney representing the state shall forward any
33 victim impact statement received in the case to the community
34 supervision and corrections department supervising the defendant.

35 (b) If a court sentences a defendant to imprisonment in the
36 department, the court shall attach to the commitment papers the
37 copy of the victim impact statement provided to the court under

1 Article 56A.157(b). (Code Crim. Proc., Arts. 56.03(e) (part),
2 56.04(e) (part).)

3 Source Law

4 [Art. 56.03]

5 (e) . . . If the court sentences the defendant
6 to a term of community supervision, the attorney
7 representing the state shall forward any victim's
8 impact statement received in the case to the community
9 supervision and corrections department supervising
10 the defendant.

11 [Art. 56.04]

12 (e) . . . If the court sentences the defendant
13 to imprisonment in the Texas Department of Criminal
14 Justice, the court shall attach the copy of the victim
15 impact statement to the commitment papers.

16 Revisor's Note

17 (1) Article 56.03(e), Code of Criminal
18 Procedure, refers to a "term" of community
19 supervision, meaning the time period during which a
20 defendant is under supervision. The revised law
21 substitutes "period" for "term" because in this
22 context the terms are synonymous and "period" is more
23 commonly used in Chapter 42A, Code of Criminal
24 Procedure.

25 (2) Article 56.04(e), Code of Criminal
26 Procedure, refers to "the copy of the victim impact
27 statement." The quoted language refers to the copy of
28 the victim impact statement made available to the
29 court sentencing the defendant as described by the
30 preceding sentence of Subsection (e), revised in this
31 subchapter as Article 56A.157(b). The revised law
32 substitutes "the copy of the victim impact statement
33 provided to the court under Article 56A.157(b)" for
34 the quoted language for the convenience of the reader.

35 Revised Law

36 Art. 56A.160. SURVEY PLAN REGARDING STATEMENTS. (a) In
37 this article, "planning body" means the board, the clearinghouse,
38 and the community justice assistance division of the department.

39 (b) The planning body shall develop a survey plan to

1 maintain statistics on the numbers and types of persons to whom
2 state and local agencies provide victim impact statements during
3 each year.

4 (c) At intervals specified in the survey plan, the planning
5 body may require any state or local agency to submit the following,
6 in a form prescribed for the reporting of the information:

7 (1) statistical data on the numbers and types of
8 persons to whom the agency provides victim impact statements; and

9 (2) any other information required by the planning
10 body.

11 (d) The form described by Subsection (c) must be designed
12 to:

13 (1) protect the privacy of persons provided rights
14 under Subchapter B; and

15 (2) determine whether the selected agency is making a
16 good faith effort to protect the rights of the persons served.

17 (Code Crim. Proc., Arts. 56.05(a), (b).)

18 Source Law

19 Art. 56.05. REPORTS REQUIRED. (a) The Board of
20 Pardons and Paroles, the community justice assistance
21 division of the Texas Department of Criminal Justice,
22 and the Texas Crime Victim Clearinghouse, designated
23 as the planning body for the purposes of this article,
24 shall develop a survey plan to maintain statistics on
25 the numbers and types of persons to whom state and
26 local agencies provide victim impact statements during
27 each year.

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

39 Revisor's Note

40 (1) Article 56.05(b), Code of Criminal
41 Procedure, provides that certain agencies may be
42 required to report data concerning persons to whom the
43 agencies provided victim impact statements and that

1 the information must be reported on a form designed to
2 protect the privacy of a person afforded rights under
3 "this chapter." Under Article 56.03(b), Code of
4 Criminal Procedure, revised in this chapter in Article
5 56A.151, a victim impact statement is only required to
6 provide information regarding the rights provided by
7 Articles 56.02 and 56.021, Code of Criminal Procedure.
8 Articles 56.02 and 56.021 are revised as Subchapter B
9 of this chapter, and the revised law is drafted
10 accordingly.

11 (2) Article 56.05(b), Code of Criminal
12 Procedure, refers to an "agency or office." The
13 revised law omits "office" because in this context
14 "office" is included within the meaning of "agency."

15 SUBCHAPTER E. VICTIM ASSISTANCE COORDINATOR; CRIME VICTIM LIAISON

16 Revised Law

17 Art. 56A.201. DESIGNATION OF VICTIM ASSISTANCE
18 COORDINATOR. The district attorney, criminal district attorney, or
19 county attorney who prosecutes criminal cases shall designate a
20 person to serve as victim assistance coordinator in that
21 jurisdiction. (Code Crim. Proc., Art. 56.04(a).)

22 Source Law

23 Art. 56.04. VICTIM ASSISTANCE COORDINATOR;
24 CRIME VICTIM LIAISON. (a) The district attorney,
25 criminal district attorney, or county attorney who
26 prosecutes criminal cases shall designate a person to
27 serve as victim assistance coordinator in that
28 jurisdiction.

29 Revised Law

30 Art. 56A.202. DUTIES OF VICTIM ASSISTANCE COORDINATOR. (a)
31 The victim assistance coordinator designated under Article 56A.201
32 shall:

33 (1) ensure that a victim, guardian of a victim, or
34 close relative of a deceased victim is provided the rights granted
35 to victims, guardians, or relatives by Subchapter B; and

36 (2) work closely with appropriate law enforcement

1 agencies, attorneys representing the state, the board, and the
2 judiciary in carrying out the duty described by Subdivision (1).

3 (b) The victim assistance coordinator shall send to a
4 victim, guardian of a victim, or close relative of a deceased victim
5 a victim impact statement and victims' information booklet
6 described by Article 56A.151 and an application for compensation
7 under Chapter 56B. The victim assistance coordinator shall include
8 an offer to assist in completing the statement and application on
9 request.

10 (c) The victim assistance coordinator, on request, shall
11 explain the possible use and consideration of the victim impact
12 statement at any sentencing or parole hearing of the defendant.
13 (Code Crim. Proc., Arts. 56.03(c), 56.04(b).)

14 Source Law

15 [Art. 56.03]

16 (c) The victim assistance coordinator,
17 designated in Article 56.04(a) of this code, shall
18 send to a victim, guardian of a victim, or close
19 relative of a deceased victim a victim impact
20 statement, a victims' information booklet, and an
21 application for compensation under Subchapter B,
22 Chapter 56, along with an offer to assist in completing
23 those forms on request. The victim assistance
24 coordinator, on request, shall explain the possible
25 use and consideration of the victim impact statement
26 at sentencing and future parole hearing of the
27 offender.

28 [Art. 56.04]

29 (b) The duty of the victim assistance
30 coordinator is to ensure that a victim, guardian of a
31 victim, or close relative of a deceased victim is
32 afforded the rights granted victims, guardians, and
33 relatives by Articles 56.02 and 56.021. The victim
34 assistance coordinator shall work closely with
35 appropriate law enforcement agencies, prosecuting
36 attorneys, the Board of Pardons and Paroles, and the
37 judiciary in carrying out that duty.

38 Revisor's Note

39 (1) Article 56.03(c), Code of Criminal
40 Procedure, requires a victim assistance coordinator to
41 send a "victim impact statement" and a "victims'
42 information booklet" to certain persons. For the
43 convenience of the reader, the revised law adds a
44 cross-reference to Article 56A.151, which contains the

1 provisions relating to the victim impact statement and
2 victims' information booklet.

3 (2) Article 56.03(c), Code of Criminal
4 Procedure, refers to the possible use and
5 consideration of a victim impact statement at
6 sentencing and "future" parole hearings of the
7 offender. The revised law omits "future" as
8 unnecessary because the quoted language does not add
9 to the clear meaning of the law.

10 Revised Law

11 Art. 56A.203. DESIGNATION OF CRIME VICTIM LIAISON. Each
12 local law enforcement agency shall designate one person to serve as
13 the agency's crime victim liaison. (Code Crim. Proc., Art.
14 56.04(c) (part).)

15 Source Law

16 (c) Each local law enforcement agency shall
17 designate one person to serve as the agency's crime
18 victim liaison. . . .

19 Revised Law

20 Art. 56A.204. DUTIES OF CRIME VICTIM LIAISON. (a) The
21 crime victim liaison designated under Article 56A.203 shall ensure
22 that a victim, guardian of a victim, or close relative of a deceased
23 victim is provided the rights granted to victims, guardians, or
24 relatives by Articles 56A.051(a)(4), (6), and (9).

25 (b) Each local law enforcement agency shall consult with the
26 victim assistance coordinator in the office of the attorney
27 representing the state to determine the most effective manner in
28 which the crime victim liaison can perform the duties imposed on the
29 crime victim liaison under this article and, if applicable, Article
30 56A.205. (Code Crim. Proc., Arts. 56.04(c) (part), (d).)

31 Source Law

32 (c) . . . Each agency shall consult with the
33 victim assistance coordinator in the office of the
34 attorney representing the state to determine the most
35 effective manner in which the crime victim liaison can
36 perform the duties imposed on the crime victim liaison
37 under this article.

38 (d) The duty of the crime victim liaison is to

1 ensure that a victim, guardian of a victim, or close
2 relative of a deceased victim is afforded the rights
3 granted victims, guardians, or close relatives of
4 deceased victims by Subdivisions (4), (6), and (9) of
5 Article 56.02(a) of this code.

6 Revisor's Note

7 (1) Article 56.04(c), Code of Criminal
8 Procedure, refers to an "agency." The quoted language
9 refers to a "local law enforcement agency" as
10 described by the preceding sentence of Subsection (c),
11 revised in this subchapter as Article 56A.203. The
12 revised law substitutes "local law enforcement agency"
13 for "agency" for the convenience of the reader.

14 (2) Article 56.04(c), Code of Criminal
15 Procedure, refers to the duties imposed on a crime
16 victim liaison "under this article." Article 56.04 is
17 revised in this chapter as various articles of this
18 subchapter and Subchapter D. Because Article 56.04(d),
19 revised in this article as Subsection (a), and Article
20 56.04(f), revised in this subchapter as Article
21 56A.205, are the only provisions of Article 56.04
22 imposing duties on a crime victim liaison, it is
23 unnecessary in this context to include a
24 cross-reference to any other article of this chapter.
25 The revised law is drafted accordingly.

26 (3) Article 56.04(d), Code of Criminal
27 Procedure, establishes a duty of "the crime victim
28 liaison." The quoted language refers to the crime
29 victim liaison designated under Article 56.04(c), Code
30 of Criminal Procedure, revised in relevant part as
31 Article 56A.203 of this chapter. The revised law adds
32 a cross-reference to Article 56A.203 for the
33 convenience of the reader.

34 Revised Law

35 Art. 56A.205. PSYCHOLOGICAL COUNSELING FOR CERTAIN JURORS.

36 (a) A commissioners court may approve a program in which a crime

1 victim liaison or victim assistance coordinator may offer not more
2 than 10 hours of post-investigation or posttrial psychological
3 counseling for a person who:

4 (1) serves as a grand juror, alternate grand juror,
5 juror, or alternate juror in a grand jury investigation or criminal
6 trial involving graphic evidence or testimony; and

7 (2) requests the counseling not later than the 180th
8 day after the date on which the grand jury or jury is dismissed.

9 (b) The crime victim liaison or victim assistance
10 coordinator may provide the counseling using a provider that
11 assists local criminal justice agencies in providing similar
12 services to victims. (Code Crim. Proc., Art. 56.04(f).)

13 Source Law

14 (f) The commissioners court may approve a
15 program in which the crime victim liaison or victim
16 assistance coordinator may offer not more than 10
17 hours of post-investigation or posttrial
18 psychological counseling for a person who serves as a
19 grand juror, alternate grand juror, juror, or
20 alternate juror in a grand jury investigation or
21 criminal trial involving graphic evidence or testimony
22 and who requests the post-investigation or posttrial
23 psychological counseling not later than the 180th day
24 after the date on which the grand jury or jury is
25 dismissed. The crime victim liaison or victim
26 assistance coordinator may provide the counseling
27 using a provider that assists local criminal justice
28 agencies in providing similar services to victims.

29 SUBCHAPTER F. FORENSIC MEDICAL EXAMINATION OF SEXUAL ASSAULT

30 VICTIM REPORTING ASSAULT

31 Revised Law

32 Art. 56A.251. REQUEST FOR FORENSIC MEDICAL EXAMINATION.

33 (a) Except as provided by Subsection (b), if a sexual assault is
34 reported to a law enforcement agency within 96 hours after the
35 assault, the law enforcement agency, with the consent of the victim
36 of the alleged assault, a person authorized to act on behalf of the
37 victim, or an employee of the Department of Family and Protective
38 Services, shall request a forensic medical examination of the
39 victim for use in the investigation or prosecution of the offense.

40 (b) A law enforcement agency may decline to request a
41 forensic medical examination under Subsection (a) only if:

1 (1) the person reporting the sexual assault has made
2 one or more false reports of sexual assault to any law enforcement
3 agency; and

4 (2) there is no other evidence to corroborate the
5 current allegations of sexual assault.

6 (c) If a sexual assault is not reported within the period
7 described by Subsection (a), on receiving the consent described by
8 that subsection a law enforcement agency may request a forensic
9 medical examination of a victim of an alleged sexual assault as
10 considered appropriate by the agency. (Code Crim. Proc., Arts.
11 56.06(a), (b).)

12 Source Law

13 Art. 56.06. FORENSIC MEDICAL EXAMINATION FOR
14 SEXUAL ASSAULT VICTIM WHO HAS REPORTED ASSAULT; COSTS.

15 (a) If a sexual assault is reported to a law
16 enforcement agency within 96 hours of the assault, the
17 law enforcement agency, with the consent of the
18 victim, a person authorized to act on behalf of the
19 victim, or an employee of the Department of Family and
20 Protective Services, shall request a forensic medical
21 examination of the victim of the alleged assault for
22 use in the investigation or prosecution of the
23 offense. A law enforcement agency may decline to
24 request a forensic medical examination under this
25 subsection only if the person reporting the sexual
26 assault has made one or more false reports of sexual
27 assault to any law enforcement agency and if there is
28 no other evidence to corroborate the current
29 allegations of sexual assault.

30 (b) If a sexual assault is not reported within
31 the period described by Subsection (a), on receiving
32 the consent described by that subsection the law
33 enforcement agency may request a forensic medical
34 examination of a victim of an alleged sexual assault as
35 considered appropriate by the agency.

36 Revisor's Note

37 Article 56.06(a), Code of Criminal Procedure,
38 requires a law enforcement agency to request a
39 forensic medical examination for a victim of an
40 alleged sexual assault who reports the assault within
41 96 hours after the assault. For the convenience of the
42 reader, the revised law adds "[e]xcept as provided by
43 Subsection (b)" to indicate to the reader that an
44 exception to that requirement is contained in
45 Subsection (b) of this article.

1 Revised Law

2 Art. 56A.252. PAYMENT OF COSTS OF EXAMINATION. A law
3 enforcement agency that requests a forensic medical examination
4 under Article 56A.251 shall pay all costs of the examination. On
5 application to the attorney general, the law enforcement agency is
6 entitled to be reimbursed for the reasonable costs of the
7 examination if the examination was performed by a physician or by a
8 sexual assault examiner or sexual assault nurse examiner, as
9 defined by Section 420.003, Government Code. (Code Crim. Proc.,
10 Art. 56.06(c).)

11 Source Law

12 (c) A law enforcement agency that requests a
13 forensic medical examination of a victim of an alleged
14 sexual assault for use in the investigation or
15 prosecution of the offense shall pay all costs of the
16 examination. On application to the attorney general,
17 the law enforcement agency is entitled to be
18 reimbursed for the reasonable costs of that
19 examination if the examination was performed by a
20 physician or by a sexual assault examiner or sexual
21 assault nurse examiner, as defined by Section 420.003,
22 Government Code.

23 Revisor's Note

24 Article 56.06(c), Code of Criminal Procedure,
25 requires a law enforcement agency that requests a
26 "forensic medical examination of a victim of an
27 alleged sexual assault for use in the investigation or
28 prosecution of the offense" to pay the costs of the
29 examination. The provision relating to a request of a
30 forensic medical examination described by the quoted
31 language is revised as Article 56A.251 of this
32 chapter, and the revised law substitutes "forensic
33 medical examination under Article 56A.251" for the
34 quoted language to avoid unnecessary repetition of the
35 description and purpose of the examination.

36 Revised Law

37 Art. 56A.253. PAYMENT OF COSTS RELATED TO TESTIMONY. A law
38 enforcement agency or office of the attorney representing the state
39 may pay all costs related to the testimony of a licensed health care

1 professional in a criminal proceeding regarding the results of a
2 forensic medical examination described by Article 56A.251 or the
3 manner in which the examination was performed. (Code Crim. Proc.,
4 Art. 56.06(d).)

5 Source Law

6 (d) A law enforcement agency or prosecuting
7 attorney's office may pay all costs related to the
8 testimony of a licensed health care professional in a
9 criminal proceeding regarding the results of the
10 forensic medical examination or manner in which it was
11 performed.

12 Revisor's Note

13 Article 56.06(d), Code of Criminal Procedure,
14 refers to testimony regarding the results of "the
15 forensic medical examination." The quoted language
16 refers to a forensic medical examination described by
17 Article 56.06(a), Code of Criminal Procedure, revised
18 in Article 56A.251 of this chapter. The revised law
19 adds a cross-reference to Article 56A.251 for the
20 convenience of the reader.

21 Revised Law

22 Art. 56A.254. PAYMENT OF COSTS FOR CERTAIN MEDICAL CARE.
23 The attorney general may make a payment to or on behalf of an
24 individual for the reasonable costs incurred for medical care
25 provided in accordance with Section 323.004, Health and Safety
26 Code. (Code Crim. Proc., Art. 56.06(f).)

27 Source Law

28 (f) The attorney general may make a payment to
29 or on behalf of an individual for the reasonable costs
30 incurred for medical care provided in accordance with
31 Section 323.004, Health and Safety Code.

32 Revised Law

33 Art. 56A.255. PAYMENT OF COSTS OF TREATMENT NOT REQUIRED.
34 This subchapter does not require a law enforcement agency to pay any
35 costs of treatment for injuries. (Code Crim. Proc., Art. 56.06(e).)

36 Source Law

37 (e) This article does not require a law
38 enforcement agency to pay any costs of treatment for
39 injuries.

1 SUBCHAPTER G. FORENSIC MEDICAL EXAMINATION OF SEXUAL ASSAULT

2 VICTIM NOT REPORTING ASSAULT

3 Revised Law

4 Art. 56A.301. DEFINITIONS. In this subchapter:

5 (1) "Crime laboratory" has the meaning assigned by
6 Article 38.35.

7 (2) "Department" means the Department of Public Safety
8 of the State of Texas.

9 (3) "Sexual assault examiner" and "sexual assault
10 nurse examiner" have the meanings assigned by Section 420.003,
11 Government Code. (Code Crim. Proc., Art. 56.065(a).)

12 Source Law

13 Art. 56.065. MEDICAL EXAMINATION FOR SEXUAL
14 ASSAULT VICTIM WHO HAS NOT REPORTED ASSAULT; COSTS.

15 (a) In this article:

16 (1) "Crime laboratory" has the meaning
17 assigned by Article 38.35.

18 (2) "Department" means the Department of
19 Public Safety.

20 (3) "Sexual assault examiner" and "sexual
21 assault nurse examiner" have the meanings assigned by
22 Section 420.003, Government Code.

23 Revisor's Note

24 Article 56.065(a), Code of Criminal Procedure,
25 defines "[d]epartment" as the "Department of Public
26 Safety." The revised law substitutes "Department of
27 Public Safety of the State of Texas" for "Department of
28 Public Safety" because under Chapter 411, Government
29 Code, that is the official name of the agency.

30 Revised Law

31 Art. 56A.302. APPLICABILITY. This subchapter applies to
32 the following health care facilities that provide diagnosis or
33 treatment services to victims of sexual assault:

34 (1) a general or special hospital licensed under
35 Chapter 241, Health and Safety Code;

36 (2) a general or special hospital owned by this state;

37 (3) an outpatient clinic; and

38 (4) a private physician's office. (Code Crim. Proc.,

1 Art. 56.065(b).)

2 Source Law

3 (b) This article applies to the following health
4 care facilities that provide diagnosis or treatment
5 services to victims of sexual assault:

- 6 (1) a general or special hospital licensed
7 under Chapter 241, Health and Safety Code;
8 (2) a general or special hospital owned by
9 this state;
10 (3) an outpatient clinic; and
11 (4) a private physician's office.

12 Revised Law

13 Art. 56A.303. FORENSIC MEDICAL EXAMINATION. (a) In
14 accordance with Subchapter B, Chapter 420, Government Code, and
15 except as provided by Subsection (b), a health care facility shall
16 conduct a forensic medical examination of a victim of an alleged
17 sexual assault if:

- 18 (1) the victim arrives at the facility within 96 hours
19 after the assault occurred;
20 (2) the victim consents to the examination; and
21 (3) at the time of the examination the victim has not
22 reported the assault to a law enforcement agency.

23 (b) If a health care facility does not provide diagnosis or
24 treatment services to victims of sexual assault, the facility shall
25 refer a victim of an alleged sexual assault who seeks a forensic
26 medical examination under Subsection (a) to a health care facility
27 that provides services to those victims.

28 (c) A victim of an alleged sexual assault may not be
29 required to participate in the investigation or prosecution of an
30 offense as a condition of receiving a forensic medical examination
31 under this article. (Code Crim. Proc., Arts. 56.065(c), (e), (h)
32 (part).)

33 Source Law

34 (c) In accordance with Subchapter B, Chapter
35 420, Government Code, and except as provided by
36 Subsection (e), a health care facility shall conduct a
37 forensic medical examination of the victim of an
38 alleged sexual assault if:

- 39 (1) the victim arrives at the facility
40 within 96 hours after the assault occurred;
41 (2) the victim consents to the
42 examination; and

1 (3) at the time of the examination the
2 victim has not reported the assault to a law
3 enforcement agency.

4 (e) If a health care facility does not provide
5 diagnosis or treatment services to victims of sexual
6 assault, the facility shall refer a victim seeking a
7 forensic medical examination under Subsection (c) to a
8 health care facility that provides services to those
9 victims.

10 (h) The victim may not be required to:
11 (1) participate in the investigation or
12 prosecution of an offense as a condition of receiving a
13 forensic medical examination under this article; or
14 . . .

15 Revisor's Note

16 (1) Article 56.065(e), Code of Criminal
17 Procedure, requires a referral in certain situations
18 for a "victim" seeking a forensic medical examination
19 under Article 56.065(c), Code of Criminal Procedure,
20 revised in this article as Subsection (a). Article
21 56.065(h)(1), Code of Criminal Procedure, prohibits
22 imposing certain requirements on a "victim" as a
23 condition of receiving a forensic medical examination.
24 The revised law substitutes "victim of an alleged
25 sexual assault" for "victim" for clarity and to
26 provide context for the convenience of the reader
27 because the victims referenced by Articles 56.065(e)
28 and (h)(1) are the victims of an alleged sexual assault
29 described by Subsection (c).

30 (2) Article 56.065(h), Code of Criminal
31 Procedure, prohibits imposing certain requirements on
32 a victim as a condition of receiving a forensic medical
33 examination "under this article." Article 56.065 is
34 revised in this chapter as this subchapter. Because
35 the portions of Article 56.065 that are revised as this
36 article are the only provisions of Article 56.065 that
37 address the duty of a health care facility to conduct a
38 forensic medical examination, it is unnecessary in
39 this context to include a cross-reference to any other
40 article in this subchapter.

1 Revised Law

2 Art. 56A.304. PAYMENT OF FEES RELATED TO EXAMINATION. (a)

3 The department shall pay the appropriate fees, as set by attorney
4 general rule, for the forensic portion of a forensic medical
5 examination conducted under Article 56A.303(a) and for the evidence
6 collection kit if a physician, sexual assault examiner, or sexual
7 assault nurse examiner conducts the forensic portion of the
8 examination within 96 hours after the alleged sexual assault
9 occurred.

10 (b) The attorney general shall reimburse the department for
11 fees paid under Subsection (a).

12 (c) A victim of an alleged sexual assault may not be
13 required to pay for:

14 (1) the forensic portion of the forensic medical
15 examination; or

16 (2) the evidence collection kit. (Code Crim. Proc.,
17 Arts. 56.065(d), (h) (part).)

18 Source Law

19 (d) The department shall pay the appropriate
20 fees, as set by attorney general rule, for the forensic
21 portion of the medical examination and for the
22 evidence collection kit if a physician, sexual assault
23 examiner, or sexual assault nurse examiner conducts
24 the forensic portion of the examination within 96
25 hours after the alleged sexual assault occurred. The
26 attorney general shall reimburse the department for
27 fees paid under this subsection.

28 (h) The victim may not be required to:

29 . . .
30 (2) pay for the forensic portion of the
31 medical examination or for the evidence collection
32 kit.

33 Revisor's Note

34 (1) Articles 56.065(d) and (h), Code of Criminal
35 Procedure, refer to the forensic portion of the
36 "medical examination." The quoted language refers to
37 the "forensic medical examination" conducted under
38 Article 56.065(c), Code of Criminal Procedure, revised
39 in this subchapter as Article 56A.303(a). The revised
40 law adds a cross-reference to Article 56A.303(a) for

1 the convenience of the reader. Throughout this
2 subchapter, in the context of an examination under
3 Article 56.065, Code of Criminal Procedure, the
4 revised law substitutes "forensic medical
5 examination" for "medical examination" or
6 "examination" for clarity and consistency with the
7 terminology used in Article 56.065(c).

8 (2) Article 56.065(h), Code of Criminal
9 Procedure, refers to a "victim." The revised law
10 substitutes "victim of an alleged sexual assault" for
11 "victim" for the reason stated in Revisor's Note (1) to
12 Article 56A.303.

13 Revised Law

14 Art. 56A.305. PAYMENT OF COSTS FOR CERTAIN MEDICAL CARE.
15 The attorney general may make a payment to or on behalf of an
16 individual for the reasonable costs incurred for medical care
17 provided in accordance with Section 323.004, Health and Safety
18 Code. (Code Crim. Proc., Art. 56.065(k).)

19 Source Law

20 (k) The attorney general may make a payment to
21 or on behalf of an individual for the reasonable costs
22 incurred for medical care provided in accordance with
23 Section 323.004, Health and Safety Code.

24 Revised Law

25 Art. 56A.306. PROCEDURES FOR TRANSFER AND PRESERVATION OF
26 EVIDENCE. (a) The department, consistent with Chapter 420,
27 Government Code, shall develop procedures for the transfer and
28 preservation of evidence collected under this subchapter to a crime
29 laboratory or other suitable location designated by the public
30 safety director of the department.

31 (b) An entity receiving the evidence shall preserve the
32 evidence until the earlier of:

33 (1) the second anniversary of the date on which the
34 evidence was collected; or

35 (2) the date on which written consent to release the

1 evidence is obtained as provided by Section 420.0735, Government
2 Code. (Code Crim. Proc., Art. 56.065(g).)

3 Source Law

4 (g) The department, consistent with Chapter
5 420, Government Code, shall develop procedures for the
6 transfer and preservation of evidence collected under
7 this article to a crime laboratory or other suitable
8 location designated by the public safety director of
9 the department. The receiving entity shall preserve
10 the evidence until the earlier of:

11 (1) the second anniversary of the date the
12 evidence was collected; or

13 (2) the date on which written consent to
14 release the evidence is obtained as provided by
15 Section 420.0735, Government Code.

16 Revised Law

17 Art. 56A.307. PROCEDURES FOR SUBMISSION OR COLLECTION OF
18 ADDITIONAL EVIDENCE. The department, consistent with Chapter 420,
19 Government Code, may develop procedures regarding the submission or
20 collection of additional evidence of an alleged sexual assault
21 other than through a forensic medical examination as described by
22 Article 56A.303(a). (Code Crim. Proc., Art. 56.065(f).)

23 Source Law

24 (f) The department, consistent with Chapter
25 420, Government Code, may develop procedures regarding
26 the submission or collection of additional evidence of
27 the alleged sexual assault other than through an
28 examination as described by this article.

29 Revisor's Note

30 Article 56.065(f), Code of Criminal Procedure,
31 refers to an examination as described by "this
32 article." Article 56.065 is revised in this chapter as
33 this subchapter. Because the portions of Article
34 56.065 that are revised as Article 56A.303(a) are the
35 only provisions of Article 56.065 that describe the
36 circumstances of an examination, it is unnecessary in
37 this context to include a cross-reference to any other
38 provision of this subchapter. The revised law is
39 drafted accordingly.

40 Revised Law

41 Art. 56A.308. CONFIDENTIALITY OF CERTAIN RECORDS. (a) In

1 this article, "identifying information" includes information that:

2 (1) reveals the identity, personal history, or
3 background of a person; or

4 (2) concerns the victimization of a person.

5 (b) A communication or record is confidential for purposes
6 of Section 552.101, Government Code, if the communication or
7 record:

8 (1) contains identifying information regarding a
9 victim who receives a forensic medical examination under Article
10 56A.303(a); and

11 (2) is created by, provided to, or in the control or
12 possession of the department. (Code Crim. Proc., Art. 56.065(j).)

13 Source Law

14 (j) A communication or record that contains
15 identifying information regarding a person who
16 receives a forensic medical examination under this
17 article and that is created by, provided to, or in the
18 control or possession of the department is
19 confidential for purposes of Section 552.101,
20 Government Code. In this subsection, "identifying
21 information" includes:

22 (1) information revealing the identity,
23 personal history, or background of the person; or

24 (2) information concerning the
25 victimization of the person.

26 Revisor's Note

27 (1) Article 56.065(j), Code of Criminal
28 Procedure, makes confidential any communication or
29 record containing identifying information regarding a
30 "person" who receives a forensic medical examination
31 under Article 56.065, revised in this chapter as this
32 subchapter. The revised law substitutes "victim" for
33 "person" for consistency of terminology within the
34 subchapter because it is clear from the context that
35 the person who receives the examination is a victim of
36 an alleged sexual assault as described by Article
37 56.065(c), revised in this subchapter as Article
38 56A.303(a).

39 (2) Article 56.065(j), Code of Criminal

1 Procedure, refers to a forensic medical examination
2 "under this article." The revised law substitutes
3 "under Article 56A.303(a)" for the quoted language for
4 the reason stated in the revisor's note to Article
5 56A.307.

6 Revised Law

7 Art. 56A.309. RULES. The attorney general and the
8 department shall each adopt rules as necessary to implement this
9 subchapter. (Code Crim. Proc., Art. 56.065(i).)

10 Source Law

11 (i) The attorney general and the department each
12 shall adopt rules as necessary to implement this
13 article.

14 SUBCHAPTER H. PRESENCE OF ADVOCATE OR REPRESENTATIVE DURING
15 FORENSIC MEDICAL EXAMINATION

16 Revised Law

17 Art. 56A.351. PRESENCE OF SEXUAL ASSAULT PROGRAM ADVOCATE.

18 (a) Before conducting a forensic medical examination of a victim
19 who consents to the examination for the collection of evidence for
20 an alleged sexual assault, the physician or other medical services
21 personnel conducting the examination shall offer the victim the
22 opportunity to have an advocate from a sexual assault program as
23 defined by Section 420.003, Government Code, be present with the
24 victim during the examination, if the advocate is available at the
25 time of the examination. The advocate must have completed a sexual
26 assault training program described by Section 420.011(b),
27 Government Code.

28 (b) An advocate may only provide the victim with:

29 (1) counseling and other support services; and
30 (2) information regarding the rights of crime victims
31 under Subchapter B.

32 (c) Notwithstanding Subsection (a), an advocate and a
33 sexual assault program providing the advocate may not delay or
34 otherwise impede the screening or stabilization of an emergency
35 medical condition.

1 (d) A sexual assault program providing an advocate shall pay
2 all costs associated with providing the advocate.

3 (e) Any individual or entity, including a health care
4 facility, that provides an advocate with access under Subsection
5 (a) to a victim consenting to a forensic medical examination is not
6 subject to civil or criminal liability for providing that access.
7 In this article, "health care facility" includes a hospital
8 licensed under Chapter 241, Health and Safety Code. (Code Crim.
9 Proc., Arts. 56.045(a), (b), (c), (d), (e).)

10 Source Law

11 Art. 56.045. PRESENCE OF ADVOCATE OR
12 REPRESENTATIVE DURING FORENSIC MEDICAL EXAMINATION.

13 (a) Before conducting a forensic medical examination
14 of a person who consents to such an examination for the
15 collection of evidence for an alleged sexual assault,
16 the physician or other medical services personnel
17 conducting the examination shall offer the person the
18 opportunity to have an advocate from a sexual assault
19 program as defined by Section 420.003, Government
20 Code, who has completed a sexual assault training
21 program described by Section 420.011(b), Government
22 Code, present with the person during the examination,
23 if the advocate is available at the time of the
24 examination.

25 (b) The advocate may only provide the injured
26 person with:

- 27 (1) counseling and other support services;
28 and
29 (2) information regarding the rights of
30 crime victims under Articles 56.02 and 56.021.

31 (c) Notwithstanding Subsection (a), the
32 advocate and the sexual assault program providing the
33 advocate may not delay or otherwise impede the
34 screening or stabilization of an emergency medical
35 condition.

36 (d) The sexual assault program providing the
37 advocate shall pay all costs associated with providing
38 the advocate.

39 (e) Any individual or entity, including a health
40 care facility, that provides an advocate with access
41 to a person consenting to an examination under
42 Subsection (a) is not subject to civil or criminal
43 liability for providing that access. In this
44 subsection, "health care facility" includes a hospital
45 licensed under Chapter 241, Health and Safety Code.

46 Revisor's Note

47 Article 56.045(a), Code of Criminal Procedure,
48 refers to a "person" who consents to a forensic medical
49 examination with respect to an alleged sexual assault.

50 Article 56.045(b), Code of Criminal Procedure, refers
51 to an advocate providing that "injured person" with

1 counseling and information regarding the rights of
2 crime victims. Article 56.045(e), Code of Criminal
3 Procedure, refers to a "person" who has consented to
4 "an examination under Subsection (a)." The
5 circumstances in which forensic medical examinations
6 are conducted based on an alleged sexual assault are
7 described by Articles 56.06 and 56.065, Code of
8 Criminal Procedure, revised in this chapter as
9 Subchapters F and G, respectively. For consistency
10 with the terminology used in those subchapters, the
11 revised law substitutes "victim" for "person" or
12 "injured person." The revised law substitutes "a
13 forensic medical examination" for "an examination" for
14 clarity and consistency with the terminology used in
15 Article 56.045(a), revised as Subsection (a) of this
16 article.

17 Revised Law

18 Art. 56A.352. REPRESENTATIVE PROVIDED BY PENAL
19 INSTITUTION. (a) In this article, "penal institution" has the
20 meaning assigned by Section 1.07, Penal Code.

21 (b) If a victim alleging to have sustained injuries as the
22 victim of a sexual assault was confined in a penal institution at
23 the time of the alleged assault, the penal institution shall
24 provide, at the victim's request, a representative to be present
25 with the victim at any forensic medical examination conducted for
26 the purpose of collecting and preserving evidence related to the
27 investigation or prosecution of the alleged assault. The
28 representative must:

- 29 (1) be approved by the penal institution; and
30 (2) be a:
31 (A) psychologist;
32 (B) sociologist;
33 (C) chaplain;
34 (D) social worker;

1 (E) case manager; or
2 (F) volunteer who has completed a sexual assault
3 training program described by Section 420.011(b), Government Code.

4 (c) A representative may only provide the victim with:
5 (1) counseling and other support services; and
6 (2) information regarding the rights of crime victims
7 under Subchapter B.

8 (d) A representative may not delay or otherwise impede the
9 screening or stabilization of an emergency medical condition.
10 (Code Crim. Proc., Art. 56.045(f).)

11 Source Law

12 (f) If a person alleging to have sustained
13 injuries as the victim of a sexual assault was confined
14 in a penal institution, as defined by Section 1.07,
15 Penal Code, at the time of the alleged assault, the
16 penal institution shall provide, at the person's
17 request, a representative to be present with the
18 person at any forensic medical examination conducted
19 for the purpose of collecting and preserving evidence
20 related to the investigation or prosecution of the
21 alleged assault. The representative may only provide
22 the injured person with counseling and other support
23 services and with information regarding the rights of
24 crime victims under Articles 56.02 and 56.021 and may
25 not delay or otherwise impede the screening or
26 stabilization of an emergency medical condition. The
27 representative must be approved by the penal
28 institution and must be a:
29 (1) psychologist;
30 (2) sociologist;
31 (3) chaplain;
32 (4) social worker;
33 (5) case manager; or
34 (6) volunteer who has completed a sexual
35 assault training program described by Section
36 420.011(b), Government Code.

37 Revisor's Note

38 Article 56.045(f), Code of Criminal Procedure,
39 refers to a "person" alleging to have been a victim of
40 a sexual assault while confined in a penal institution
41 and to a representative providing that "injured
42 person" with counseling and information regarding the
43 rights of crime victims. The revised law substitutes
44 "victim" for the quoted language because it is clear
45 from the context that the person referred to is "the
46 victim of a sexual assault" otherwise described in

1 that article.

2 SUBCHAPTER I. REQUIRED NOTIFICATIONS BY LAW ENFORCEMENT AGENCY

3 Revised Law

4 Art. 56A.401. NOTIFICATION OF RIGHTS. At the initial
5 contact or at the earliest possible time after the initial contact
6 between a victim of a reported offense and the law enforcement
7 agency having the responsibility for investigating the offense, the
8 agency shall provide the victim a written notice containing:

9 (1) information about the availability of emergency
10 and medical services, if applicable;

11 (2) information about the rights of crime victims
12 under Subchapter B;

13 (3) notice that the victim has the right to receive
14 information regarding compensation to victims of crime as provided
15 by Chapter 56B, including information about:

16 (A) the costs that may be compensated under that
17 chapter and the amount of compensation, eligibility for
18 compensation, and procedures for application for compensation
19 under that chapter;

20 (B) the payment for a forensic medical
21 examination under Article 56A.252 for a victim of an alleged sexual
22 assault; and

23 (C) referral to available social service
24 agencies that may offer additional assistance;

25 (4) the name, address, and phone number of the law
26 enforcement agency's crime victim liaison;

27 (5) the name, address, and phone number of the victim
28 assistance coordinator of the office of the attorney representing
29 the state; and

30 (6) the following statement:

31 "You may call the law enforcement agency's telephone number
32 for the status of the case and information about victims' rights."

33 (Code Crim. Proc., Art. 56.07(a).)

1 Source Law

2 Art. 56.07. NOTIFICATION. (a) At the initial
3 contact or at the earliest possible time after the
4 initial contact between the victim of a reported crime
5 and the law enforcement agency having the
6 responsibility for investigating that crime, that
7 agency shall provide the victim a written notice
8 containing:

9 (1) information about the availability of
10 emergency and medical services, if applicable;

11 (2) notice that the victim has the right to
12 receive information regarding compensation to victims
13 of crime as provided by Subchapter B, Chapter 56,
14 including information about:

15 (A) the costs that may be compensated
16 under that Act and the amount of compensation,
17 eligibility for compensation, and procedures for
18 application for compensation under that Act;

19 (B) the payment for a medical
20 examination for a victim of a sexual assault under
21 Article 56.06 of this code; and

22 (C) referral to available social
23 service agencies that may offer additional assistance;

24 (3) the name, address, and phone number of
25 the law enforcement agency's victim assistance
26 liaison;

27 (4) the address, phone number, and name of
28 the crime victim assistance coordinator of the office
29 of the attorney representing the state;

30 (5) the following statement:

31 "You may call the law enforcement agency's
32 telephone number for the status of the case and
33 information about victims' rights"; and

34 (6) the rights of crime victims under
35 Articles 56.02 and 56.021.

36 Revisor's Note

37 (1) Article 56.07(a)(2), Code of Criminal
38 Procedure, requires a law enforcement agency to
39 provide a victim a written notice that the victim has
40 the right to receive information regarding
41 compensation to victims of crime as provided by
42 "Subchapter B, Chapter 56," including information
43 about the costs that may be compensated "under that
44 Act" and procedures for applying for compensation
45 "under that Act." As originally enacted, that
46 subdivision referred to information regarding
47 compensation as provided by "the Crime Victims
48 Compensation Act (Article 8309-1, Vernon's Texas Civil
49 Statutes)" and the subsequent use of the phrase "that
50 Act" was a reference to the Crime Victims Compensation

1 Act. See Section 5, Chapter 202 (S.B. 1407), Acts of
2 the 72nd Legislature, Regular Session, 1991. Section
3 5.95(108), Chapter 76 (S.B. 959), Acts of the 74th
4 Legislature, Regular Session, 1995, amended Article
5 56.07(a) to strike "the Crime Victims Compensation Act
6 (Article 8309-1, Vernon's Texas Civil Statutes)" and
7 substitute "Subchapter B, Chapter 56" but did not
8 revise the subsequent references to "that Act."
9 Subchapter B, Chapter 56, Code of Criminal Procedure,
10 is revised as Chapter 56B, Code of Criminal Procedure.
11 The revised law substitutes "chapter" for "Act" to
12 correct the error.

13 (2) Article 56.07(a)(3), Code of Criminal
14 Procedure, refers to a law enforcement agency's
15 "victim assistance liaison." Article 56.07(a)(4),
16 Code of Criminal Procedure, refers to the "crime
17 victim assistance coordinator" of the office of an
18 attorney representing the state. The revised law
19 substitutes "crime victim liaison" for "victim
20 assistance liaison" and substitutes "victim
21 assistance coordinator" for "crime victim assistance
22 coordinator" to conform to the terminology used in
23 Article 56.04, Code of Criminal Procedure, revised in
24 relevant part in Subchapter E of this chapter.

25 (3) Article 56.07(a)(6), Code of Criminal
26 Procedure, requires a law enforcement agency to
27 provide to a victim a written notice containing "the
28 rights of crime victims under Articles 56.02 and
29 56.021." The revised law adds to the quoted language
30 "information about" because it is clear that the
31 written notice only provides information about the
32 rights of crime victims.

33 Revised Law

34 Art. 56A.402. REFERRAL TO SEXUAL ASSAULT PROGRAM. (a) At

1 the time a law enforcement agency provides notice under Article
2 56A.401, the agency shall provide, if the agency possesses the
3 relevant information:

4 (1) a referral to a sexual assault program as defined
5 by Section 420.003, Government Code; and

6 (2) a written description of the services provided by
7 the program.

8 (b) A sexual assault program may provide a written
9 description of the program's services to a law enforcement agency.
10 (Code Crim. Proc., Art. 56.07(b).)

11 Source Law

12 (b) At the same time a law enforcement agency
13 provides notice under Subsection (a), the agency shall
14 provide, if the agency possesses the relevant
15 information, a referral to a sexual assault program as
16 defined by Section 420.003, Government Code, and a
17 written description of the services provided by that
18 program. A sexual assault program may provide a
19 written description of its services to a law
20 enforcement agency.

21 SUBCHAPTER J. REQUIRED NOTIFICATIONS BY ATTORNEY REPRESENTING THE
22 STATE

23 Revised Law

24 Art. 56A.451. NOTIFICATION OF RIGHTS. (a) Not later than
25 the 10th day after the date that an indictment or information is
26 returned against a defendant for an offense, the attorney
27 representing the state shall give to each victim of the offense a
28 written notice containing:

29 (1) the case number and assigned court for the case;

30 (2) a brief general statement of each procedural stage
31 in the processing of a criminal case, including bail, plea
32 bargaining, parole restitution, and appeal;

33 (3) suggested steps the victim may take if the victim
34 is subjected to threats or intimidation;

35 (4) the name, address, and phone number of the local
36 victim assistance coordinator; and

37 (5) notification of:

38 (A) the rights and procedures under this chapter,

1 Chapter 56B, and Subchapter B, Chapter 58;

2 (B) the right to file a victim impact statement
3 with the office of the attorney representing the state and the
4 department;

5 (C) the right to receive information regarding
6 compensation to victims of crime as provided by Chapter 56B,
7 including information about:

8 (i) the costs that may be compensated under
9 that chapter, eligibility for compensation, and procedures for
10 application for compensation under that chapter;

11 (ii) the payment for a forensic medical
12 examination under Article 56A.252 for a victim of an alleged sexual
13 assault; and

14 (iii) referral to available social service
15 agencies that may offer additional assistance; and

16 (D) the right of a victim, guardian of a victim,
17 or close relative of a deceased victim, as defined by Section
18 508.117, Government Code, to appear in person before a member of the
19 board as provided by Section 508.153, Government Code.

20 (b) The brief general statement required by Subsection
21 (a)(2) that describes the plea bargaining stage in a criminal trial
22 must include a statement that:

23 (1) a victim impact statement provided by a victim,
24 guardian of a victim, or close relative of a deceased victim will be
25 considered by the attorney representing the state in entering into
26 a plea bargain agreement; and

27 (2) the judge before accepting a plea bargain
28 agreement is required under Article 26.13(e) to ask:

29 (A) whether a victim impact statement has been
30 returned to the attorney representing the state;

31 (B) if a victim impact statement has been
32 returned, for a copy of the statement; and

33 (C) whether the attorney representing the state
34 has given the victim, guardian of a victim, or close relative of a

1 deceased victim notice of the existence and terms of the plea
2 bargain agreement. (Code Crim. Proc., Arts. 56.08(a), (e).)

3 Source Law

4 Art. 56.08. NOTIFICATION OF RIGHTS BY ATTORNEY
5 REPRESENTING THE STATE. (a) Not later than the 10th
6 day after the date that an indictment or information is
7 returned against a defendant for an offense, the
8 attorney representing the state shall give to each
9 victim of the offense a written notice containing:

10 (1) a brief general statement of each
11 procedural stage in the processing of a criminal case,
12 including bail, plea bargaining, parole restitution,
13 and appeal;

14 (2) notification of the rights and
15 procedures under this chapter;

16 (3) suggested steps the victim may take if
17 the victim is subjected to threats or intimidation;

18 (4) notification of the right to receive
19 information regarding compensation to victims of crime
20 as provided by Subchapter B, including information
21 about:

22 (A) the costs that may be compensated
23 under Subchapter B, eligibility for compensation, and
24 procedures for application for compensation under
25 Subchapter B of this chapter;

26 (B) the payment for a medical
27 examination for a victim of a sexual assault under
28 Article 56.06; and

29 (C) referral to available social
30 service agencies that may offer additional assistance;

31 (5) the name, address, and phone number of
32 the local victim assistance coordinator;

33 (6) the case number and assigned court for
34 the case;

35 (7) the right to file a victim impact
36 statement with the office of the attorney representing
37 the state and the Texas Department of Criminal
38 Justice; and

39 (8) notification of the right of a victim,
40 guardian of a victim, or close relative of a deceased
41 victim, as defined by Section 508.117, Government
42 Code, to appear in person before a member of the Board
43 of Pardons and Paroles as provided by Section 508.153,
44 Government Code.

45 (e) The brief general statement describing the
46 plea bargaining stage in a criminal trial required by
47 Subsection (a)(1) shall include a statement that:

48 (1) the victim impact statement provided
49 by the victim, guardian of a victim, or close relative
50 of a deceased victim will be considered by the attorney
51 representing the state in entering into the plea
52 bargain agreement; and

53 (2) the judge before accepting the plea
54 bargain agreement is required under Article 26.13(e)
55 to ask:

56 (A) whether a victim impact statement
57 has been returned to the attorney;

58 (B) if a victim impact statement has
59 been returned, for a copy of the statement; and

60 (C) whether the attorney
61 representing the state has given the victim, guardian
62 of a victim, or close relative of a deceased victim
63 notice of the existence and terms of the plea bargain

1 agreement.

2 Revisor's Note

3 Article 56.08(a)(7), Code of Criminal Procedure,
4 requires the attorney representing the state to
5 provide to certain victims a written notice containing
6 "the right to file a victim impact statement." The
7 revised law adds to the quoted language "notification
8 of" for consistency with the other subdivisions of
9 Subsection (a) because it is clear that the written
10 notice only provides notice of the right to file a
11 victim impact statement.

12 Revised Law

13 Art. 56A.452. NOTIFICATION OF SCHEDULED COURT PROCEEDINGS.
14 If requested by the victim, the attorney representing the state, as
15 far as reasonably practical, shall give the victim notice of:

16 (1) any scheduled court proceedings and changes in
17 that schedule; and

18 (2) the filing of a request for continuance of a trial
19 setting. (Code Crim. Proc., Art. 56.08(b).)

20 Source Law

21 (b) If requested by the victim, the attorney
22 representing the state, as far as reasonably
23 practical, shall give to the victim notice of any
24 scheduled court proceedings, changes in that schedule,
25 and the filing of a request for continuance of a trial
26 setting.

27 Revised Law

28 Art. 56A.453. NOTIFICATION OF PLEA BARGAIN AGREEMENT. The
29 attorney representing the state, as far as reasonably practical,
30 shall give a victim, guardian of a victim, or close relative of a
31 deceased victim notice of the existence and terms of any plea
32 bargain agreement to be presented to the court. (Code Crim. Proc.,
33 Art. 56.08(b-1).)

34 Source Law

35 (b-1) The attorney representing the state, as
36 far as reasonably practical, shall give to the victim,
37 guardian of a victim, or close relative of a deceased
38 victim notice of the existence and terms of any plea
39 bargain agreement to be presented to the court.

1 Revised Law

2 Art. 56A.454. VICTIM CONTACT INFORMATION. (a) A victim who
3 receives a notice under Article 56A.451(a) and who chooses to
4 receive other notice under law about the same case must keep the
5 following persons informed of the victim's current address and
6 phone number:

7 (1) the attorney representing the state; and

8 (2) the department if the defendant is imprisoned in
9 the department after sentencing.

10 (b) An attorney representing the state who receives
11 information concerning a victim's current address and phone number
12 shall immediately provide that information to the community
13 supervision and corrections department supervising the defendant,
14 if the defendant is placed on community supervision. (Code Crim.
15 Proc., Arts. 56.08(c), (d).)

16 Source Law

17 (c) A victim who receives a notice under
18 Subsection (a) and who chooses to receive other notice
19 under law about the same case must keep the following
20 persons informed of the victim's current address and
21 phone number:

22 (1) the attorney representing the state;
23 and

24 (2) the Texas Department of Criminal
25 Justice if after sentencing the defendant is confined
26 in the department.

27 (d) An attorney representing the state who
28 receives information concerning a victim's current
29 address and phone number shall immediately provide
30 that information to the community supervision and
31 corrections department supervising the defendant, if
32 the defendant is placed on community supervision.

33 Revisor's Note

34 Article 56.08(c)(2), Code of Criminal Procedure,
35 refers to a defendant being "confined" in the Texas
36 Department of Criminal Justice. The revised law
37 substitutes "imprisoned" for "confined" for the reason
38 stated in Revisor's Note (2) to Article 56A.153.

39 SUBCHAPTER K. NOTIFICATION BY CERTAIN ENTITIES OF RELEASE OR
40 ESCAPE

1 Revised Law

2 Art. 56A.501. DEFINITIONS. In this subchapter:

3 (1) "Correctional facility" has the meaning assigned
4 by Section 1.07, Penal Code.

5 (2) "Family violence" has the meaning assigned by
6 Section 71.004, Family Code. (Code Crim. Proc., Art. 56.11(h).)

7 Source Law

8 (h) In this article:

9 (1) "Correctional facility" has the
10 meaning assigned by Section 1.07, Penal Code.

11 (2) "Family violence" has the meaning
12 assigned by Section 71.004, Family Code.

13 Revised Law

14 Art. 56A.502. APPLICABILITY. This subchapter applies to a
15 defendant convicted of:

16 (1) an offense under Title 5, Penal Code, that is
17 punishable as a felony;

18 (2) an offense described by Section 508.187(a),
19 Government Code, other than an offense described by Subdivision
20 (1); or

21 (3) an offense involving family violence, stalking, or
22 violation of a protective order or magistrate's order. (Code Crim.
23 Proc., Art. 56.11(c).)

24 Source Law

25 (c) This article applies to a defendant
26 convicted of:

27 (1) an offense under Title 5, Penal Code,
28 that is punishable as a felony;

29 (2) an offense described by Section
30 508.187(a), Government Code, other than an offense
31 described by Subdivision (1); or

32 (3) an offense involving family violence,
33 stalking, or violation of a protective order or
34 magistrate's order.

35 Revised Law

36 Art. 56A.503. NOTIFICATION OF RELEASE OR ESCAPE. (a) The
37 department or sheriff, whichever has custody of a defendant in the
38 case of a felony, or the sheriff in the case of a misdemeanor, shall
39 notify a victim of the offense or a witness who testified against
40 the defendant at the trial for the offense, other than a witness who

1 testified in the course and scope of the witness's official or
2 professional duties, when a defendant convicted of an offense
3 described by Article 56A.502:

4 (1) completes the defendant's sentence and is
5 released; or

6 (2) escapes from a correctional facility.

7 (b) If the department is required by Subsection (a) to give
8 notice to a victim or witness, the department shall also give notice
9 to local law enforcement officials in the county in which the victim
10 or witness resides. (Code Crim. Proc., Arts. 56.11(a), (b).)

11 Source Law

12 Art. 56.11. NOTIFICATION TO VICTIM OR WITNESS
13 OF RELEASE OR ESCAPE OF DEFENDANT. (a) The Texas
14 Department of Criminal Justice or the sheriff,
15 whichever has custody of the defendant in the case of a
16 felony, or the sheriff in the case of a misdemeanor,
17 shall notify the victim of the offense or a witness who
18 testified against the defendant at the trial for the
19 offense, other than a witness who testified in the
20 course and scope of the witness's official or
21 professional duties, whenever a defendant convicted of
22 an offense described by Subsection (c):

23 (1) completes the defendant's sentence and
24 is released; or

25 (2) escapes from a correctional facility.

26 (b) If the Texas Department of Criminal Justice
27 is required by Subsection (a) to give notice to a
28 victim or witness, the department shall also give
29 notice to local law enforcement officials in the
30 county in which the victim or witness resides.

31 Revised Law

32 Art. 56A.504. NOTIFICATION REGARDING DEFENDANT SUBJECT TO
33 ELECTRONIC MONITORING. The department, in the case of a defendant
34 released on parole or to mandatory supervision following a term of
35 imprisonment for an offense described by Article 56A.502, or a
36 community supervision and corrections department supervising a
37 defendant convicted of an offense described by Article 56A.502 and
38 subsequently released on community supervision, shall notify a
39 victim or witness described by Article 56A.503(a) when the
40 defendant, if subject to electronic monitoring as a condition of
41 release, ceases to be electronically monitored. (Code Crim. Proc.,
42 Art. 56.11(a-1).)

1 Source Law

2 (a-1) The Texas Department of Criminal Justice,
3 in the case of an inmate released on parole or to
4 mandatory supervision following a term of imprisonment
5 for an offense described by Subsection (c), or a
6 community supervision and corrections department
7 supervising a defendant, in the case of a defendant
8 convicted of an offense described by Subsection (c)
9 and subsequently released on community supervision,
10 shall notify a victim or witness described by
11 Subsection (a) whenever the inmate or defendant, if
12 subject to electronic monitoring as a condition of
13 release, ceases to be electronically monitored.
14

15 Revised Law

16 Art. 56A.505. NOTIFICATION OF RIGHT TO NOTICE. Not later
17 than immediately following the conviction of a defendant for an
18 offense described by Article 56A.502, the attorney who represented
19 the state in the prosecution of the case shall notify in writing a
20 victim or witness described by Article 56A.503(a) of the victim's
21 or witness's right to receive notice under this subchapter. (Code
22 Crim. Proc., Art. 56.11(g).)

23 Source Law

24 (g) Not later than immediately following the
25 conviction of a defendant described by Subsection (c),
26 the attorney who represented the state in the
27 prosecution of the case shall notify in writing a
28 victim or witness described by Subsection (a) of the
29 victim's or witness's right to receive notice under
30 this article.

31 Revisor's Note

32 Article 56.11(g), Code of Criminal Procedure,
33 refers to the conviction of a defendant "described by
34 Subsection (c)," meaning Article 56.11(c), Code of
35 Criminal Procedure. The revised law substitutes "for
36 an offense described by Article 56A.502" for the
37 quoted language to conform with the terminology used
38 in other references in Article 56.11, revised in this
39 chapter as this subchapter, to describe a defendant
40 who is the subject of notifications under that
41 article.

42 Revised Law

43 Art. 56A.506. VICTIM OR WITNESS CONTACT INFORMATION;

1 CONFIDENTIALITY. (a) A victim or witness who wants notification
2 under this subchapter must:

3 (1) provide the department, the sheriff, or the
4 community supervision and corrections department supervising the
5 defendant, as appropriate, with the e-mail address, mailing
6 address, and telephone number of the victim, witness, or other
7 person through whom the victim or witness may be contacted; and

8 (2) notify the appropriate department or the sheriff
9 of any change of address or telephone number of the victim, witness,
10 or other person.

11 (b) Information obtained and maintained by the department,
12 a sheriff, or a community supervision and corrections department
13 under this article is privileged and confidential. (Code Crim.
14 Proc., Art. 56.11(d).)

15 Source Law

16 (d) It is the responsibility of a victim or
17 witness desiring notification of the defendant's
18 release to provide the Texas Department of Criminal
19 Justice, the sheriff, or the community supervision and
20 corrections department supervising the defendant, as
21 appropriate, with the e-mail address, mailing address,
22 and telephone number of the victim, witness, or other
23 person through whom the victim or witness may be
24 contacted and to notify the appropriate department or
25 the sheriff of any change of address or telephone
26 number of the victim, witness, or other person.
27 Information obtained and maintained by the Texas
28 Department of Criminal Justice, a sheriff, or a
29 community supervision and corrections department
30 under this subsection is privileged and confidential.

31 Revisor's Note

32 Article 56.11(d), Code of Criminal Procedure,
33 provides that a victim or witness who wants
34 "notification of the defendant's release" must provide
35 the victim's or witness's contact information to the
36 Texas Department of Criminal Justice, the sheriff, or
37 the community supervision and corrections department
38 supervising the defendant, as appropriate. The revised
39 law substitutes "notification under this subchapter"
40 for the quoted language because a victim or witness is
41 entitled to notification in situations other than the

1 defendant's release. See, e.g., Article 56.11(a-1),
2 Code of Criminal Procedure, revised in this chapter as
3 Article 56A.504.

4 Revised Law

5 Art. 56A.507. TIME FOR NOTICE. (a) The department, the
6 sheriff, or the community supervision and corrections department
7 supervising the defendant, as appropriate:

8 (1) shall make a reasonable attempt to give any notice
9 required by Article 56A.503(a) or 56A.504:

10 (A) not later than the 30th day before the date
11 the defendant:

12 (i) completes the sentence and is released;

13 or

14 (ii) ceases to be electronically monitored
15 as a condition of release; or

16 (B) immediately if the defendant escapes from the
17 correctional facility; and

18 (2) may give the notice by e-mail, if possible.

19 (b) An attempt by the department, the sheriff, or the
20 community supervision and corrections department supervising the
21 defendant to give notice to a victim or witness at the victim's or
22 witness's last known mailing address or, if notice by e-mail is
23 possible, last known e-mail address, as shown on the records of the
24 appropriate department or agency, constitutes a reasonable attempt
25 to give notice under this subchapter. (Code Crim. Proc., Arts.
26 56.11(e), (f).)

27 Source Law

28 (e) The Texas Department of Criminal Justice,
29 the sheriff, or the community supervision and
30 corrections department supervising the defendant, as
31 appropriate:

32 (1) shall make a reasonable attempt to
33 give any notice required by Subsection (a) or (a-1):

34 (A) not later than the 30th day
35 before the date the defendant completes the sentence
36 and is released or ceases to be electronically
37 monitored as a condition of release; or

38 (B) immediately if the defendant
39 escapes from the correctional facility; and

40 (2) may give any notice required by

1 Subsection (a) or (a-1) by e-mail, if possible.

2 (f) An attempt by the Texas Department of
3 Criminal Justice, the sheriff, or the community
4 supervision and corrections department supervising
5 the defendant to give notice to a victim or witness at
6 the victim's or witness's last known mailing address
7 or, if notice via e-mail is possible, last known e-mail
8 address, as shown on the records of the appropriate
9 department or agency, constitutes a reasonable attempt
10 to give notice under this article.

11 SUBCHAPTER L. NOTIFICATION BY DEPARTMENT OF ESCAPE OR TRANSFER

12 Revised Law

13 Art. 56A.551. DEFINITION. In this subchapter, "witness's
14 close relative" means a person who:

15 (1) was the spouse of a deceased witness at the time of
16 the witness's death; or

17 (2) is a parent or adult brother, sister, or child of a
18 deceased witness. (Code Crim. Proc., Art. 56.12(d).)

19 Source Law

20 (d) In this article, "witness's close relative"
21 means a person who was the spouse of the deceased
22 witness at the time of the witness's death or who is a
23 parent or adult brother, sister, or child of the
24 deceased witness.

25 Revised Law

26 Art. 56A.552. NOTIFICATION OF VICTIM. The department shall
27 immediately notify the victim of an offense, the victim's guardian,
28 or the victim's close relative if the victim is deceased, if the
29 victim, victim's guardian, or victim's close relative has notified
30 the department as provided by Article 56A.554, when the defendant:

31 (1) escapes from a facility operated by the department
32 for the imprisonment of individuals convicted of felonies other
33 than state jail felonies; or

34 (2) is transferred from the custody of a facility
35 described by Subdivision (1) to the custody of a peace officer under
36 a writ of attachment or a bench warrant. (Code Crim. Proc., Art.
37 56.12(a).)

38 Source Law

39 Art. 56.12. NOTIFICATION OF ESCAPE OR TRANSFER.
40 (a) The Texas Department of Criminal Justice shall
41 immediately notify the victim of an offense, the
42 victim's guardian, or the victim's close relative, if
43 the victim is deceased, if the victim, victim's

1 guardian, or victim's close relative has notified the
2 department as provided by Subsection (b), whenever the
3 defendant:

4 (1) escapes from a facility operated by
5 the department for the imprisonment of individuals
6 convicted of felonies other than state jail felonies;
7 or

8 (2) is transferred from the custody of a
9 facility operated by the department for the
10 imprisonment of individuals convicted of felonies
11 other than state jail felonies to the custody of a
12 peace officer under a writ of attachment or a bench
13 warrant.

14 Revised Law

15 Art. 56A.553. NOTIFICATION OF WITNESS. The department
16 shall immediately notify a witness who testified against a
17 defendant at the trial for the offense for which the defendant is
18 imprisoned, the witness's guardian, or the witness's close
19 relative, if the witness, witness's guardian, or witness's close
20 relative has notified the department as provided by Article
21 56A.554, when the defendant:

22 (1) escapes from a facility operated by the department
23 for the imprisonment of individuals convicted of felonies other
24 than state jail felonies; or

25 (2) is transferred from the custody of a facility
26 described by Subdivision (1) to the custody of a peace officer under
27 a writ of attachment or a bench warrant. (Code Crim. Proc., Art.
28 56.12(a-1).)

29 Source Law

30 (a-1) The Texas Department of Criminal Justice
31 shall immediately notify a witness who testified
32 against a defendant at the trial for the offense for
33 which the defendant is incarcerated, the witness's
34 guardian, or the witness's close relative, if the
35 witness is deceased, if the witness, witness's
36 guardian, or witness's close relative has notified the
37 department as provided by Subsection (b), whenever the
38 defendant:

39 (1) escapes from a facility operated by
40 the department for the imprisonment of individuals
41 convicted of felonies other than state jail felonies;
42 or

43 (2) is transferred from the custody of a
44 facility operated by the department for the
45 imprisonment of individuals convicted of felonies
46 other than state jail felonies to the custody of a
47 peace officer under a writ of attachment or a bench
48 warrant.

1 Revisor's Note

2 (1) Article 56.12(a-1), Code of Criminal
3 Procedure, refers to a defendant "incarcerated" by the
4 Texas Department of Criminal Justice. The revised law
5 substitutes "imprisoned" for "incarcerated" because,
6 in the context of the Texas Department of Criminal
7 Justice, the terms are synonymous and "imprisoned" is
8 more commonly used.

9 (2) Article 56.12(a-1), Code of Criminal
10 Procedure, refers to notification of a witness's close
11 relative "if the witness is deceased." The revised law
12 omits "if the witness is deceased" as unnecessary
13 because, according to the definition of "witness's
14 close relative" in Article 56.12(d), Code of Criminal
15 Procedure, revised in this chapter as Article 56A.551,
16 a witness's close relative is a close relative of a
17 deceased witness.

18 Revised Law

19 Art. 56A.554. REQUEST FOR NOTIFICATION; CHANGE OF ADDRESS.
20 A victim, witness, guardian, or close relative who wants
21 notification of a defendant's escape or transfer from custody under
22 a writ of attachment or bench warrant must notify the department of
23 that fact and of any change of address. (Code Crim. Proc., Art.
24 56.12(b).)

25 Source Law

26 (b) It is the responsibility of the victim,
27 witness, guardian, or close relative desiring
28 notification of a defendant's escape or transfer from
29 custody under a writ of attachment or bench warrant to
30 notify the Texas Department of Criminal Justice of the
31 desire for notification and any change of address.

32 Revised Law

33 Art. 56A.555. NOTICE OF TRANSFER FROM OR RETURN TO CUSTODY.
34 The department shall include in a notice provided under Article
35 56A.552(2) or 56A.553(2) the name, address, and telephone number of
36 the peace officer receiving the defendant into custody. On

1 returning the defendant to the custody of the department, the
2 victim services division of the department shall notify the victim,
3 witness, guardian, or close relative, as applicable, of the return.
4 (Code Crim. Proc., Art. 56.12(c).)

5 Source Law

6 (c) In providing notice under Subsection (a)(2)
7 or (a-1)(2), the department shall include the name,
8 address, and telephone number of the peace officer
9 receiving the defendant into custody. On returning
10 the defendant to the custody of the department, the
11 victim services division of the department shall
12 notify the victim, witness, guardian, or close
13 relative, as applicable, of that fact.

14 SUBCHAPTER M. OTHER POWERS AND DUTIES OF DEPARTMENT AND
15 CLEARINGHOUSE

16 Revised Law

17 Art. 56A.601. DATABASE FOR DEFENDANT RELEASE INFORMATION.

18 The department shall:

19 (1) create and maintain a computerized database
20 containing the release information and release date of a defendant
21 convicted of an offense described by Article 56A.502; and

22 (2) allow a victim or witness entitled to notice under
23 Subchapter K or L to access through the Internet the computerized
24 database maintained under Subdivision (1). (Code Crim. Proc., Art.
25 56.15.)

26 Source Law

27 Art. 56.15. COMPUTERIZED DATABASE; DEFENDANT
28 RELEASE INFORMATION. The Texas Department of Criminal
29 Justice shall:

30 (1) create and maintain a computerized
31 database containing the release information and
32 release date of a defendant described by Article
33 56.11(c); and

34 (2) allow a victim or witness entitled to
35 notice under Article 56.11 or 56.12 to access via the
36 Internet the computerized database maintained under
37 Subdivision (1).

38 Revisor's Note

39 Article 56.15(1), Code of Criminal Procedure,
40 refers to a defendant "described by Article 56.11(c)."
41 The revised law substitutes "convicted of an offense
42 described by Article 56A.502" for the quoted language

1 for the reason stated in the revisor's note to Article
2 56A.505.

3 Revised Law

4 Art. 56A.602. VICTIM-OFFENDER MEDIATION. The victim
5 services division of the department shall:

6 (1) train volunteers to act as mediators between
7 victims, guardians of victims, and close relatives of deceased
8 victims and offenders whose criminal conduct caused bodily injury
9 or death to victims; and

10 (2) provide mediation services through referral of a
11 trained volunteer, if requested by a victim, guardian of a victim,
12 or close relative of a deceased victim. (Code Crim. Proc., Art.
13 56.13.)

14 Source Law

15 Art. 56.13. VICTIM-OFFENDER MEDIATION. The
16 victim services division of the Texas Department of
17 Criminal Justice shall:

18 (1) train volunteers to act as mediators
19 between victims, guardians of victims, and close
20 relatives of deceased victims and offenders whose
21 criminal conduct caused bodily injury or death to
22 victims; and

23 (2) provide mediation services through
24 referral of a trained volunteer, if requested by a
25 victim, guardian of a victim, or close relative of a
26 deceased victim.

27 Revised Law

28 Art. 56A.603. CLEARINGHOUSE ANNUAL CONFERENCE. The
29 clearinghouse may:

30 (1) conduct an annual conference to provide to
31 participants in the criminal justice system training containing
32 information on crime victims' rights; and

33 (2) charge a fee to a person attending the conference
34 described by Subdivision (1). (Code Crim. Proc., Art. 56.14.)

35 Source Law

36 Art. 56.14. CLEARINGHOUSE ANNUAL CONFERENCE.
37 (a) The Texas Crime Victim Clearinghouse may conduct
38 an annual conference to provide to participants in the
39 criminal justice system training containing
40 information on crime victims' rights.

41 (b) The clearinghouse may charge fees to persons
42 attending the conference described by Subsection (a).

1 Revised Law

2 Art. 56A.604. CRIME VICTIM ASSISTANCE STANDARDS. The
3 clearinghouse shall develop crime victim assistance standards and
4 distribute those standards to law enforcement officers and
5 attorneys representing the state to aid those officers and
6 attorneys in performing duties imposed by this chapter, Chapter
7 56B, and Subchapter B, Chapter 58. (Code Crim. Proc., Art.
8 56.05(c).)

9 Source Law

10 (c) The Texas Crime Victim Clearinghouse shall
11 develop crime victim assistance standards and
12 distribute those standards to law enforcement officers
13 and attorneys representing the state to aid those
14 officers and prosecutors in performing duties imposed
15 by this chapter.

16 CHAPTER 56B. CRIME VICTIMS' COMPENSATION

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21 CHAPTER 56B. CRIME VICTIMS' COMPENSATION

22 SUBCHAPTER A. GENERAL PROVISIONS

23 Revised Law

24 Art. 56B.001. SHORT TITLE. This chapter may be cited as the

25 Crime Victims' Compensation Act. (Code Crim. Proc., Art. 56.31.)

26 Source Law

27 Art. 56.31. SHORT TITLE. This subchapter may be

28 cited as the Crime Victims' Compensation Act.

29 Revised Law

30 Art. 56B.002. LEGISLATIVE FINDINGS AND INTENT. (a) The

31 legislature recognizes that many innocent individuals suffer

32 personal injury or death as a result of criminal acts. Crime victims

33 and persons who intervene to prevent criminal acts often suffer

34 disabilities, incur financial burdens, or become dependent on

1 public assistance. The legislature finds that there is a need to
2 compensate crime victims and those who suffer personal injury or
3 death in the prevention of crime or in the apprehension of
4 criminals.

5 (b) It is the legislature's intent that the compensation of
6 innocent victims of violent crime encourage greater public
7 cooperation in the successful apprehension and prosecution of
8 criminals. (Code Crim. Proc., Art. 56.311.)

9 Source Law

10 Art. 56.311. LEGISLATIVE FINDINGS AND INTENT.
11 The legislature recognizes that many innocent
12 individuals suffer personal injury or death as a
13 result of criminal acts. Crime victims and persons who
14 intervene to prevent criminal acts often suffer
15 disabilities, incur financial burdens, or become
16 dependent on public assistance. The legislature finds
17 that there is a need for the compensation of victims of
18 crime and those who suffer personal injury or death in
19 the prevention of crime or in the apprehension of
20 criminals. It is the legislature's intent that the
21 compensation of innocent victims of violent crime
22 encourage greater public cooperation in the successful
23 apprehension and prosecution of criminals.

24 Revised Law

25 Art. 56B.003. DEFINITIONS. In this chapter:

26 (1) "Child" means an individual younger than 18 years
27 of age who:

28 (A) is not married; or

29 (B) has not had the disabilities of minority
30 removed for general purposes under Chapter 31, Family Code.

31 (2) "Claimant" means any of the following individuals,
32 other than a service provider, who is entitled to file or has filed
33 a claim for compensation under this chapter:

34 (A) an authorized individual acting on behalf of
35 a victim;

36 (B) an individual who legally assumes the
37 obligation or who voluntarily pays medical or burial expenses of a
38 victim incurred as a result of the criminally injurious conduct of
39 another;

40 (C) a dependent of a victim who died as a result

1 of the criminally injurious conduct;

2 (D) an immediate family member or a household
3 member of a victim who, as a result of the criminally injurious
4 conduct:

5 (i) requires psychiatric care or
6 counseling;

7 (ii) incurs expenses for traveling to and
8 attending a deceased victim's funeral; or

9 (iii) suffers wage loss from bereavement
10 leave taken in connection with the death of the victim; or

11 (E) an authorized individual acting on behalf of
12 a child described by Paragraph (C) or (D).

13 (3) "Collateral source" means any of the following
14 sources of benefits or advantages for pecuniary loss that a
15 claimant or victim has received or that is readily available to the
16 claimant or victim from:

17 (A) the offender under an order of restitution to
18 the claimant or victim that is imposed by a court as a condition of
19 community supervision;

20 (B) the United States, a federal agency, a state
21 or any of its political subdivisions, or an instrumentality of two
22 or more states, unless the law providing for the benefits or
23 advantages makes those benefits or advantages in addition to or
24 secondary to benefits under this chapter;

25 (C) social security, Medicare, or Medicaid;

26 (D) another state's or another country's crime
27 victims' compensation program;

28 (E) workers' compensation;

29 (F) an employer's wage continuation program, not
30 including vacation and sick leave benefits;

31 (G) proceeds of an insurance contract payable to
32 or on behalf of the claimant or victim for loss that the claimant or
33 victim sustained because of the criminally injurious conduct;

34 (H) a contract or self-funded program providing

1 hospital and other health care services or benefits; or

2 (I) proceeds awarded to the claimant or victim as
3 a result of third-party litigation.

4 (4) "Criminally injurious conduct" means conduct
5 that:

6 (A) occurs or is attempted;

7 (B) poses a substantial threat of personal injury
8 or death;

9 (C) is punishable by fine, imprisonment, or
10 death, or would be punishable by fine, imprisonment, or death if the
11 person engaging in the conduct possessed the capacity to commit the
12 conduct; and

13 (D) does not arise out of the ownership,
14 maintenance, or use of a motor vehicle, aircraft, or water vehicle,
15 unless the conduct is:

16 (i) intended to cause personal injury or
17 death;

18 (ii) in violation of Section 545.157 or
19 545.401, Transportation Code, if the conduct results in bodily
20 injury or death;

21 (iii) in violation of Section 550.021,
22 Transportation Code; or

23 (iv) in violation of one or more of the
24 following sections of the Penal Code:

25 (a) Section 19.04 (manslaughter);

26 (b) Section 19.05 (criminally
27 negligent homicide);

28 (c) Section 22.02 (aggravated
29 assault);

30 (d) Section 22.05 (deadly conduct);

31 (e) Section 49.04 (driving while
32 intoxicated);

33 (f) Section 49.05 (flying while
34 intoxicated);

1 (g) Section 49.06 (boating while
2 intoxicated);

3 (h) Section 49.07 (intoxication
4 assault); or

5 (i) Section 49.08 (intoxication
6 manslaughter).

7 (5) "Dependent" means:

8 (A) a surviving spouse;

9 (B) a person who is a dependent, within the
10 meaning of the Internal Revenue Code of 1986, of a victim; and

11 (C) a posthumous child of a deceased victim.

12 (6) "Family violence" has the meaning assigned by
13 Section 71.004(1), Family Code.

14 (7) "Household member" means an individual who:

15 (A) is related by consanguinity or affinity to
16 the victim; and

17 (B) resided in the same permanent household as
18 the victim at the time that the criminally injurious conduct
19 occurred.

20 (8) "Immediate family member" means an individual who
21 is related to a victim within the second degree by consanguinity or
22 affinity.

23 (9) "Intervenor" means an individual who goes to the
24 aid of another and is killed or injured in a good faith effort to:

25 (A) prevent criminally injurious conduct;

26 (B) apprehend a person reasonably suspected of
27 having engaged in criminally injurious conduct; or

28 (C) aid a peace officer.

29 (10) "Pecuniary loss" means the amount of the expense
30 reasonably and necessarily incurred as a result of personal injury
31 or death for:

32 (A) medical, hospital, nursing, or psychiatric
33 care or counseling, or physical therapy;

34 (B) actual loss of past earnings and anticipated

1 loss of future earnings and necessary travel expenses because of:

2 (i) a disability resulting from the
3 personal injury;

4 (ii) the receipt of medically indicated
5 services related to the disability; or

6 (iii) participation in or attendance at
7 investigative, prosecutorial, or judicial processes or any
8 postconviction or postadjudication proceeding relating to
9 criminally injurious conduct;

10 (C) care of a child or dependent, including
11 specialized care for a child who is a victim;

12 (D) funeral and burial expenses, including, for
13 an immediate family member or a household member of the victim, the
14 necessary expenses of traveling to and attending the funeral;

15 (E) loss of support to a dependent, consistent
16 with Article 56B.057(b)(5);

17 (F) reasonable and necessary costs of cleaning
18 the crime scene;

19 (G) reasonable replacement costs for clothing,
20 bedding, or property of the victim seized as evidence or rendered
21 unusable as a result of the criminal investigation;

22 (H) reasonable and necessary costs for
23 relocation and housing rental assistance payments as provided by
24 Article 56B.106(c);

25 (I) for an immediate family member or a household
26 member of a deceased victim, bereavement leave of not more than 10
27 work days; and

28 (J) reasonable and necessary costs of traveling
29 to and from a place of execution to witness the execution, including
30 one night's lodging near the place where the execution is
31 conducted.

32 (11) "Personal injury" means physical or mental harm.

33 (12) "Sexual assault" means an offense under Section
34 21.02, 21.11(a)(1), 22.011, or 22.021, Penal Code.

1 (13) "Trafficking of persons" means any offense that
2 results in a person engaging in forced labor or services, including
3 sexual conduct, and that may be prosecuted under Section 20A.02,
4 20A.03, 43.03, 43.04, 43.05, 43.25, 43.251, or 43.26, Penal Code.

5 (14) "Victim" means:

6 (A) an individual who:

7 (i) suffers personal injury or death as a
8 result of criminally injurious conduct or as a result of actions
9 taken by the individual as an intervenor, if the conduct or actions
10 occurred in this state; and

11 (ii) is a resident of this state or another
12 state of the United States;

13 (B) an individual who:

14 (i) suffers personal injury or death as a
15 result of criminally injurious conduct or as a result of actions
16 taken by the individual as an intervenor, if the conduct or actions
17 occurred in a state or country that does not have a crime victims'
18 compensation program that meets the requirements of Section
19 1403(b), Victims of Crime Act of 1984 (34 U.S.C. Section 20102(b));

20 (ii) is a resident of this state; and

21 (iii) would be entitled to compensation
22 under this chapter if the criminally injurious conduct or actions
23 had occurred in this state; or

24 (C) an individual who:

25 (i) suffers personal injury or death as a
26 result of criminally injurious conduct caused by an act of
27 international terrorism as defined by 18 U.S.C. Section 2331
28 committed outside of the United States; and

29 (ii) is a resident of this state.

30 (15) "Victim-related services or assistance" means
31 compensation, services, or assistance provided directly to a victim
32 or claimant to support or assist in the recovery of the victim or
33 claimant from the consequences of criminally injurious conduct.
34 (Code Crim. Proc., Arts. 56.01(2-a), 56.32.)

1 Source Law

2 [Art. 56.01]

3 In this chapter:

4 (2-a) "Sexual assault" means an offense
5 under Section 21.02, 21.11(a)(1), 22.011, or 22.021,
6 Penal Code.
7

8 Art. 56.32. DEFINITIONS. (a) In this
9 subchapter:

10 (1) "Child" means an individual younger
11 than 18 years of age who:

12 (A) is not married; or

13 (B) has not had the disabilities of
14 minority removed for general purposes under Chapter
15 31, Family Code.

16 (2) "Claimant" means, except as provided
17 by Subsection (b), any of the following individuals
18 who is entitled to file or has filed a claim for
19 compensation under this subchapter:

20 (A) an authorized individual acting
21 on behalf of a victim;

22 (B) an individual who legally assumes
23 the obligation or who voluntarily pays medical or
24 burial expenses of a victim incurred as a result of the
25 criminally injurious conduct of another;

26 (C) a dependent of a victim who died
27 as a result of criminally injurious conduct;

28 (D) an immediate family member or
29 household member of a victim who:

30 (i) requires psychiatric care
31 or counseling as a result of the criminally injurious
32 conduct; or

33 (ii) as a result of the
34 criminally injurious conduct, incurs with respect to a
35 deceased victim expenses for traveling to and
36 attending the victim's funeral or suffers wage loss
37 from bereavement leave taken in connection with the
38 death of that victim; or

39 (E) an authorized individual acting
40 on behalf of an individual who is described by
41 Subdivision (C) or (D) and who is a child.

42 (3) "Collateral source" means any of the
43 following sources of benefits or advantages for
44 pecuniary loss that a claimant or victim has received
45 or that is readily available to the claimant or victim
46 from:

47 (A) the offender under an order of
48 restitution to the claimant or victim imposed by a
49 court as a condition of community supervision;

50 (B) the United States, a federal
51 agency, a state or any of its political subdivisions,
52 or an instrumentality of two or more states, unless the
53 law providing for the benefits or advantages makes
54 them in excess of or secondary to benefits under this
55 subchapter;

56 (C) social security, Medicare, or
57 Medicaid;

58 (D) another state's or another
59 country's crime victims' compensation program;

60 (E) workers' compensation;

61 (F) an employer's wage continuation
62 program, not including vacation and sick leave
63 benefits;

64 (G) proceeds of an insurance contract
65 payable to or on behalf of the claimant or victim for

1 loss that the claimant or victim sustained because of
2 the criminally injurious conduct;

3 (H) a contract or self-funded program
4 providing hospital and other health care services or
5 benefits; or

6 (I) proceeds awarded to the claimant
7 or victim as a result of third-party litigation.

8 (4) "Criminally injurious conduct" means
9 conduct that:

10 (A) occurs or is attempted;

11 (B) poses a substantial threat of
12 personal injury or death;

13 (C) is punishable by fine,
14 imprisonment, or death, or would be punishable by
15 fine, imprisonment, or death if the person engaging in
16 the conduct possessed capacity to commit the conduct;
17 and

18 (D) does not arise out of the
19 ownership, maintenance, or use of a motor vehicle,
20 aircraft, or water vehicle, unless the conduct is
21 intended to cause personal injury or death or the
22 conduct is in violation of Section 545.157 or 545.401,
23 Transportation Code, and results in bodily injury or
24 death, or is in violation of Section 550.021,
25 Transportation Code, or one or more of the following
26 sections of the Penal Code:

27 (i) Section 19.04
28 (manslaughter);

29 (ii) Section 19.05 (criminally
30 negligent homicide);

31 (iii) Section 22.02 (aggravated
32 assault);

33 (iv) Section 22.05 (deadly
34 conduct);

35 (v) Section 49.04 (driving
36 while intoxicated);

37 (vi) Section 49.05 (flying
38 while intoxicated);

39 (vii) Section 49.06 (boating
40 while intoxicated);

41 (viii) Section 49.07
42 (intoxication assault); or

43 (ix) Section 49.08
44 (intoxication manslaughter).

45 (5) "Dependent" means:

46 (A) a surviving spouse;

47 (B) a person who is a dependent,
48 within the meaning of the Internal Revenue Code, of a
49 victim; and

50 (C) a posthumous child of a deceased
51 victim.

52 (6) "Household member" means an individual
53 who resided in the same permanent household as the
54 victim at the time that the criminally injurious
55 conduct occurred and who is related by consanguinity
56 or affinity to the victim.

57 (7) "Immediate family member" means an
58 individual who is related to a victim within the second
59 degree by affinity or consanguinity.

60 (8) "Intervenor" means an individual who
61 goes to the aid of another and is killed or injured in
62 the good faith effort to prevent criminally injurious
63 conduct, to apprehend a person reasonably suspected of
64 having engaged in criminally injurious conduct, or to
65 aid a peace officer.

66 (9) "Pecuniary loss" means the amount of
67 expense reasonably and necessarily incurred as a
68 result of personal injury or death for:

1 (A) medical, hospital, nursing, or
2 psychiatric care or counseling, or physical therapy;

3 (B) actual loss of past earnings and
4 anticipated loss of future earnings and necessary
5 travel expenses because of:

6 (i) a disability resulting from
7 the personal injury;

8 (ii) the receipt of medically
9 indicated services related to the disability resulting
10 from the personal injury; or

11 (iii) participation in or
12 attendance at investigative, prosecutorial, or
13 judicial processes related to the criminally injurious
14 conduct and participation in or attendance at any
15 postconviction or postadjudication proceeding
16 relating to criminally injurious conduct;

17 (C) care of a child or dependent,
18 including specialized care for a child who is a victim;

19 (D) funeral and burial expenses,
20 including, for an immediate family member or household
21 member of the victim, the necessary expenses of
22 traveling to and attending the funeral;

23 (E) loss of support to a dependent,
24 consistent with Article 56.41(b)(5);

25 (F) reasonable and necessary costs of
26 cleaning the crime scene;

27 (G) reasonable replacement costs for
28 clothing, bedding, or property of the victim seized as
29 evidence or rendered unusable as a result of the
30 criminal investigation;

31 (H) reasonable and necessary costs
32 for relocation and housing rental assistance payments
33 as provided by Article 56.42(d);

34 (I) for an immediate family member or
35 household member of a deceased victim, bereavement
36 leave of not more than 10 work days; and

37 (J) reasonable and necessary costs of
38 traveling to and from a place of execution for the
39 purpose of witnessing the execution, including one
40 night's lodging near the place at which the execution
41 is conducted.

42 (10) "Personal injury" means physical or
43 mental harm.

44 (11) "Victim" means, except as provided by
45 Subsection (c):

46 (A) an individual who:

47 (i) suffers personal injury or
48 death as a result of criminally injurious conduct or as
49 a result of actions taken by the individual as an
50 intervenor, if the conduct or actions occurred in this
51 state; and

52 (ii) is a resident of this
53 state, another state of the United States, the
54 District of Columbia, the Commonwealth of Puerto Rico,
55 or a possession or territory of the United States;

56 (B) an individual who:

57 (i) suffers personal injury or
58 death as a result of criminally injurious conduct or as
59 a result of actions taken by the individual as an
60 intervenor, if the conduct or actions occurred in a
61 state or country that does not have a crime victims'
62 compensation program that meets the requirements of
63 Section 1403(b), Crime Victims Compensation Act of
64 1984 (42 U.S.C. Section 10602(b));

65 (ii) is a resident of this
66 state; and

67 (iii) would be entitled to
68 compensation under this subchapter if the criminally

1 injurious conduct or actions had occurred in this
2 state; or

3 (C) an individual who:

4 (i) suffers personal injury or
5 death as a result of criminally injurious conduct
6 caused by an act of international terrorism as defined
7 by 18 U.S.C. Section 2331 committed outside of the
8 United States; and

9 (ii) is a resident of this
10 state.

11 (12) "Family violence" has the meaning
12 assigned by Section 71.004(1), Family Code.

13 (13) "Victim-related services or
14 assistance" means compensation, services, or
15 assistance provided directly to a victim or claimant
16 for the purpose of supporting or assisting the
17 recovery of the victim or claimant from the
18 consequences of criminally injurious conduct.

19 (14) "Trafficking of persons" means any
20 offense that results in a person engaging in forced
21 labor or services, including sexual conduct, and that
22 may be prosecuted under Section 20A.02, 20A.03, 43.03,
23 43.04, 43.05, 43.25, 43.251, or 43.26, Penal Code.

24 (b) In this subchapter "claimant" does not
25 include a service provider.

26 Revisor's Note

27 (1) Article 56.01, Code of Criminal Procedure,
28 provides definitions for purposes of Chapter 56, Code
29 of Criminal Procedure. The terms "close relative of a
30 deceased victim" and "guardian of a victim" as defined
31 by Article 56.01 are not used in Subchapter B, Chapter
32 56, revised as this chapter, and are therefore not
33 revised in this article.

34 As originally enacted, Chapter 56, Code of
35 Criminal Procedure, consisted only of provisions
36 related to crime victims' rights and was not organized
37 into subchapters. See Section 1, Chapter 588
38 (H.B. 235), Acts of the 69th Legislature, Regular
39 Session, 1985. In the 73rd Legislature, the existing
40 articles of Chapter 56 were designated as Subchapter A
41 and Subchapter B was added, including Article 56.32,
42 which provides definitions that apply only to
43 Subchapter B and contains a definition for "victim."
44 See Section 6, Chapter 268 (S.B. 248), Acts of the 73rd
45 Legislature, Regular Session, 1993. However, that act
46 did not revise several references to "this chapter"

1 that existed in the articles designated as Subchapter
2 A, including the language in Article 56.01 that
3 provides that the definitions in that article,
4 including a definition for the term "victim," apply to
5 the entirety of Chapter 56. This resulted in two
6 definitions for "victim" applying to Subchapter B.
7 The definition provided by Article 56.01 is not
8 revised in this article because it is clear from the
9 history of that article and Article 56.32 that the
10 definition for "victim" provided by Article 56.01 was
11 not intended to apply to Subchapter B.

12 (2) Article 56.32(a)(5)(B), Code of Criminal
13 Procedure, refers to the "Internal Revenue Code." The
14 revised law substitutes the "Internal Revenue Code of
15 1986" for the quoted language to conform to other
16 statutory references to that code.

17 (3) Article 56.32(a)(11), Code of Criminal
18 Procedure, provides a definition of "victim"
19 applicable to Subchapter B, Chapter 56, Code of
20 Criminal Procedure, "except as provided by Subsection
21 (c)" of that article. Section 1, Chapter 1434 (H.B.
22 3062), Acts of the 75th Legislature, Regular Session,
23 1997, repealed Article 56.32(c), but did not repeal
24 the phrase "except as provided by Subsection (c)." The
25 revised law omits that phrase to correct the error.

26 (4) Article 56.32(a)(11)(A)(ii), Code of
27 Criminal Procedure, refers to a resident of "this
28 state, another state of the United States, the
29 District of Columbia, the Commonwealth of Puerto Rico,
30 or a possession or territory of the United States."
31 The revised law omits "the District of Columbia, the
32 Commonwealth of Puerto Rico, or a possession or
33 territory of the United States" because Section
34 311.005(7), Government Code (Code Construction Act),

1 provides that "state," when referring to a part of the
2 United States, is defined to include a district,
3 commonwealth, territory, or insular possession of the
4 United States. The Code Construction Act is
5 applicable to the revised law and any other provision
6 of the Code of Criminal Procedure enacted under
7 Section 43, Article III, Texas Constitution
8 (authorizing the continuing statutory revision
9 program), in the same manner as to an entire code
10 enacted under the continuing statutory revision
11 program, except as otherwise expressly provided by the
12 Code of Criminal Procedure. See Section 6.02(a),
13 Chapter 1058 (H.B. 2931), Acts of the 85th
14 Legislature, Regular Session, 2017.

15 (5) Article 56.32(a)(11)(B)(i), Code of
16 Criminal Procedure, refers to a crime victims'
17 compensation program that meets the requirements of
18 Section 1403(b), Crime Victims Compensation Act of
19 1984 (42 U.S.C. Section 10602(b)). The proper short
20 title for the act is the "Victims of Crime Act of
21 1984." In 2017, 42 U.S.C. Section 10602(b) was
22 transferred to 34 U.S.C. Section 20102(b). The
23 revised law is drafted accordingly.

24 Revised Law

25 Art. 56B.004. ADMINISTRATION; RULES. (a) The attorney
26 general shall adopt rules consistent with this chapter governing
27 its administration, including rules relating to the method of
28 filing claims and the proof of entitlement to compensation and the
29 review of health care services subject to compensation under this
30 chapter, Chapter 56A, and Subchapter B, Chapter 58.

31 (b) Subchapters A and B, Chapter 2001, Government Code,
32 except Sections 2001.004(3) and 2001.005, apply to the attorney
33 general.

34 (c) The attorney general may delegate to a person in the

1 attorney general's office a power or duty given to the attorney
2 general under this chapter. (Code Crim. Proc., Art. 56.33.)

3 Source Law

4 Art. 56.33. ADMINISTRATION; RULES. (a) The
5 attorney general shall adopt rules consistent with
6 this subchapter governing its administration,
7 including rules relating to the method of filing
8 claims and the proof of entitlement to compensation
9 and the review of health care services subject to
10 compensation under this chapter. Subchapters A and B,
11 Chapter 2001, Government Code, except Sections
12 2001.004(3) and 2001.005, apply to the attorney
13 general.

14 (b) The attorney general may delegate a power,
15 duty, or responsibility given to the attorney general
16 under this subchapter to a person in the attorney
17 general's office.

18 Revisor's Note

19 Article 56.33(b), Code of Criminal Procedure,
20 refers to the attorney general's authority to delegate
21 a duty or responsibility given to the attorney
22 general. The reference to a "responsibility" is
23 omitted from the revised law because "responsibility"
24 is included in the meaning of "duty."

25 Revised Law

26 Art. 56B.005. ANNUAL REPORT. Not later than the 100th day
27 after the end of each state fiscal year, the attorney general shall
28 submit to the governor and the legislature a report on the attorney
29 general's activities during the preceding fiscal year, including a
30 statistical summary of claims and awards made and denied. (Code
31 Crim. Proc., Art. 56.53.)

32 Source Law

33 Art. 56.53. ANNUAL REPORT. Annually, the
34 attorney general shall report to the governor and the
35 legislature on the attorney general's activities,
36 including a statistical summary of claims and awards
37 made and denied. The reporting period is the state
38 fiscal year. The attorney general shall file the
39 report not later than the 100th day after the end of
40 the fiscal year.

41 Revised Law

42 Art. 56B.006. PUBLIC NOTICE. (a) A hospital licensed under
43 the laws of this state shall display prominently in its emergency
44 room posters giving notice of the existence and general provisions

1 of this chapter.

2 (b) The attorney general shall:

3 (1) set standards for the location of the posters
4 described by Subsection (a); and

5 (2) provide posters, application forms, and general
6 information regarding this chapter to each hospital and physician
7 licensed to practice in this state. (Code Crim. Proc., Art.
8 56.60(a).)

9 Source Law

10 Art. 56.60. PUBLIC NOTICE. (a) A hospital
11 licensed under the laws of this state shall display
12 prominently in its emergency room posters giving
13 notification of the existence and general provisions
14 of this subchapter. The attorney general shall set
15 standards for the location of the display and shall
16 provide posters, application forms, and general
17 information regarding this subchapter to each hospital
18 and physician licensed to practice in this state.

19 Revised Law

20 Art. 56B.007. NOTICE BY LOCAL LAW ENFORCEMENT AGENCY. (a)
21 Each local law enforcement agency shall inform a claimant or victim
22 of the provisions of this chapter and make application forms
23 available.

24 (b) The attorney general:

25 (1) shall:

26 (A) provide application forms and all other
27 documents that a local law enforcement agency may require to comply
28 with this article; and

29 (B) set standards to be followed by a local law
30 enforcement agency to comply with this article; and

31 (2) may require a local law enforcement agency to file
32 with the attorney general a description of the procedures adopted
33 by the agency to comply with this article. (Code Crim. Proc., Art.
34 56.60(b).)

35 Source Law

36 (b) Each local law enforcement agency shall
37 inform a claimant or victim of criminally injurious
38 conduct of the provisions of this subchapter and make
39 application forms available. The attorney general
40 shall provide application forms and all other

1 documents that local law enforcement agencies may
2 require to comply with this article. The attorney
3 general shall set standards to be followed by local law
4 enforcement agencies for this purpose and may require
5 them to file with the attorney general a description of
6 the procedures adopted by each agency to comply.

7 Revisor's Note

8 (1) Article 56.60(b), Code of Criminal
9 Procedure, refers to a victim "of criminally injurious
10 conduct." The revised law omits the quoted language as
11 unnecessary because the concept is included in the
12 definition of "victim" under Article 56.32(a)(11),
13 Code of Criminal Procedure, revised as Article
14 56B.003(14) of this chapter.

15 (2) Article 56.60(b), Code of Criminal
16 Procedure, requires the attorney general to provide
17 application forms and other documents that local law
18 enforcement agencies may require to comply with "this
19 article." Article 56.60 is revised in this chapter as
20 both this article and Article 56B.006. Because the
21 portion of Article 56.60 revised as this article is the
22 only provision of Article 56.60 relating to local law
23 enforcement agencies, it is unnecessary to include a
24 cross-reference to Article 56B.006. The revised law
25 is drafted accordingly.

26 SUBCHAPTER B. APPLICATION AND REVIEW

27 Revised Law

28 Art. 56B.051. APPLICATION FOR COMPENSATION. (a) An
29 applicant for compensation under this chapter must apply in writing
30 on a form prescribed by the attorney general.

31 (b) An application for compensation under this chapter must
32 be verified and contain:

33 (1) the date on which the criminally injurious conduct
34 occurred;

35 (2) a description of the nature and circumstances of
36 the criminally injurious conduct;

37 (3) a complete financial statement, including:

1 (A) the cost of medical care or burial expenses
2 and the loss of wages or support the claimant or victim has incurred
3 or will incur; and

4 (B) the extent to which the claimant or victim
5 has been indemnified for the expenses under Paragraph (A) from a
6 collateral source;

7 (4) a statement indicating the extent of any
8 disability resulting from the injury incurred;

9 (5) an authorization permitting the attorney general
10 to verify the contents of the application; and

11 (6) any other information the attorney general
12 requires. (Code Crim. Proc., Art. 56.36.)

13 Source Law

14 Art. 56.36. APPLICATION. (a) An applicant for
15 compensation under this subchapter must apply in
16 writing on a form prescribed by the attorney general.

17 (b) An application must be verified and must
18 contain:

19 (1) the date on which the criminally
20 injurious conduct occurred;

21 (2) a description of the nature and
22 circumstances of the criminally injurious conduct;

23 (3) a complete financial statement,
24 including:

25 (A) the cost of medical care or
26 burial expenses and the loss of wages or support the
27 claimant or victim has incurred or will incur; and

28 (B) the extent to which the claimant
29 or victim has been indemnified for those expenses from
30 a collateral source;

31 (4) if appropriate, a statement indicating
32 the extent of a disability resulting from the injury
33 incurred;

34 (5) an authorization permitting the
35 attorney general to verify the contents of the
36 application; and

37 (6) other information the attorney general
38 requires.

39 Revised Law

40 Art. 56B.052. PERIOD FOR FILING APPLICATION. (a) Except as
41 otherwise provided by this article, a claimant or victim must file
42 an application not later than the third anniversary of the date of
43 the criminally injurious conduct.

44 (b) The attorney general may extend the time for filing for
45 good cause shown by the claimant or victim.

46 (c) If the victim is a child, the application must be filed

1 not later than the third anniversary of the date the claimant or
2 victim is made aware of the offense, but not after the child attains
3 21 years of age.

4 (d) If a claimant or victim presents medically documented
5 evidence of a physical or mental incapacity that was incurred by the
6 claimant or victim as a result of the criminally injurious conduct
7 and that reasonably prevented the claimant or victim from filing
8 the application within the limitations period under Subsection (a),
9 the period of the incapacity is not included.

10 (e) For a claim that is based on criminally injurious
11 conduct in violation of Chapter 19, Penal Code, the claimant must
12 file an application not later than the third anniversary of the date
13 the identity of the victim is established by a law enforcement
14 agency. (Code Crim. Proc., Art. 56.37.)

15 Source Law

16 Art. 56.37. TIME FOR FILING. (a) Except as
17 otherwise provided by this article, a claimant or
18 victim must file an application not later than three
19 years from the date of the criminally injurious
20 conduct.

21 (b) The attorney general may extend the time for
22 filing for good cause shown by the claimant or victim.

23 (c) If the victim is a child, the application
24 must be filed within three years from the date the
25 claimant or victim is made aware of the crime but not
26 after the child is 21 years of age.

27 (d) If a claimant or victim presents medically
28 documented evidence of a physical or mental incapacity
29 that was incurred by the claimant or victim as a result
30 of the criminally injurious conduct and that
31 reasonably prevented the claimant or victim from
32 filing the application within the limitations period
33 under Subsection (a), the period of the incapacity is
34 not included.

35 (e) For a claim that is based on criminally
36 injurious conduct in violation of Chapter 19, Penal
37 Code, the claimant must file an application not later
38 than three years after the date the identity of the
39 victim is established by a law enforcement agency.

40 Revised Law

41 Art. 56B.053. REPORTING OF OFFENSE REQUIRED. (a) Except as
42 otherwise provided by this article, a claimant or victim may not
43 file an application unless the victim reports the criminally
44 injurious conduct to the appropriate state or local public safety
45 or law enforcement agency within a reasonable period, but not so

1 late as to interfere with or hamper the investigation and
2 prosecution of the offense after the criminally injurious conduct
3 is committed.

4 (b) The attorney general may extend the time for reporting
5 the criminally injurious conduct if the attorney general determines
6 that the extension is justified by extraordinary circumstances.

7 (c) Subsection (a) does not apply if the victim is a child.
8 (Code Crim. Proc., Art. 56.46.)

9 Source Law

10 Art. 56.46. REPORTING OF CRIME. (a) Except as
11 otherwise provided by this article, a claimant or
12 victim may not file an application unless the victim
13 reports the criminally injurious conduct to the
14 appropriate state or local public safety or law
15 enforcement agency within a reasonable period of time,
16 but not so late as to interfere with or hamper the
17 investigation and prosecution of the crime after the
18 criminally injurious conduct is committed.

19 (b) The attorney general may extend the time for
20 reporting the criminally injurious conduct if the
21 attorney general determines that the extension is
22 justified by extraordinary circumstances.

23 (c) Subsection (a) does not apply if the victim
24 is a child.

25 Revised Law

26 Art. 56B.054. REVIEW AND INVESTIGATION OF APPLICATION. (a)
27 The attorney general shall appoint a clerk to review each
28 application for compensation described by Article 56B.051 to ensure
29 the application is complete.

30 (b) The attorney general may review the actual or proposed
31 health care services for which a claimant or victim seeks
32 compensation in an application filed under Article 56B.051.

33 (c) The clerk shall return to the claimant or victim any
34 application that is incomplete and shall provide a brief statement
35 showing the additional information required. Not later than the
36 30th day after the date of receiving a returned application, a
37 claimant or victim may:

38 (1) provide the additional information; or

39 (2) appeal the action to the attorney general, who
40 shall review the application to determine whether the application
41 is complete.

1 (d) The attorney general may investigate an application.

2 (e) As part of the attorney general's review, verification,
3 and hearing duties under this chapter, the attorney general may:

4 (1) subpoena witnesses and administer oaths to
5 determine whether and the extent to which a claimant or victim
6 qualifies for an award; and

7 (2) as provided by Article 56B.055 and if the mental,
8 physical, or emotional condition of a claimant or victim is
9 material to the claim, order:

10 (A) a claimant or victim to submit to a mental or
11 physical examination by a physician or psychologist; or

12 (B) an autopsy of a deceased victim.

13 (f) On request by the attorney general and not later than
14 the 14th business day after the date of the request, a law
15 enforcement agency shall release to the attorney general all
16 reports, including witness statements and criminal history record
17 information, to allow the attorney general to determine whether a
18 claimant or victim qualifies for an award and the extent of the
19 qualification. (Code Crim. Proc., Arts. 56.38, 56.385(a).)

20 Source Law

21 Art. 56.38. REVIEW; VERIFICATION. (a) The
22 attorney general shall appoint a clerk to review each
23 application for compensation under Article 56.36 to
24 ensure the application is complete. If an application
25 is not complete, the clerk shall return it to the
26 claimant or victim and give a brief statement showing
27 the additional information required. Not later than
28 the 30th day after receiving a returned application, a
29 claimant or victim may:

30 (1) supply the additional information; or

31 (2) appeal the action to the attorney
32 general, who shall review the application to determine
33 whether it is complete.

34 (b) The attorney general may investigate an
35 application.

36 (c) Incident to the attorney general's review,
37 verification, and hearing duties under this
38 subchapter, the attorney general may:

39 (1) subpoena witnesses and administer
40 oaths to determine whether and the extent to which a
41 claimant or victim qualifies for an award; and

42 (2) order a claimant or victim to submit to
43 a mental or physical examination by a physician or
44 psychologist or order an autopsy of a deceased victim
45 as provided by Article 56.39, if the mental, physical,
46 or emotional condition of a claimant or victim is
47 material to a claim.

1 (d) On request by the attorney general and not
2 later than the 14th business day after the date of the
3 request, a law enforcement agency shall release to the
4 attorney general all reports, including witness
5 statements and criminal history record information,
6 for the purpose of allowing the attorney general to
7 determine whether a claimant or victim qualifies for
8 an award and the extent of the qualification.

9 Art. 56.385. REVIEW OF HEALTH CARE SERVICES.

10 (a) The attorney general may review the actual or
11 proposed health care services for which a claimant or
12 victim seeks compensation in an application filed
13 under Article 56.36.

14 Revised Law

15 Art. 56B.055. MENTAL OR PHYSICAL EXAMINATION; AUTOPSY. (a)
16 For good cause shown, an order for a mental or physical examination
17 or an autopsy as provided by Article 56B.054(e)(2) may be made on
18 notice to the individual to be examined and, if applicable, to each
19 person who has appeared at a hearing under Article 56B.056.

20 (b) An order under Subsection (a) must:

21 (1) specify the time, place, manner, conditions, and
22 scope of the examination or autopsy;

23 (2) specify the person who is to perform the
24 examination or autopsy; and

25 (3) require the person performing the examination or
26 autopsy to file with the attorney general a detailed written report
27 of the examination or autopsy.

28 (c) A report must set out the findings of the person
29 performing the examination or autopsy, including:

30 (1) the results of any test performed; and

31 (2) any diagnosis, prognosis, or other conclusion or
32 report of an earlier examination of the same condition.

33 (d) On request of the individual examined, the attorney
34 general shall provide to the individual a copy of the report. If
35 the victim is deceased, the attorney general on request shall
36 provide to the claimant a copy of the report.

37 (e) A physician or psychologist performing an examination
38 or autopsy under this article shall be compensated from money
39 appropriated for the administration of this chapter. (Code Crim.
40 Proc., Art. 56.39.)

1 Source Law

2 Art. 56.39. MENTAL OR PHYSICAL EXAMINATION;
3 AUTOPSY. (a) An order for a mental or physical
4 examination or an autopsy as provided by Article
5 56.38(c)(2) may be made for good cause shown on notice
6 to the individual to be examined and to all persons who
7 have appeared.

8 (b) An order shall:

9 (1) specify the time, place, manner,
10 conditions, and scope of the examination or autopsy;

11 (2) specify the person by whom the
12 examination or autopsy is to be made; and

13 (3) require the person making the
14 examination or autopsy to file with the attorney
15 general a detailed written report of the examination
16 or autopsy.

17 (c) A report shall set out the findings of the
18 person making the examination or autopsy, including:

19 (1) the results of any tests made; and

20 (2) diagnoses, prognoses, and other
21 conclusions and reports of earlier examinations of the
22 same conditions.

23 (d) On request of the individual examined, the
24 attorney general shall furnish the individual with a
25 copy of the report. If the victim is deceased, the
26 attorney general on request shall furnish the claimant
27 with a copy of the report.

28 (e) A physician or psychologist making an
29 examination or autopsy under this article shall be
30 compensated from funds appropriated for the
31 administration of this subchapter.

32 Revisor's Note

33 Article 56.39(a), Code of Criminal Procedure,
34 provides that an order for a mental or physical
35 examination or an autopsy may be made for good cause
36 shown on "notice to the individual to be examined and
37 to all persons who have appeared."

38 Before the codification in the 73rd Legislature
39 of Article 8309-1, Vernon's Texas Civil Statutes, the
40 phrase "notice . . . to all persons who have appeared"
41 was located in Section 5(e)(3) of that article. At
42 that time, the first reference to a hearing in Section
43 5, Article 8309-1, was found in Subsection (c) and
44 required the attorney general to determine whether a
45 hearing on an application for compensation is
46 necessary. Section 5(d), Article 8309-1, further
47 specified the attorney general's duties with regard to
48 the hearing. Sections 5(c) and (d), Article 8309-1,

1 Vernon's Texas Civil Statutes, were revised as
2 Articles 56.40(a) and (d), Code of Criminal Procedure.
3 See Section 6, Chapter 268 (S.B. 248), Acts of the 73rd
4 Legislature, Regular Session, 1993.

5 It is clear from the original order of these
6 provisions in Section 5, Article 8309-1, Vernon's
7 Texas Civil Statutes, that the phrase "persons who
8 have appeared" currently located in Article 56.39(a)
9 was referring to those persons who appeared at a
10 hearing held under Section 5, the relevant portions of
11 which are currently located in Article 56.40.
12 Furthermore, in the context of Subchapter B, Chapter
13 56, Code of Criminal Procedure, a hearing under
14 Article 56.40, revised in this chapter as Article
15 56B.056, is the only circumstance under which a person
16 would appear and thus be entitled to notice under
17 Article 56.39(a). For context and the convenience of
18 the reader, the revised law adds a cross-reference to a
19 hearing under Article 56B.056.

20 Revised Law

21 Art. 56B.056. HEARINGS AND PREHEARING CONFERENCES. (a)
22 The attorney general shall determine whether a hearing on an
23 application for compensation under this chapter is necessary.

24 (b) On determining that a hearing is not necessary, the
25 attorney general may approve the application in accordance with
26 Article 56B.057.

27 (c) On determining that a hearing is necessary or on request
28 for a hearing by the claimant or victim, the attorney general shall
29 consider the application at a hearing at a time and place of the
30 attorney general's choosing. The attorney general shall notify all
31 interested persons not later than the 10th day before the date of
32 the hearing.

33 (d) At the hearing the attorney general shall:

34 (1) review the application for compensation and any

1 report prepared under Article 56B.055 and any other evidence
2 obtained as a result of the attorney general's investigation; and

3 (2) receive other evidence that the attorney general
4 finds necessary or desirable to evaluate the application properly.

5 (e) The attorney general may appoint hearing officers to
6 conduct hearings or prehearing conferences under this chapter.

7 (f) A hearing or prehearing conference is open to the public
8 unless the hearing officer or attorney general determines in a
9 particular case that all or part of the hearing or conference should
10 be held in private because a criminal suspect has not been
11 apprehended or because a private hearing or conference is in the
12 interest of the claimant or victim.

13 (g) The attorney general may suspend the proceedings
14 pending disposition of a criminal prosecution that has been
15 commenced or is imminent, except that the attorney general may make
16 an emergency award under Article 56B.102.

17 (h) Subchapters C through H, Chapter 2001, Government Code,
18 do not apply to the attorney general or the attorney general's
19 orders and decisions. (Code Crim. Proc., Art. 56.40.)

20 Source Law

21 Art. 56.40. HEARINGS. (a) The attorney general
22 shall determine whether a hearing on an application
23 for compensation under this subchapter is necessary.

24 (b) If the attorney general determines that a
25 hearing is not necessary, the attorney general may
26 approve the application in accordance with the
27 provisions of Article 56.41.

28 (c) If the attorney general determines that a
29 hearing is necessary or if the claimant or victim
30 requests a hearing, the attorney general shall
31 consider the application at a hearing at a time and
32 place of the attorney general's choosing. The attorney
33 general shall notify all interested persons not less
34 than 10 days before the date of the hearing.

35 (d) At the hearing the attorney general shall:

36 (1) review the application for assistance
37 and the report prepared under Article 56.39 and any
38 other evidence obtained as a result of the attorney
39 general's investigation; and

40 (2) receive other evidence that the
41 attorney general finds necessary or desirable to
42 evaluate the application properly.

43 (e) The attorney general may appoint hearing
44 officers to conduct hearings or prehearing conferences
45 under this subchapter.

46 (f) A hearing or prehearing conference is open
47 to the public unless in a particular case the hearing

1 officer or attorney general determines that the
2 hearing or prehearing conference or a part of it should
3 be held in private because a criminal suspect has not
4 been apprehended or because it is in the interest of
5 the claimant or victim.

6 (g) The attorney general may suspend the
7 proceedings pending disposition of a criminal
8 prosecution that has been commenced or is imminent,
9 but may make an emergency award under Article 56.50.

10 (h) Subchapters C through H, Chapter 2001,
11 Government Code, do not apply to the attorney general
12 or the attorney general's orders and decisions.

13 Revisor's Note

14 Article 56.40(d)(1), Code of Criminal Procedure,
15 refers to an "application for assistance." The revised
16 law substitutes "application for compensation" for the
17 quoted language for clarity and consistency in the
18 terminology used within the chapter.

19 Revised Law

20 Art. 56B.057. APPROVAL OF APPLICATION. (a) The attorney
21 general shall approve an application for compensation under this
22 chapter if the attorney general finds by a preponderance of the
23 evidence that grounds for compensation under this chapter exist.

24 (b) The attorney general shall deny an application for
25 compensation under this chapter if:

26 (1) the criminally injurious conduct is not reported
27 as provided by Article 56B.053;

28 (2) the application is not made in the manner provided
29 by Articles 56B.051 and 56B.052;

30 (3) the claimant or victim knowingly and willingly
31 participated in the criminally injurious conduct;

32 (4) the claimant or victim is the offender or an
33 accomplice of the offender;

34 (5) an award of compensation to the claimant or victim
35 would benefit the offender or an accomplice of the offender;

36 (6) the claimant or victim was incarcerated in a penal
37 institution, as defined by Section 1.07, Penal Code, at the time the
38 offense was committed; or

39 (7) the claimant or victim knowingly or intentionally
40 submits false or forged information to the attorney general.

1 (c) Subsection (b)(3) does not apply to a claimant or victim
2 who seeks compensation for criminally injurious conduct that is:

3 (1) in violation of Section 20A.02(a)(7), Penal Code;
4 or

5 (2) trafficking of persons, other than an offense
6 described by Subdivision (1), if the criminally injurious conduct
7 the claimant or victim participated in was the result of force,
8 fraud, or coercion.

9 (d) Except as provided by rules adopted by the attorney
10 general to prevent the unjust enrichment of an offender, the
11 attorney general may not deny an award otherwise payable to a
12 claimant or victim because the claimant or victim:

13 (1) is an immediate family member of the offender; or
14 (2) resides in the same household as the offender.
15 (Code Crim. Proc., Art. 56.41.)

16 Source Law

17 Art. 56.41. APPROVAL OF CLAIM. (a) The
18 attorney general shall approve an application for
19 compensation under this subchapter if the attorney
20 general finds by a preponderance of the evidence that
21 grounds for compensation under this subchapter exist.

22 (b) The attorney general shall deny an
23 application for compensation under this subchapter if:

24 (1) the criminally injurious conduct is
25 not reported as provided by Article 56.46;

26 (2) the application is not made in the
27 manner provided by Articles 56.36 and 56.37;

28 (3) the claimant or victim knowingly and
29 willingly participated in the criminally injurious
30 conduct;

31 (4) the claimant or victim is the offender
32 or an accomplice of the offender;

33 (5) an award of compensation to the
34 claimant or victim would benefit the offender or an
35 accomplice of the offender;

36 (6) the claimant or victim was
37 incarcerated in a penal institution, as defined by
38 Section 1.07, Penal Code, at the time the offense was
39 committed; or

40 (7) the claimant or victim knowingly or
41 intentionally submits false or forged information to
42 the attorney general.

43 (b-1) Subsection (b)(3) does not apply to a
44 claimant or victim who seeks compensation for
45 criminally injurious conduct that is:

46 (1) in violation of Section 20A.02(a)(7),
47 Penal Code; or

48 (2) trafficking of persons, other than an
49 offense described by Subdivision (1), if the
50 criminally injurious conduct the claimant or victim
51 participated in was the result of force, fraud, or

1 coercion.

2 (c) Except as provided by rules adopted by the
3 attorney general to prevent the unjust enrichment of
4 an offender, the attorney general may not deny an award
5 otherwise payable to a claimant or victim because the
6 claimant or victim:

7 (1) is an immediate family member of the
8 offender; or

9 (2) resides in the same household as the
10 offender.

11 Revised Law

12 Art. 56B.058. DISCLOSURE AND USE OF INFORMATION. (a) This
13 article does not apply to information made confidential by law.

14 (b) An application for compensation under this chapter and
15 any information, document, summary, or other record provided to or
16 received, maintained, or created by the attorney general under this
17 chapter is:

18 (1) except as provided by Section 552.132(c),
19 Government Code, not subject to disclosure under Chapter 552 of
20 that code; and

21 (2) except as provided by Subsection (c), not subject
22 to disclosure, discovery, subpoena, or other means of legal
23 compulsion for release.

24 (c) The attorney general may not release or disclose an
25 application for compensation under this chapter, or any
26 information, document, summary, or other record provided to or
27 received, maintained, or created by the attorney general under this
28 chapter, except:

29 (1) by court order for good cause shown, if the order
30 includes a finding that the information is not available from any
31 other source;

32 (2) with the consent of:

33 (A) the claimant or victim; or

34 (B) the person that provided the information to
35 the attorney general;

36 (3) to an employee or other person under the direction
37 of the attorney general;

38 (4) to another crime victims' compensation program
39 that meets the requirements of 34 U.S.C. Section 20102(b);

1 (5) to a person authorized by the attorney general to
2 receive the information to:

3 (A) conduct an audit as required by state or
4 federal law;

5 (B) provide a review or examination under Article
6 56B.054 or 56B.055 or under another provision of this chapter to
7 determine the appropriateness of an award under this chapter;

8 (C) prevent, deter, or punish fraud related to
9 this chapter; or

10 (D) assert subrogation or restitution rights;

11 (6) as the attorney general determines necessary to
12 enforce this chapter, including presenting the application,
13 information, document, summary, or record in court; or

14 (7) in response to a subpoena that is issued in a
15 criminal proceeding and that requests an application for
16 compensation under this chapter, subject to Subsection (d).

17 (d) In responding to a subpoena described by Subsection
18 (c)(7), the attorney general shall release only the victim's
19 completed application form as described by Article 56B.051(a) after
20 redacting any confidential information described by Section
21 552.132(b), Government Code. The release of a victim's completed
22 application form under this subsection does not affect the
23 authority of the court to order the release or disclosure of
24 additional information under this article. (Code Crim. Proc., Art.
25 56.65.)

26 Source Law

27 Art. 56.65. DISCLOSURE AND USE OF INFORMATION.

28 (a) This article does not apply to information made
29 confidential by law.

30 (b) An application for compensation under this
31 subchapter and any information, document, summary, or
32 other record provided to or received, maintained, or
33 created by the attorney general under this subchapter
34 is:

35 (1) except as provided by Section
36 552.132(c), Government Code, not subject to disclosure
37 under Chapter 552 of that code; and

38 (2) except as provided by Subsection (c),
39 not subject to disclosure, discovery, subpoena, or
40 other means of legal compulsion for release.

41 (c) The attorney general may not release or

1 disclose an application for compensation under this
2 subchapter, or any information, document, summary, or
3 other record provided to or received, maintained, or
4 created by the attorney general under this subchapter,
5 except:

6 (1) by court order for good cause shown, if
7 the order includes a finding that the information is
8 not available from any other source;

9 (2) with the consent of:

10 (A) the claimant or victim; or

11 (B) the person that provided the
12 information to the attorney general;

13 (3) to an employee or other person under
14 the direction of the attorney general;

15 (4) to another crime victims' compensation
16 program that meets the requirements of 42 U.S.C.
17 Section 10602(b);

18 (5) to a person authorized by the attorney
19 general to receive the information in order to:

20 (A) conduct an audit as required by
21 state or federal law;

22 (B) provide a review or examination
23 under Article 56.38, 56.385, or 56.39 or under another
24 provision of this subchapter for the purpose of
25 determining the appropriateness of an award under this
26 subchapter;

27 (C) prevent, deter, or punish fraud
28 related to this subchapter; or

29 (D) assert subrogation or
30 restitution rights;

31 (6) as the attorney general determines
32 necessary to enforce this chapter, including
33 presenting the application, information, document,
34 summary, or record in court; or

35 (7) in response to a subpoena that is
36 issued in a criminal proceeding and that requests an
37 application for compensation under this subchapter,
38 subject to Subsection (d).

39 (d) If responding to a subpoena described by
40 Subsection (c)(7), the attorney general shall release
41 only the victim's completed application form as
42 described by Article 56.36(a) after redacting any
43 confidential information described by Section
44 552.132(b), Government Code. The release of a victim's
45 completed application form under this subsection does
46 not affect the authority of the court to order the
47 release or disclosure of additional information under
48 this article.

49 Revisor's Note

50 (1) Article 56.65(c)(4), Code of Criminal
51 Procedure, refers to a crime victims' compensation
52 program that meets the requirements of 42 U.S.C.
53 Section 10602(b). The revised law substitutes 34
54 U.S.C. Section 20102(b) for the reference to 42 U.S.C.
55 Section 10602(b) for the reason stated in Revisor's
56 Note (5) to Article 56B.003.

57 (2) Article 56.65(c)(5)(B), Code of Criminal
58 Procedure, refers to a review or examination under

1 Article 56.38 or 56.385. Article 56.38 and the
2 provision of Article 56.385 relating to review of an
3 award of compensation are revised as Article 56B.054
4 and the revised law is drafted accordingly.

5 (3) Article 56.65(c)(6), Code of Criminal
6 Procedure, authorizes the attorney general to release
7 or disclose an application for compensation under
8 Subchapter B, Chapter 56, Code of Criminal Procedure,
9 or certain information, documents, summaries, or other
10 records related to that subchapter as necessary for
11 the attorney general to enforce "this chapter."
12 Chapter 56, Code of Criminal Procedure, is revised as
13 this chapter, Chapter 56A, and Subchapter B, Chapter
14 58, Code of Criminal Procedure. Because the records
15 described by Article 56.65 are records received,
16 maintained, or created under Subchapter B, it is clear
17 the records would be released for purposes of that
18 subchapter only. Subchapter B is revised as this
19 chapter. As a result, it is unnecessary in this
20 context to include a cross-reference to Chapter 56A or
21 Subchapter B, Chapter 58, Code of Criminal Procedure.
22 The revised law is drafted accordingly.

23 SUBCHAPTER C. AWARD OF COMPENSATION

24 Revised Law

25 Art. 56B.101. TYPES OF ASSISTANCE. (a) On approving an
26 application for compensation under Article 56B.057, the attorney
27 general shall determine the type of state assistance that will best
28 aid the claimant or victim.

29 (b) The attorney general may:

30 (1) authorize a cash payment to or on behalf of a
31 claimant or victim for pecuniary loss;

32 (2) refer a claimant or victim to a state agency for
33 vocational or other rehabilitative services; or

34 (3) provide counseling services for a claimant or

1 victim or contract with a private entity to provide counseling
2 services. (Code Crim. Proc., Art. 56.35.)

3 Source Law

4 Art. 56.35. TYPES OF ASSISTANCE. If the
5 attorney general approves an application for
6 compensation under Article 56.41, the attorney general
7 shall determine what type of state assistance will
8 best aid the claimant or victim. The attorney general
9 may do one or more of the following:

10 (1) authorize cash payment or payments to
11 or on behalf of a claimant or victim for pecuniary
12 loss;

13 (2) refer a claimant or victim to a state
14 agency for vocational or other rehabilitative
15 services; or

16 (3) provide counseling services for a
17 claimant or victim or contract with a private entity to
18 provide counseling services.

19 Revised Law

20 Art. 56B.102. EMERGENCY AWARD. (a) Before acting on an
21 application for compensation under this chapter, the attorney
22 general may make an emergency award if it appears likely that:

23 (1) a final award will be made; and

24 (2) the claimant or victim will suffer undue hardship
25 if immediate economic relief is not obtained.

26 (b) An emergency award may not exceed \$1,500.

27 (c) The amount of an emergency award must be:

28 (1) deducted from the final award; or

29 (2) repaid by and recoverable from the claimant or
30 victim to the extent the emergency award exceeds the final award.

31 (Code Crim. Proc., Art. 56.50.)

32 Source Law

33 Art. 56.50. EMERGENCY AWARD. (a) The attorney
34 general may make an emergency award if, before acting
35 on an application for compensation under this
36 subchapter, it appears likely that:

37 (1) a final award will be made; and

38 (2) the claimant or victim will suffer
39 undue hardship if immediate economic relief is not
40 obtained.

41 (b) An emergency award may not exceed \$1,500.

42 (c) The amount of an emergency award shall be:

43 (1) deducted from the final award; or

44 (2) repaid by and recoverable from the
45 claimant or victim to the extent the emergency award
46 exceeds the final award.

1 Revised Law

2 Art. 56B.103. COMPENSATION FOR PECUNIARY LOSS. (a) The
3 attorney general shall award compensation for pecuniary loss
4 arising from criminally injurious conduct if the attorney general
5 is satisfied by a preponderance of the evidence that the
6 requirements of this chapter are met.

7 (b) The attorney general shall establish whether, as a
8 direct result of criminally injurious conduct, a claimant or victim
9 suffered personal injury or death that resulted in a pecuniary loss
10 for which the claimant or victim is not compensated from a
11 collateral source. (Code Crim. Proc., Arts. 56.34(a), (b).)

12 Source Law

13 Art. 56.34. COMPENSATION. (a) The attorney
14 general shall award compensation for pecuniary loss
15 arising from criminally injurious conduct if the
16 attorney general is satisfied by a preponderance of
17 the evidence that the requirements of this subchapter
18 are met.

19 (b) The attorney general, shall establish
20 whether, as a direct result of criminally injurious
21 conduct, a claimant or victim suffered personal injury
22 or death that resulted in a pecuniary loss for which
23 the claimant or victim is not compensated from a
24 collateral source.

25 Revised Law

26 Art. 56B.104. COMPENSATION FOR HEALTH CARE SERVICES. (a)
27 The attorney general shall award compensation for health care
28 services according to the medical fee guidelines prescribed by
29 Subtitle A, Title 5, Labor Code.

30 (b) The attorney general, a claimant, or a victim is not
31 liable for health care service charges that exceed the medical fee
32 guidelines. A health care provider shall accept compensation from
33 the attorney general as payment in full for the charges unless an
34 investigation of the charges by the attorney general determines
35 that there is a reasonable health care justification for the
36 deviation from the guidelines.

37 (c) The attorney general may not compensate a claimant or
38 victim for health care services that the attorney general
39 determines are not medically necessary.

1 (d) The attorney general, a claimant, or a victim is not
2 liable for a charge that is not medically necessary. (Code Crim.
3 Proc., Arts. 56.34(c), (d), 56.385(b), (c).)

4 Source Law

5 [Art. 56.34]

6 (c) The attorney general shall award
7 compensation for health care services according to the
8 medical fee guidelines prescribed by Subtitle A, Title
9 5, Labor Code.

10 (d) The attorney general, a claimant, or a
11 victim is not liable for health care service charges in
12 excess of the medical fee guidelines. A health care
13 provider shall accept compensation from the attorney
14 general as payment in full for the charges unless an
15 investigation of the charges by the attorney general
16 determines that there is a reasonable health care
17 justification for the deviation from the guidelines.

18 [Art. 56.385]

19 (b) The attorney general may not compensate a
20 claimant or victim for health care services that the
21 attorney general determines are not medically
22 necessary.

23 (c) The attorney general, a claimant, or a
24 victim is not liable for a charge that is not medically
25 necessary.

26 Revised Law

27 Art. 56B.105. COMPENSATION FOR CERTAIN CRIMINALLY
28 INJURIOUS CONDUCT PROHIBITED. (a) Except as provided by
29 Subsection (b), the attorney general may not award compensation for
30 pecuniary loss arising from criminally injurious conduct that
31 occurred before January 1, 1980.

32 (b) The attorney general may award compensation for
33 pecuniary loss arising from criminally injurious conduct that
34 occurred before January 1, 1980, if:

35 (1) the conduct was in violation of Chapter 19, Penal
36 Code;

37 (2) the identity of the victim is established by a law
38 enforcement agency on or after January 1, 2009; and

39 (3) the claimant files the application for
40 compensation within the limitations period provided by Article
41 56B.052(e). (Code Crim. Proc., Art. 56.61.)

42 Source Law

43 Art. 56.61. COMPENSATION FOR CERTAIN CRIMINALLY
44 INJURIOUS CONDUCT PROHIBITED; EXCEPTION. (a) Except
45 as provided by Subsection (b), the attorney general

1 may not award compensation for pecuniary loss arising
2 from criminally injurious conduct that occurred before
3 January 1, 1980.

4 (b) The attorney general may award compensation
5 for pecuniary loss arising from criminally injurious
6 conduct that occurred before January 1, 1980, if:

7 (1) the conduct was in violation of
8 Chapter 19, Penal Code;

9 (2) the identity of the victim is
10 established by a law enforcement agency on or after
11 January 1, 2009; and

12 (3) the claimant files the application for
13 compensation within the limitations period provided by
14 Article 56.37(e).

15 Revised Law

16 Art. 56B.106. LIMITS ON COMPENSATION. (a) Except as
17 otherwise provided by this article, awards payable to a victim and
18 any other claimant sustaining pecuniary loss because of injury or
19 death of that victim may not exceed \$50,000 in the aggregate.

20 (b) In addition to an award payable under Subsection (a),
21 the attorney general may award not more than \$75,000 for
22 extraordinary pecuniary loss if the personal injury to a victim is
23 catastrophic and results in a total and permanent disability to the
24 victim. An award described by this subsection may be made for lost
25 wages and the reasonable and necessary costs of:

26 (1) making a home or motor vehicle accessible;

27 (2) obtaining job training and vocational
28 rehabilitation;

29 (3) training in the use of a special appliance;

30 (4) receiving home health care;

31 (5) durable medical equipment;

32 (6) rehabilitation technology; and

33 (7) long-term medical expenses incurred as a result of
34 medically indicated treatment for the personal injury.

35 (c) A victim who is a victim of stalking, family violence,
36 or trafficking of persons, or a victim of sexual assault who is
37 assaulted in the victim's place of residence, may receive a
38 one-time assistance payment in an amount not to exceed:

39 (1) \$2,000 to be used for relocation expenses,
40 including expenses for rental deposit, utility connections,
41 expenses relating to moving belongings, motor vehicle mileage

1 expenses, and for an out-of-state move, transportation, lodging,
2 and meals; and

3 (2) \$1,800 to be used for housing rental expenses.

4 (d) An immediate family member or household member of a
5 deceased victim may not receive more than \$1,000 in lost wages as a
6 result of bereavement leave taken by the family or household
7 member.

8 (e) The attorney general by rule may establish a limitation
9 on any other pecuniary loss compensated under this chapter,
10 including a limitation on pecuniary loss incurred as a result of a
11 claimant's travel to and attendance of a deceased victim's funeral.
12 (Code Crim. Proc., Art. 56.42.)

13 Source Law

14 Art. 56.42. LIMITS ON COMPENSATION. (a) Except
15 as otherwise provided by this article, awards payable
16 to a victim and all other claimants sustaining
17 pecuniary loss because of injury or death of that
18 victim may not exceed \$50,000 in the aggregate.

19 (b) In addition to an award payable under
20 Subsection (a), the attorney general may award an
21 additional \$75,000 for extraordinary pecuniary
22 losses, if the personal injury to a victim is
23 catastrophic and results in a total and permanent
24 disability to the victim, for lost wages and
25 reasonable and necessary costs of:

26 (1) making a home or automobile
27 accessible;

28 (2) obtaining job training and vocational
29 rehabilitation;

30 (3) training in the use of special
31 appliances;

32 (4) receiving home health care;

33 (5) durable medical equipment;

34 (6) rehabilitation technology; and

35 (7) long-term medical expenses incurred as
36 a result of medically indicated treatment for the
37 personal injury.

38 (c) The attorney general may by rule establish
39 limitations on any other pecuniary loss compensated
40 for under this subchapter, including limitations on
41 pecuniary loss incurred as a result of a claimant's
42 travel to and attendance of a deceased victim's
43 funeral.

44 (d) A victim who is a victim of stalking, family
45 violence, or trafficking of persons, or a victim of
46 sexual assault who is assaulted in the victim's place
47 of residence, may receive a onetime-only assistance
48 payment in an amount not to exceed:

49 (1) \$2,000 to be used for relocation
50 expenses, including expenses for rental deposit,
51 utility connections, expenses relating to the moving
52 of belongings, motor vehicle mileage expenses, and for
53 out-of-state moves, transportation, lodging, and
54 meals; and

1 (2) \$1,800 to be used for housing rental
2 expenses.

3 (e) An immediate family member or household
4 member of a deceased victim may not receive more than
5 \$1,000 in lost wages as a result of bereavement leave
6 taken by the family or household member.

7 Revisor's Note

8 Article 56.42(b), Code of Criminal Procedure,
9 provides that in addition to an award payable under
10 Subsection (a) of that article, the attorney general
11 may award \$75,000 for extraordinary pecuniary losses.
12 The revised law adds "not more than" because it is
13 clear from the context that \$75,000 is the maximum
14 amount that may be awarded and an amount less than
15 \$75,000 may be awarded.

16 Revised Law

17 Art. 56B.107. DENIAL OR REDUCTION OF AWARD. (a) The
18 attorney general may deny or reduce an award otherwise payable:

19 (1) if the claimant or victim has not substantially
20 cooperated with an appropriate law enforcement agency;

21 (2) if, as a result of the claimant's or victim's
22 behavior, the claimant or victim bears a share of the
23 responsibility for the act or omission giving rise to the claim;

24 (3) to the extent that pecuniary loss is recouped from
25 a collateral source; or

26 (4) if the claimant or victim was engaging in an
27 activity that at the time of the criminally injurious conduct was
28 prohibited by law, including a rule.

29 (b) Subsection (a)(4) does not apply to a claimant or victim
30 who seeks compensation for criminally injurious conduct that is:

31 (1) in violation of Section 20A.02(a)(7), Penal Code;
32 or

33 (2) trafficking of persons, other than an offense
34 described by Subdivision (1), if the activity the claimant or
35 victim engaged in was the result of force, fraud, or coercion.

36 (Code Crim. Proc., Art. 56.45.)

1 Source Law

2 Art. 56.45. DENIAL OR REDUCTION OF AWARD. (a)
3 The attorney general may deny or reduce an award
4 otherwise payable:

5 (1) if the claimant or victim has not
6 substantially cooperated with an appropriate law
7 enforcement agency;

8 (2) if the claimant or victim bears a share
9 of the responsibility for the act or omission giving
10 rise to the claim because of the claimant's or victim's
11 behavior;

12 (3) to the extent that pecuniary loss is
13 recouped from a collateral source; or

14 (4) if the claimant or victim was engaging
15 in an activity that at the time of the criminally
16 injurious conduct was prohibited by law or a rule made
17 under law.

18 (b) Subsection (a)(4) does not apply to a
19 claimant or victim who seeks compensation for
20 criminally injurious conduct that is:

21 (1) in violation of Section 20A.02(a)(7),
22 Penal Code; or

23 (2) trafficking of persons, other than an
24 offense described by Subdivision (1), if the activity
25 the claimant or victim engaged in was the result of
26 force, fraud, or coercion.

27 Revisor's Note

28 Article 56.45(a)(4), Code of Criminal Procedure,
29 refers to conduct prohibited "by law or a rule made
30 under law." The revised law substitutes "by law,
31 including a rule" for the quoted language because a
32 rule is included within the meaning of "law" and, in
33 order to be valid, a rule must be made under law.

34 Revised Law

35 Art. 56B.108. RECONSIDERATION. (a) On the attorney
36 general's own motion or on request of a claimant or victim, the
37 attorney general may reconsider:

38 (1) a decision to make or deny an award; or

39 (2) the amount of an award.

40 (b) At least annually, the attorney general shall
41 reconsider each award being paid in installments.

42 (c) On reconsideration, the attorney general may order the
43 refund of an award if:

44 (1) the award was obtained by fraud or mistake; or

45 (2) newly discovered evidence shows the claimant or
46 victim to be ineligible for the award under Article 56B.057 or

1 56B.107. (Code Crim. Proc., Art. 56.47.)

2 Source Law

3 Art. 56.47. RECONSIDERATION. (a) The attorney
4 general, on the attorney general's own motion or on
5 request of a claimant or victim, may reconsider:

- 6 (1) a decision to make or deny an award; or
- 7 (2) the amount of an award.

8 (b) At least annually, the attorney general
9 shall reconsider each award being paid in
10 installments.

11 (c) An order on reconsideration may require a
12 refund of an award if:

- 13 (1) the award was obtained by fraud or
14 mistake; or
- 15 (2) newly discovered evidence shows the
16 claimant or victim to be ineligible for the award under
17 Article 56.41 or 56.45.

18 SUBCHAPTER D. PAYMENT OF AWARD

19 Revised Law

20 Art. 56B.151. METHOD OF PAYMENT. The attorney general may
21 pay an award in a lump sum or in installments as provided by this
22 subchapter. (Code Crim. Proc., Art. 56.44(a) (part).)

23 Source Law

24 Art. 56.44. PAYMENTS. (a) The attorney general
25 may provide for the payment of an award in a lump sum or
26 in installments. . . .

27 Revised Law

28 Art. 56B.152. PAYMENT FOR PECUNIARY LOSS ACCRUED AT TIME OF
29 AWARD. The attorney general shall pay in a lump sum the part of an
30 award equal to the amount of pecuniary loss accrued to the date of
31 the award. (Code Crim. Proc., Art. 56.44(a) (part).)

32 Source Law

33 (a) . . . The attorney general shall provide
34 that the part of an award equal to the amount of
35 pecuniary loss accrued to the date of the award be paid
36 in a lump sum. . . .

37 Revised Law

38 Art. 56B.153. PAYMENT FOR PECUNIARY LOSS ACCRUED AFTER TIME
39 OF AWARD. (a) Except as provided by Subsection (b), the attorney
40 general shall pay in installments the part of an award for allowable
41 expenses that accrue after the award is made.

42 (b) At the request of the claimant or victim, the attorney
43 general may pay in a lump sum an award for future pecuniary loss if

1 the attorney general finds that:

2 (1) paying the award in a lump sum will promote the
3 interests of the claimant or victim; or

4 (2) the present value of all future pecuniary loss
5 does not exceed \$1,000.

6 (c) The attorney general may not pay in installments an
7 award for future pecuniary loss for a period for which the attorney
8 general cannot reasonably determine the future pecuniary loss.
9 (Code Crim. Proc., Arts. 56.44(a) (part), (b), (c).)

10 Source Law

11 (a) . . . Except as provided in Subsection (b),
12 the attorney general shall pay the part of an award for
13 allowable expense that accrues after the award is made
14 in installments.

15 (b) At the request of the claimant or victim,
16 the attorney general may provide that an award for
17 future pecuniary loss be paid in a lump sum if the
18 attorney general finds that:

19 (1) paying the award in a lump sum will
20 promote the interests of the claimant or victim; or

21 (2) the present value of all future
22 pecuniary loss does not exceed \$1,000.

23 (c) The attorney general may not provide for an
24 award for future pecuniary loss payable in
25 installments for a period for which the attorney
26 general cannot reasonably determine the future
27 pecuniary loss.

28 Revised Law

29 Art. 56B.154. RECIPIENT OF PAYMENT. The attorney general
30 may make payments only to an individual who is a claimant or a
31 victim or to a provider on the individual's behalf. (Code Crim.
32 Proc., Art. 56.44(d).)

33 Source Law

34 (d) The attorney general may make payments only
35 to an individual who is a claimant or a victim or to a
36 provider on the individual's behalf.

37 SUBCHAPTER E. GENERAL PROVISIONS RELATING TO PAYMENT

38 Revised Law

39 Art. 56B.201. ADJUSTMENT OF AWARDS AND PAYMENTS. (a) The
40 attorney general shall establish a policy to adjust awards and
41 payments so that the total amount of awards granted in each calendar
42 year does not exceed the amount of money credited to the
43 compensation to victims of crime fund during that year.

1 (b) On the establishment of a policy under Subsection (a),
2 the attorney general, the claimant, or the victim is not liable for
3 the amount of incurred charges exceeding the adjusted amount for
4 the service on which the adjusted payment is determined.

5 (c) A service provider who accepts a payment that has been
6 adjusted by a policy established under Subsection (a) agrees to
7 accept the adjusted payment as payment in full for the service and
8 is barred from legal action against the claimant or victim for
9 collection. (Code Crim. Proc., Arts. 56.34(e), 56.58.)

10 Source Law

11 [Art. 56.34]

12 (e) A claimant or victim is not liable for the
13 balance of service charges left as a result of an
14 adjustment of payment for the charges under Article
15 56.58.

16 Art. 56.58. ADJUSTMENT OF AWARDS AND PAYMENTS.

17 (a) The attorney general shall establish a policy to
18 adjust awards and payments so that the total amount of
19 awards granted in each calendar year does not exceed
20 the amount of money credited to the fund during that
21 year.

22 (b) If the attorney general establishes a policy
23 to adjust awards under Subsection (a), the attorney
24 general, the claimant, or the victim is not liable for
25 the amount of charges incurred in excess of the
26 adjusted amount for the service on which the adjusted
27 payment is determined.

28 (c) A service provider who accepts a payment
29 that has been adjusted by a policy established under
30 Subsection (a) agrees to accept the adjusted payment
31 as payment in full for the service and is barred from
32 legal action against the claimant or victim for
33 collection.

34 Revisor's Note

35 Article 56.58(a), Code of Criminal Procedure,
36 refers to "the fund" to which an amount of money is
37 credited and from which awards are granted. The
38 revised law substitutes "the compensation to victims
39 of crime fund" for the quoted language for clarity
40 because under Subchapter B, Chapter 56, an award of
41 compensation is paid from the compensation to victims
42 of crime fund. See Article 56.54(b), revised in this
43 chapter in relevant part as Article 56B.453(b).

1 Revised Law

2 Art. 56B.202. SUBROGATION. If compensation is awarded
3 under this chapter, the state is subrogated to all the claimant's or
4 victim's rights to receive or recover benefits for pecuniary loss
5 to the extent compensation is awarded from a collateral source.
6 (Code Crim. Proc., Art. 56.51.)

7 Source Law

8 Art. 56.51. SUBROGATION. If compensation is
9 awarded under this subchapter, the state is subrogated
10 to all the claimant's or victim's rights to receive or
11 recover benefits for pecuniary loss to the extent
12 compensation is awarded from a collateral source.

13 Revised Law

14 Art. 56B.203. AWARD NOT SUBJECT TO EXECUTION. (a) Except
15 as provided by Subsection (b), an award is not subject to execution,
16 attachment, garnishment, or other process.

17 (b) An award is not exempt from a claim of a creditor to the
18 extent that the creditor provided a product, service, or
19 accommodation, the cost of which is included in the award. (Code
20 Crim. Proc., Art. 56.49(a).)

21 Source Law

22 Art. 56.49. EXEMPTION; ASSIGNABILITY. (a) An
23 award is not subject to execution, attachment,
24 garnishment, or other process, except that an award is
25 not exempt from a claim of a creditor to the extent
26 that the creditor provided products, services, or
27 accommodations, the costs of which are included in the
28 award.

29 Revised Law

30 Art. 56B.204. ASSIGNMENT OF BENEFITS FOR LOSS ACCRUING IN
31 FUTURE. (a) Except as provided by Subsections (b) and (c), an
32 assignment of or agreement to assign a right to benefits for loss
33 accruing in the future is unenforceable.

34 (b) An assignment of a right to benefits for loss of
35 earnings is enforceable to secure payment of alimony, maintenance,
36 or child support.

37 (c) An assignment of a right to benefits is enforceable to
38 the extent that the benefits are for the cost of a product, service,
39 or accommodation:

1 (1) made necessary by the injury or death on which the
2 claim is based; and

3 (2) provided or to be provided by the assignee. (Code
4 Crim. Proc., Art. 56.49(b).)

5 Source Law

6 (b) An assignment or agreement to assign a right
7 to benefits for loss accruing in the future is
8 unenforceable except:

9 (1) an assignment of a right to benefits
10 for loss of earnings is enforceable to secure payment
11 of alimony, maintenance, or child support; and

12 (2) an assignment of a right to benefits is
13 enforceable to the extent that the benefits are for the
14 cost of products, services, or accommodations:

15 (A) made necessary by the injury or
16 death on which the claim is based; and

17 (B) provided or to be provided by the
18 assignee.

19 SUBCHAPTER F. PAYMENTS FOR CERTAIN DISABLED PEACE OFFICERS

20 Revised Law

21 Art. 56B.251. DEFINITION. In this subchapter, "peace
22 officer" means an individual elected, appointed, or employed to
23 serve as a peace officer for a governmental entity under Article
24 2.12 or other law. The term includes a former peace officer who is
25 entitled to receive payments under this subchapter because of an
26 injury suffered while performing duties as a peace officer. (Code
27 Crim. Proc., Art. 56.542(a).)

28 Source Law

29 Art. 56.542. PAYMENTS FOR CERTAIN DISABLED
30 PEACE OFFICERS. (a) In this article, "peace officer":

31 (1) means an individual elected,
32 appointed, or employed to serve as a peace officer for
33 a governmental entity under Article 2.12 or other law;
34 and

35 (2) includes a former peace officer who
36 because of an injury suffered while performing duties
37 as a peace officer is entitled to receive payments
38 under this article.

39 Revised Law

40 Art. 56B.252. APPLICABILITY. This subchapter applies only
41 to a peace officer who is employed by this state or a local
42 governmental entity in this state and who sustains an injury in the
43 performance of the officer's duties as a peace officer as a result
44 of criminally injurious conduct on or after September 1, 1989.

1 (Code Crim. Proc., Art. 56.542(b) (part).)

2 Source Law

3 (b) If a peace officer employed by the state or a
4 local governmental entity in this state sustains an
5 injury as a result of criminally injurious conduct on
6 or after September 1, 1989, in the performance of the
7 officer's duties as a peace officer and

8 Revised Law

9 Art. 56B.253. PAYMENT ENTITLEMENT. A peace officer to whom
10 this subchapter applies is entitled to an annual payment in the
11 amount described by Article 56B.254 if the officer presents
12 evidence satisfactory to the attorney general that:

13 (1) the officer's condition is a total disability
14 resulting in permanent incapacity for work; and

15 (2) the total disability has persisted for more than
16 12 months. (Code Crim. Proc., Art. 56.542(b) (part).)

17 Source Law

18 (b) . . . [a peace officer] . . . presents
19 evidence satisfactory to the attorney general that the
20 officer's condition is a total disability resulting in
21 permanent incapacity for work and that the total
22 disability has persisted for more than 12 months, the
23 officer is entitled to an annual payment [equal to the
24 difference between]

25 Revisor's Note

26 Article 56.542(b), Code of Criminal Procedure,
27 refers to a disabled peace officer's entitlement to an
28 annual payment and describes the amount of the
29 payment. The portion of Article 56.542(b) describing
30 the amount of the payment is revised as Article
31 56B.254, and the revised law adds a cross-reference to
32 that provision for the convenience of the reader.

33 Revised Law

34 Art. 56B.254. AMOUNT OF PAYMENT. The amount of an annual
35 payment under this subchapter is equal to the difference between:

36 (1) any amount received by the peace officer for the
37 injury or disability from another source of income, including
38 settlements related to the injury or disability, insurance
39 benefits, federal disability benefits, workers' compensation

1 benefits, and benefits from another governmental entity, if those
2 amounts do not exceed the amount described by Subdivision (2); and
3 (2) an amount equal to the officer's average annual
4 salary during the officer's final three years as a peace officer.
5 (Code Crim. Proc., Art. 56.542(b) (part).)

6 Source Law

7 (b) . . . [a peace officer . . . is entitled to
8 an annual payment] equal to the difference between:

9 (1) any amounts received by the officer on
10 account of the injury or disability from other sources
11 of income, including settlements related to the injury
12 or disability, insurance benefits, federal disability
13 benefits, workers' compensation benefits, and benefits
14 from another governmental entity, if those amounts do
15 not exceed the amount described by Subdivision (2);
16 and

17 (2) an amount equal to the officer's
18 average annual salary during the officer's final three
19 years as a peace officer.

20 Revised Law

21 Art. 56B.255. METHOD OF PAYMENT. A peace officer who is
22 entitled to an annual payment under Article 56B.253 may elect to
23 receive the payment in:

24 (1) a single payment paid each year; or

25 (2) equal monthly installments. (Code Crim. Proc.,
26 Art. 56.542(1).)

27 Source Law

28 (1) A peace officer who is entitled to an annual
29 payment under Subsection (b) may elect to receive the
30 payment in:

31 (1) a single payment paid each year; or

32 (2) equal monthly installments.

33 Revisor's Note

34 Article 56.542(1), Code of Criminal Procedure,
35 refers to "[a] peace officer who is entitled to an
36 annual payment under Subsection (b)." The provision of
37 Subsection (b) that describes a disabled peace
38 officer's entitlement to an annual payment is revised
39 as Article 56B.253, and the revised law is drafted
40 accordingly.

41 Revised Law

42 Art. 56B.256. COST-OF-LIVING ADJUSTMENT. (a) The amount

1 of a payment under Article 56B.254 is subject to an annual
2 cost-of-living adjustment calculated by the attorney general.

3 (b) The attorney general shall calculate the amount of the
4 cost-of-living adjustment by multiplying the amount of the annual
5 payment received by the peace officer under this subchapter during
6 the preceding year by the percentage by which the Consumer Price
7 Index for All Urban Consumers published by the Bureau of Labor
8 Statistics of the United States Department of Labor, or its
9 successor index, increased during the preceding calendar year.
10 (Code Crim. Proc., Art. 56.542(c).)

11 Source Law

12 (c) The amount of the payment under Subsection
13 (b) is subject to an annual cost-of-living adjustment
14 computed by the attorney general. The attorney
15 general shall compute the amount of the cost-of-living
16 adjustment by multiplying the amount of the annual
17 payment received by the peace officer under this
18 section during the previous year times the percentage
19 by which the Consumer Price Index for All Urban
20 Consumers published by the Bureau of Labor Statistics
21 of the United States Department of Labor, or its
22 successor index, increased during the previous
23 calendar year.

24 Revisor's Note

25 (1) Article 56.542(c), Code of Criminal
26 Procedure, refers to "[t]he amount of the payment
27 under Subsection (b)." The provision of Subsection
28 (b) relating to the amount of a payment to a disabled
29 peace officer is revised as Article 56B.254, and the
30 revised law is drafted accordingly.

31 (2) Article 56.542(c), Code of Criminal
32 Procedure, refers to an annual payment received by a
33 peace officer under "this section." It is clear that
34 the legislature intended to refer to an annual payment
35 received by a peace officer under "this article."
36 Throughout this subchapter, the revised law
37 substitutes "this subchapter" for "this section"
38 because Article 56.542 is revised as this subchapter.

1 Revised Law

2 Art. 56B.257. CALCULATION OF INITIAL PAYMENT. The attorney
3 general shall calculate the amount of an initial payment based on an
4 injury suffered after September 1, 1989, by:

5 (1) calculating the amount to which the peace officer
6 is entitled under Article 56B.254; and

7 (2) adding to that amount the cumulative successive
8 cost-of-living adjustments for the intervening years calculated
9 from the date of the injury. (Code Crim. Proc., Art. 56.542(d).)

10 Source Law

11 (d) The attorney general shall compute the
12 amount of an initial payment based on an injury
13 suffered after September 1, 1989, by:

14 (1) computing the amount to which the
15 officer is entitled under Subsection (b); and

16 (2) adding to that amount the cumulative
17 successive cost-of-living adjustments for the
18 intervening years computed from the date of the
19 injury.

20 Revisor's Note

21 Article 56.542(d)(1), Code of Criminal
22 Procedure, refers to "the amount to which the officer
23 is entitled under Subsection (b)." The provision of
24 Subsection (b) relating to the amount of a payment to a
25 disabled peace officer is revised as Article 56B.254,
26 and the revised law is drafted accordingly.

27 Revised Law

28 Art. 56B.258. PROOF REQUIRED FOR PAYMENT. To receive a
29 payment under this subchapter, a peace officer must provide to the
30 attorney general:

31 (1) proof that the injury:

32 (A) was sustained in the performance of the
33 applicant's duties as a peace officer; and

34 (B) is a total disability resulting in permanent
35 incapacity for work; and

36 (2) any other information or evidence the attorney
37 general requires. (Code Crim. Proc., Art. 56.542(e).)

1 and justifies payment. On receipt of the notice, the comptroller
2 shall issue a warrant to or on behalf of the peace officer in the
3 proper amount from amounts in the compensation to victims of crime
4 fund. A payment under this subchapter to or on behalf of a peace
5 officer is payable as soon as possible after the attorney general
6 notifies the comptroller.

7 (b) The attorney general and the comptroller by rule shall
8 adopt a memorandum of understanding to establish procedures under
9 which annual payments continue to a peace officer until continued
10 assistance is no longer necessary. (Code Crim. Proc., Arts.
11 56.542(h), (i).)

12 Source Law

13 (h) The attorney general shall notify the
14 comptroller of the attorney general's determination
15 that a claim under this section is valid and justifies
16 payment. On receipt of the notice, the comptroller
17 shall issue a warrant to or in behalf of the claimant
18 in the proper amount from amounts in the compensation
19 to victims of crime fund. A payment under this section
20 to or in behalf of a peace officer is payable as soon as
21 possible after the attorney general notifies the
22 comptroller.

23 (i) The attorney general and the comptroller by
24 rule shall adopt a memorandum of understanding to
25 establish procedures under which annual payments
26 continue to a peace officer until continued assistance
27 is no longer necessary.

28 Revisor's Note

29 Article 56.542(h), Code of Criminal Procedure,
30 refers to issuance of a warrant to or on behalf of the
31 "claimant." Article 56.542, revised as this
32 subchapter, authorizes annual payments to certain
33 peace officers. The revised law substitutes "peace
34 officer" for the quoted language for clarity and
35 consistency in the terminology used within the
36 subchapter.

37 Revised Law

38 Art. 56B.263. LIMITS ON COMPENSATION. The total aggregate
39 amount of all annual payments made to an individual peace officer
40 under this subchapter may not exceed \$200,000. The limits on
41 compensation imposed by Article 56B.106 do not apply to payments

1 made under this subchapter. (Code Crim. Proc., Art. 56.542(k).)

2 Source Law

3 (k) The limits on compensation imposed by
4 Article 56.42 do not apply to payments made under this
5 article, but the total aggregate amount of all annual
6 payments made to an individual peace officer under
7 this section may not exceed \$200,000.

8 Revised Law

9 Art. 56B.264. APPLICATION OF OTHER LAW. (a) Article
10 56B.052 does not apply to the filing of an application under this
11 subchapter.

12 (b) Other provisions of this chapter apply to this
13 subchapter to the extent applicable and consistent with this
14 subchapter. (Code Crim. Proc., Art. 56.542(j).)

15 Source Law

16 (j) Article 56.37 does not apply to the filing
17 of an application under this article. Other
18 provisions of this chapter apply to this article to the
19 extent applicable and consistent with this article.

20 Revisor's Note

21 Article 56.542, Code of Criminal Procedure,
22 revised as this subchapter, provides for annual
23 payments from the compensation to victims of crime
24 fund to certain disabled peace officers. Subsection
25 (j) of that article provides that other provisions of
26 "this chapter" apply to that article to the extent
27 applicable and consistent with that article. Chapter
28 56, Code of Criminal Procedure, is revised as this
29 chapter, Chapter 56A, and Subchapter B, Chapter 58,
30 Code of Criminal Procedure. The only provisions of
31 Chapter 56 that relate to the application for and award
32 of compensation from the crime victims compensation
33 fund are located in Subchapter B of Chapter 56, revised
34 as this chapter. As a result, it is unnecessary in
35 this context to include a cross-reference to Chapter
36 56A or Subchapter B, Chapter 58, Code of Criminal
37 Procedure. The revised law is drafted accordingly.

1 SUBCHAPTER G. ATTORNEY'S FEES

2 Revised Law

3 Art. 56B.301. AWARD OF ATTORNEY'S FEES. (a) As part of an
4 order, the attorney general shall determine and award reasonable
5 attorney's fees commensurate with legal services rendered, to be
6 paid by the state to the attorney representing the claimant or
7 victim.

8 (b) Attorney's fees may be denied on a finding that the
9 claim or appeal is frivolous.

10 (c) An award of attorney's fees is in addition to an award of
11 compensation.

12 (d) Attorney's fees may not be paid to an attorney of a
13 claimant or victim unless an award is made to the claimant or
14 victim. (Code Crim. Proc., Arts. 56.43(a) (part), (b), (c), (e).)

15 Source Law

16 Art. 56.43. ATTORNEY FEES. (a) As part of an
17 order, the attorney general shall determine and award
18 reasonable attorney's fees, commensurate with legal
19 services rendered, to be paid by the state to the
20 attorney representing the claimant or victim. . . .

21 (b) Attorney fees may be denied on a finding
22 that the claim or appeal is frivolous.

23 (c) An award of attorney fees is in addition to
24 an award of compensation.

25 (e) Attorney fees may not be paid to an attorney
26 of a claimant or victim unless an award is made to the
27 claimant or victim.

28 Revised Law

29 Art. 56B.302. AMOUNT OF ATTORNEY'S FEES. (a) Attorney's
30 fees may not exceed 25 percent of the amount of the award the
31 attorney assisted the claimant or victim in obtaining.

32 (b) If there is no dispute of the attorney general's
33 determination of the amount due to the claimant or victim and a
34 hearing is not held, the attorney's fee shall be the lesser of:

35 (1) 25 percent of the amount the attorney assisted the
36 claimant or victim in obtaining; or

37 (2) \$300.

38 (c) An attorney may not contract for or receive an amount
39 that exceeds the amount allowed under this article. (Code Crim.

1 Proc., Arts. 56.43(a) (part), (d).)

2 Source Law

3 (a) . . . Attorney fees shall not exceed 25
4 percent of the amount the attorney assisted the
5 claimant or victim in obtaining. Where there is no
6 dispute of the attorney general's determination of the
7 amount of the award due to the claimant or victim and
8 where no hearing is held, the attorney fee shall be the
9 lesser of either 25 percent of the amount the attorney
10 assisted the claimant or victim in obtaining or \$300.

11 (d) An attorney may not contract for or receive
12 an amount larger than that allowed under this article.

13 Revisor's Note

14 Article 56.43(d), Code of Criminal Procedure,
15 prohibits an attorney from contracting for or
16 receiving "an amount larger than that allowed under
17 this article." The amount referenced is the amount of
18 attorney's fees as established by Article 56.43(a),
19 revised in relevant part as Subsections (a) and (b) of
20 this article. Because the portions of Article 56.43
21 revised in this article are the only provisions of
22 Article 56.43 relating to the amount of attorney's
23 fees, it is unnecessary in this context to include a
24 cross-reference to any other article in this
25 subchapter. The revised law is drafted accordingly.

26 SUBCHAPTER H. JUDICIAL REVIEW

27 Revised Law

28 Art. 56B.351. NOTICE OF DISSATISFACTION. Not later than
29 the 40th day after the date the attorney general renders a final
30 decision, a claimant or victim may file with the attorney general a
31 notice of dissatisfaction with the decision. (Code Crim. Proc.,
32 Art. 56.48(a) (part).)

33 Source Law

34 Art. 56.48. JUDICIAL REVIEW. (a) Not later
35 than the 40th day after the attorney general renders a
36 final decision, a claimant or victim may file with the
37 attorney general a notice of dissatisfaction with the
38 decision. . . .

39 Revised Law

40 Art. 56B.352. SUIT; VENUE. Not later than the 40th day

1 after the date the claimant or victim gives notice of
2 dissatisfaction under Article 56B.351, the claimant or victim must
3 bring suit in:

4 (1) the district court having jurisdiction in the
5 county in which:

6 (A) the injury or death occurred; or

7 (B) the victim resided at the time of the injury
8 or death; or

9 (2) if the victim resided out of state at the time of
10 the injury or death:

11 (A) the district court having jurisdiction in the
12 county in which the injury or death occurred; or

13 (B) a district court in Travis County. (Code
14 Crim. Proc., Art. 56.48(a) (part).)

15 Source Law

16 (a) . . . Not later than the 40th day after the
17 claimant or victim gives notice, the claimant or
18 victim shall bring suit in the district court having
19 jurisdiction in the county in which:

20 (1) the injury or death occurred;

21 (2) the victim resided at the time the
22 injury or death occurred; or

23 (3) if the victim resided out of state at
24 the time of the injury or death, in the county where
25 the injury or death occurred or in a district court of
26 Travis County.

27 Revisor's Note

28 Article 56.48(a), Code of Criminal Procedure,
29 refers to "notice" given by the claimant or victim.
30 The quoted language refers to the notice of
31 dissatisfaction described in the preceding sentence of
32 Subsection (a), revised as Article 56B.351 of this
33 chapter. The revised law adds a cross-reference to
34 that article for the convenience of the reader.

35 Revised Law

36 Art. 56B.353. RESTRICTIONS ON ATTORNEY GENERAL DURING
37 JUDICIAL REVIEW. While judicial review of a decision by the
38 attorney general is pending, the attorney general:

39 (1) shall suspend payments to the claimant or victim;

1 and

2 (2) may not reconsider the award. (Code Crim. Proc.,
3 Art. 56.48(b).)

4 Source Law

5 (b) While judicial review of a decision by the
6 attorney general is pending, the attorney general:

7 (1) shall suspend payments to the claimant
8 or victim; and

9 (2) may not reconsider the award.

10 Revised Law

11 Art. 56B.354. STANDARD OF REVIEW. The court shall
12 determine the issues by trial de novo. (Code Crim. Proc., Art.
13 56.48(c) (part).)

14 Source Law

15 (c) The court shall determine the issues by
16 trial de novo. . . .

17 Revised Law

18 Art. 56B.355. BURDEN OF PROOF. The burden of proof is on
19 the claimant or victim filing the notice of dissatisfaction. (Code
20 Crim. Proc., Art. 56.48(c) (part).)

21 Source Law

22 (c) . . . The burden of proof is on the party who
23 filed the notice of dissatisfaction.

24 Revisor's Note

25 Article 56.48(c), Code of Criminal Procedure,
26 refers to a "party" filing a notice of
27 dissatisfaction. The revised law substitutes
28 "claimant or victim" for the quoted language because
29 under Article 56.48(a), Code of Criminal Procedure,
30 revised in relevant part as Article 56B.351, a
31 claimant or victim files a notice of dissatisfaction.

32 Revised Law

33 Art. 56B.356. ATTORNEY'S FEES. In the event of judicial
34 review, a court may award as attorney's fees an amount not to exceed
35 25 percent of the total recovery by the claimant or victim. (Code
36 Crim. Proc., Art. 56.48(d).)

1 Source Law

2 (d) A court may award not more than 25 percent of
3 the total recovery by the claimant or victim for
4 attorney fees in the event of review.

5 Revised Law

6 Art. 56B.357. CALCULATION OF TIME. In calculating a period
7 under Article 56B.351 or 56B.352, if the last day is a legal holiday
8 or Sunday, the last day is not counted, and the time is extended to
9 include the next business day. (Code Crim. Proc., Art. 56.48(e).)

10 Source Law

11 (e) In computing a period under this article, if
12 the last day is a legal holiday or Sunday, the last day
13 is not counted, and the time is extended to include the
14 next business day.

15 Revisor's Note

16 Article 56.48(e), Code of Criminal Procedure,
17 refers to the calculation of a period "under this
18 article." The provisions of Article 56.48 relating to
19 time periods are revised as Articles 56B.351 and
20 56B.352 of this chapter, and the revised law is drafted
21 accordingly.

22 SUBCHAPTER I. PRIVATE ACTION

23 Revised Law

24 Art. 56B.401. NOTICE OF PROPOSED PRIVATE ACTION. Before a
25 claimant or victim may bring an action to recover damages related to
26 criminally injurious conduct for which compensation under this
27 chapter is claimed or awarded, the claimant or victim must give the
28 attorney general written notice of the proposed action. (Code
29 Crim. Proc., Art. 56.52(a) (part).)

30 Source Law

31 Art. 56.52. NOTICE OF PRIVATE ACTION. (a)
32 Before a claimant or victim may bring an action to
33 recover damages related to criminally injurious
34 conduct for which compensation under this subchapter
35 is claimed or awarded, the claimant or victim must give
36 the attorney general written notice of the proposed
37 action. . . .

38 Revised Law

39 Art. 56B.402. RECEIPT OF NOTICE. After receiving notice

1 under Article 56B.401, the attorney general shall promptly:

2 (1) join in the action as a party plaintiff to recover
3 benefits awarded;

4 (2) require the claimant or victim to bring the action
5 in the claimant's or victim's name as a trustee on behalf of the
6 state to recover benefits awarded; or

7 (3) reserve the attorney general's rights and take
8 neither action described by Subdivision (1) or (2). (Code Crim.
9 Proc., Art. 56.52(a) (part).)

10 Source Law

11 (a) . . . After receiving the notice, the
12 attorney general shall promptly:

13 (1) join in the action as a party plaintiff
14 to recover benefits awarded;

15 (2) require the claimant or victim to
16 bring the action in the claimant's or victim's name as a
17 trustee on behalf of the state to recover benefits
18 awarded; or

19 (3) reserve the attorney general's rights
20 and do neither in the proposed action.

21 Revisor's Note

22 Article 56.52(a), Code of Criminal Procedure,
23 refers to a "notice" received by the attorney general.
24 The quoted language refers to a notice of a proposed
25 action as described in the preceding sentence of
26 Subsection (a), revised as Article 56B.401 of this
27 chapter. The revised law adds a cross-reference to
28 that article for the convenience of the reader.

29 Revised Law

30 Art. 56B.403. DEDUCTION FOR REASONABLE EXPENSES. (a) A
31 claimant or victim who brings an action as a trustee as described by
32 Article 56B.402(2) and recovers compensation awarded by the
33 attorney general may deduct from the benefits recovered on behalf
34 of the state the reasonable expenses of the suit, including
35 attorney's fees, expended in pursuing the recovery for the state.

36 (b) The claimant or victim must justify a deduction under
37 Subsection (a) to the attorney general in writing on a form provided
38 by the attorney general. (Code Crim. Proc., Art. 56.52(b).)

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Source Law

(b) If the claimant or victim brings the action as trustee and recovers compensation awarded by the attorney general, the claimant or victim may deduct from the benefits recovered on behalf of the state the reasonable expenses of the suit, including attorney fees, expended in pursuing the recovery for the state. The claimant or victim must justify this deduction in writing to the attorney general on a form provided by the attorney general.

Revisor's Note

Article 56.52(b), Code of Criminal Procedure, refers to "the action" brought by the claimant or victim as trustee. The provision relating to an action brought in the claimant's or victim's name as a trustee on behalf of the state is in Article 56.52(a)(2), Code of Criminal Procedure, revised as Article 56B.402(2) of this chapter. The revised law adds a cross-reference to that article for the convenience of the reader.

Revised Law

Art. 56B.404. LIMITATIONS ON RESOLUTION OF ACTION. (a) A claimant or victim may not settle or otherwise resolve any such action without the attorney general's written authorization.

(b) A third party or agent, insurer, or attorney of a third party may not participate in the settlement or other resolution of such an action if the third party, agent, insurer, or attorney actually knows, or should know, that the claimant or victim has received money from the compensation to victims of crime fund and is subject to the subrogation provisions of this subchapter.

(c) Any attempt by a third party or agent, insurer, or attorney of a third party to settle an action is void and does not result in a release from liability to the compensation to victims of crime fund for any rights subrogated under this subchapter.

(d) An agent, insurer, or attorney described by this article is personally liable to the compensation to victims of crime fund for any money paid to a claimant or victim in violation of this article, in an amount not to exceed the full amount of the fund's

1 right to reimbursement. (Code Crim. Proc., Art. 56.52(c) (part).)

2 Source Law

3 (c) A claimant or victim shall not settle or
4 resolve any such action without written authorization
5 to do so from the attorney general. No third party or
6 agents, insurers, or attorneys for third parties shall
7 participate in the settlement or resolution of such an
8 action if they actually know, or should know, that the
9 claimant or victim has received moneys from the fund
10 and is subject to the subrogation provisions of this
11 article. Any attempt by such third party, or agents,
12 insurers, or attorneys of third parties to settle an
13 action is void and shall result in no release from
14 liability to the fund for any rights subrogated
15 pursuant to this article. All such agents, insurers,
16 and attorneys are personally liable to the fund for any
17 moneys paid to a claimant or victim in violation of
18 this subsection, up to the full amount of the fund's
19 right to reimbursement. . . .

20 Revisor's Note

21 (1) Article 56.52(c), Code of Criminal
22 Procedure, makes references to a fund. In each
23 instance, the reference means the fund from which a
24 claimant or victim has received money. The revised law
25 substitutes a reference to the compensation to victims
26 of crime fund for the references to a fund for the
27 reason stated in the revisor's note to Article 56B.201.

28 (2) Article 56.52(c), Code of Criminal
29 Procedure, provides that certain persons are liable to
30 the compensation to victims of crime fund for money
31 paid in violation of "this subsection." Subsection
32 (c) is revised as this article and Article 56B.405.
33 Because the portions of Subsection (c) revised as this
34 article are the only provisions of that subsection
35 that the relevant persons could potentially violate,
36 it is unnecessary in this context to include a
37 cross-reference to Article 56B.405. The revised law
38 is drafted accordingly.

39 Revised Law

40 Art. 56B.405. CRIMINAL PENALTY. (a) A claimant, victim, or
41 third party, or an agent, insurer, or attorney of a third party,
42 commits an offense if the person knowingly fails to comply with the

1 requirements of this chapter, Chapter 56A, or Subchapter B, Chapter
2 58.

3 (b) An offense under Subsection (a) is a Class B
4 misdemeanor, except that any fine imposed may not exceed \$500.
5 (Code Crim. Proc., Arts. 56.52(c) (part), (d).)

6 Source Law

7 (c) . . . A claimant, victim, third party, or
8 any agents, attorneys, or insurers of third parties
9 who knowingly or intentionally fail to comply with the
10 requirements of this chapter commits a Class B
11 misdemeanor.

12 (d) A person adjudged guilty of a Class B
13 misdemeanor shall be punished by:

- 14 (1) a fine not to exceed \$500;
15 (2) confinement in jail for a term not to
16 exceed 180 days; or
17 (3) both such fine and imprisonment.

18 Revisor's Note

19 Article 56.52(c), Code of Criminal Procedure,
20 provides that a person commits an offense punishable
21 as a Class B misdemeanor if the person "knowingly or
22 intentionally" commits certain acts. The revised law
23 omits the reference to "intentionally" as unnecessary
24 because under Section 6.02, Penal Code, culpable
25 mental states are classified according to relative
26 degrees from highest to lowest, and an intentional
27 mental state is a more culpable mental state than a
28 knowing state. Proof of a higher state of culpability
29 than that charged constitutes proof of the culpability
30 charged. Article 56.52(d), Code of Criminal
31 Procedure, provides that the Class B misdemeanor
32 offense under Subsection (c) is punishable by a fine
33 not to exceed \$500, "confinement in jail for a term not
34 to exceed 180 days," or "both such fine and
35 imprisonment." The revised law omits the quoted
36 phrases because they duplicate, in substance, portions
37 of Section 12.22, Penal Code, establishing the
38 punishment for Class B misdemeanors. Sections 6.02 and
39 12.22, Penal Code, apply to the revised law by

1 application of Section 1.03(b) of that code.

2 SUBCHAPTER J. FUNDS

3 Revised Law

4 Art. 56B.451. DEFINITION. In this subchapter, "fund" means
5 the compensation to victims of crime fund. (New.)

6 Revisor's Note

7 The revised law adds a definition of "fund" for
8 the convenience of the reader and to avoid frequent,
9 unnecessary repetition of the substance of the
10 definition.

11 Revised Law

12 Art. 56B.452. ESTABLISHMENT. (a) The compensation to
13 victims of crime fund is in the state treasury.

14 (b) Section 403.095, Government Code, does not apply to the
15 fund. (Code Crim. Proc., Arts. 56.54(a), (g) (part).)

16 Source Law

17 Art. 56.54. FUNDS. (a) The compensation to
18 victims of crime fund is in the state treasury.

19 (g) . . . Section 403.095, Government Code,
20 does not apply to the fund.

21 Revised Law

22 Art. 56B.453. USE OF MONEY. (a) Money in the fund may be
23 used only as provided by this chapter and is not available for any
24 other purpose.

25 (b) Except as provided by Subsection (d) and Articles
26 56B.455, 56B.458, 56B.459, and 56B.460, the fund may be used only by
27 the attorney general to pay compensation to claimants or victims
28 under this chapter.

29 (c) For purposes of Subsection (b), compensation to
30 claimants or victims includes money allocated from the fund to the
31 Crime Victims' Institute created by Section 96.65, Education Code,
32 for the operation of the institute and for other expenses in
33 administering this chapter. The institute shall use money
34 allocated from the fund only for the purposes of Sections 96.65,
35 96.651, and 96.652, Education Code.

1 (d) The attorney general may use the fund to:

2 (1) reimburse a law enforcement agency for the
3 reasonable costs of a forensic medical examination that are
4 incurred by the agency under Subchapter F or G, Chapter 56A; and

5 (2) make a payment to or on behalf of an individual for
6 the reasonable costs incurred for medical care provided under
7 Subchapter F or G, Chapter 56A, in accordance with Section 323.004,
8 Health and Safety Code. (Code Crim. Proc., Arts. 56.54(b), (g)
9 (part), (k).)

10 Source Law

11 (b) Except as provided by Subsections (h), (i),
12 (j), and (k) and Article 56.541, the compensation to
13 victims of crime fund may be used only by the attorney
14 general for the payment of compensation to claimants
15 or victims under this subchapter. For purposes of this
16 subsection, compensation to claimants or victims
17 includes money allocated from the fund to the Crime
18 Victims' Institute created by Section 96.65, Education
19 Code, for the operation of the institute and for other
20 expenses in administering this subchapter. The
21 institute shall use money allocated from the fund only
22 for the purposes of Sections 96.65, 96.651, and
23 96.652, Education Code.

24 (g) Money in the compensation to victims of
25 crime fund may be used only as provided by this
26 subchapter and is not available for any other
27 purpose. . . .

28 (k) The attorney general may use the
29 compensation to victims of crime fund to:

30 (1) reimburse a law enforcement agency for
31 the reasonable costs of a forensic medical examination
32 that are incurred by the agency under Article 56.06 or
33 56.065; and

34 (2) make a payment to or on behalf of an
35 individual for the reasonable costs incurred for
36 medical care provided under Article 56.06 or 56.065 in
37 accordance with Section 323.004, Health and Safety
38 Code.

39 Revised Law

40 Art. 56B.454. LIMITATIONS ON PAYMENTS. (a) The attorney
41 general may not make compensation payments that exceed the amount
42 of money available in the fund.

43 (b) General revenue funds may not be used for payments under
44 this chapter. (Code Crim. Proc., Arts. 56.54(d), (e).)

45 Source Law

46 (d) The attorney general may not make
47 compensation payments in excess of the amount of money

1 available in the compensation to victims of crime
2 fund.

3 (e) General revenues may not be used for
4 payments under this subchapter.

5 Revised Law

6 Art. 56B.455. AMOUNT CARRIED FORWARD. An amount of money
7 deposited to the credit of the fund not to exceed one-quarter of the
8 amount disbursed from that fund in the form of compensation
9 payments during a state fiscal year shall be carried forward into
10 the next succeeding state fiscal year and applied toward the amount
11 listed in that fiscal year's method of financing. (Code Crim.
12 Proc., Art. 56.54(h).)

13 Source Law

14 (h) An amount of money deposited to the credit
15 of the compensation to victims of crime fund not to
16 exceed one-quarter of the amount disbursed from that
17 fund in the form of compensation payments during a
18 fiscal year shall be carried forward into the next
19 succeeding fiscal year and applied toward the amount
20 listed in the next succeeding fiscal year's method of
21 financing.

22 Revisor's Note

23 Article 56.54(h), Code of Criminal Procedure,
24 refers to a "fiscal year." Throughout this
25 subchapter, the revised law substitutes "state fiscal
26 year" for the quoted language for clarity and
27 consistency in the terminology used within the
28 subchapter.

29 Revised Law

30 Art. 56B.456. TRANSFER OF MONEY FROM AUXILIARY FUND. (a)
31 Not later than September 15 of each year, the attorney general,
32 after consulting with the comptroller, shall certify the amount of
33 money remaining in the compensation to victims of crime auxiliary
34 fund at the end of the preceding state fiscal year.

35 (b) If the amount remaining in the compensation to victims
36 of crime auxiliary fund as certified under Subsection (a) exceeds
37 \$5 million, as soon as practicable after the date of certification,
38 the attorney general may transfer to the fund an amount that is not
39 more than 50 percent of the excess amount in the auxiliary fund.

1 Money transferred under this subsection may be used only to make
2 compensation payments during the state fiscal year in which the
3 amount is transferred. (Code Crim. Proc., Art. 56.54(m).)

4 Source Law

5 (m) Not later than September 15 of each year,
6 the attorney general, after consulting with the
7 comptroller, shall certify the amount of money
8 remaining in the compensation to victims of crime
9 auxiliary fund at the end of the preceding state fiscal
10 year. If the amount remaining in the fund exceeds \$5
11 million, as soon as practicable after the date of
12 certification, the attorney general may transfer from
13 that excess amount in the compensation to victims of
14 crime auxiliary fund to the compensation to victims of
15 crime fund an amount that is not more than 50 percent
16 of the excess amount in the auxiliary fund, to be used
17 only for the purpose of making compensation payments
18 during the fiscal year in which the amount is
19 transferred.

20 Revised Law

21 Art. 56B.457. GIFTS, GRANTS, AND DONATIONS. (a) The
22 attorney general may accept gifts, grants, and donations to be
23 credited to the fund.

24 (b) The attorney general shall file annually with the
25 governor and the presiding officer of each house of the legislature
26 a complete and detailed written report accounting for all gifts,
27 grants, and donations received and disbursed, used, or maintained
28 by the attorney general that are credited to the fund. (Code Crim.
29 Proc., Art. 56.54(f).)

30 Source Law

31 (f) The office of the attorney general is
32 authorized to accept gifts, grants, and donations to
33 be credited to the compensation to victims of crime
34 fund and shall file annually with the governor and the
35 presiding officer of each house of the legislature a
36 complete and detailed written report accounting for
37 all gifts, grants, and donations received and
38 disbursed, used, or maintained by the office for the
39 attorney general that are credited to the fund.

40 Revised Law

41 Art. 56B.458. EMERGENCY RESERVE. (a) If the amount
42 available in the fund is sufficient in a state fiscal year to make
43 all compensation payments, the attorney general may retain any
44 portion of the fund that was deposited during the fiscal year that
45 exceeded compensation payments made during that fiscal year as an

1 emergency reserve for the next fiscal year. The emergency reserve
2 may not exceed \$10,000,000.

3 (b) The emergency reserve may be used only:

4 (1) to make compensation awards in claims; and

5 (2) to provide emergency relief and assistance,
6 including crisis intervention, emergency housing, travel, food, or
7 expenses and technical assistance expenses incurred in
8 implementing this article in incidents resulting from an act of
9 mass violence or from an act of international terrorism as defined
10 by 18 U.S.C. Section 2331, occurring in this state or for Texas
11 residents injured or killed in an act of terrorism outside of the
12 United States. (Code Crim. Proc., Art. 56.54(i).)

13 Source Law

14 (i) If the sums available in the compensation to
15 victims of crime fund are sufficient in a fiscal year
16 to make all compensation payments, the attorney
17 general may retain any portion of the fund that was
18 deposited during the fiscal year that was in excess of
19 compensation payments made during that fiscal year as
20 an emergency reserve for the next fiscal year. Such
21 emergency reserve may not exceed \$10,000,000. The
22 emergency reserve fund may be used only to make
23 compensation awards in claims and for providing
24 emergency relief and assistance, including crisis
25 intervention, emergency housing, travel, food, or
26 expenses and technical assistance expenses incurred in
27 the implementation of this subsection in incidents
28 resulting from an act of mass violence or from an act
29 of international terrorism as defined by 18 U.S.C.
30 Section 2331, occurring in the state or for Texas
31 residents injured or killed in an act of terrorism
32 outside of the United States.

33 Revisor's Note

34 Article 56.54(i), Code of Criminal Procedure,
35 authorizes the attorney general to retain a portion of
36 the compensation to victims of crime fund as an
37 emergency reserve for the next state fiscal year and
38 contains a subsequent reference to that emergency
39 reserve as "[t]he emergency reserve fund." The
40 revised law omits "fund" because Article 56.54(i) does
41 not create a fund.

42 Revised Law

43 Art. 56B.459. APPROPRIATION FOR ASSOCIATE JUDGE PROGRAM.

1 The legislature may appropriate money in the fund to administer the
2 associate judge program under Subchapter C, Chapter 201, Family
3 Code. (Code Crim. Proc., Art. 56.54(j).)

4 Source Law

5 (j) The legislature may appropriate money in the
6 compensation to victims of crime fund to administer
7 the associate judge program under Subchapter C,
8 Chapter 201, Family Code.

9 Revised Law

10 Art. 56B.460. APPROPRIATION FOR OTHER CRIME VICTIM
11 ASSISTANCE. (a) Not later than December 15 of each even-numbered
12 year, the attorney general, after consulting with the comptroller,
13 shall prepare forecasts and certify estimates of:

14 (1) the amount of money in the fund that the attorney
15 general anticipates will remain unexpended at the end of the
16 current state fiscal year and that is available for appropriation
17 in the next state fiscal biennium;

18 (2) the amount of money that the attorney general
19 anticipates will be received from deposits made to the credit of the
20 fund during the next state fiscal biennium, other than deposits of:

21 (A) gifts, grants, and donations; and

22 (B) money received from the United States; and

23 (3) the amount of money from the fund that the attorney
24 general anticipates will be obligated during the next state fiscal
25 biennium to comply with this chapter, Chapter 56A, and Subchapter
26 B, Chapter 58.

27 (b) At the time the attorney general certifies the estimates
28 made under Subsection (a), the attorney general shall also certify
29 for the next state fiscal biennium the amount of excess money in the
30 fund available for the purposes of Subsection (c), calculated by
31 multiplying the amount estimated under Subsection (a)(3) by 105
32 percent and subtracting that product from the sum of the amounts
33 estimated under Subsections (a)(1) and (2).

34 (c) For a state fiscal biennium, the legislature may
35 appropriate from the fund the amount of excess money in the fund

1 certified for the biennium under Subsection (b) to state agencies
2 that deliver or fund victim-related services or assistance.

3 (d) The attorney general and the comptroller shall
4 cooperate in determining the proper allocation of the various
5 sources of revenue deposited to the credit of the fund for purposes
6 of this article.

7 (e) The attorney general may use money appropriated from the
8 fund for grants or contracts supporting victim-related services or
9 assistance, including support for private Texas nonprofit
10 corporations that provide victim-related civil legal services
11 directly to victims, immediate family members of victims, or
12 claimants. A grant supporting victim-related services or
13 assistance is governed by Chapter 783, Government Code.

14 (f) The attorney general shall adopt rules necessary to
15 implement this article. (Code Crim. Proc., Art. 56.541.)

16 Source Law

17 Art. 56.541. APPROPRIATION OF EXCESS MONEY FOR
18 OTHER CRIME VICTIM ASSISTANCE. (a) Not later than
19 December 15 of each even-numbered year, the attorney
20 general, after consulting with the comptroller, shall
21 prepare forecasts and certify estimates of:

22 (1) the amount of money that the attorney
23 general anticipates will be received from deposits
24 made to the credit of the compensation to victims of
25 crime fund during the next state fiscal biennium,
26 other than deposits of:

27 (A) gifts, grants, and donations; and
28 (B) money received from the United
29 States;

30 (2) the amount of money from the fund that
31 the attorney general anticipates will be obligated
32 during the next state fiscal biennium to comply with
33 this chapter; and

34 (3) the amount of money in the fund that
35 the attorney general anticipates will remain
36 unexpended at the end of the current state fiscal year
37 and that is available for appropriation in the next
38 state fiscal biennium.

39 (b) At the time the attorney general certifies
40 the estimates made under Subsection (a), the attorney
41 general shall also certify for the next state fiscal
42 biennium the amount of excess money in the
43 compensation to victims of crime fund available for
44 the purposes of Subsection (c), calculated by
45 multiplying the amount estimated under Subsection
46 (a)(2) by 105 percent, and subtracting that product
47 from the sum of the amounts estimated under
48 Subsections (a)(1) and (a)(3).

49 (c) For a state fiscal biennium, the legislature
50 may appropriate from the compensation to victims of
51 crime fund the amount of excess money in the fund

1 certified for the biennium under Subsection (b) to
2 state agencies that deliver or fund victim-related
3 services or assistance.

4 (d) The attorney general and the comptroller
5 shall cooperate in determining the proper allocation
6 of the various sources of revenue deposited to the
7 credit of the compensation to victims of crime fund for
8 purposes of this article.

9 (e) The attorney general may use money
10 appropriated from the compensation to victims of crime
11 fund for grants or contracts supporting victim-related
12 services or assistance, including support for private
13 Texas nonprofit corporations that provide
14 victim-related civil legal services directly to
15 victims, immediate family members of victims, or
16 claimants. A grant supporting victim-related services
17 or assistance is governed by Chapter 783, Government
18 Code.

19 (f) The attorney general shall adopt rules
20 necessary to carry out this article.

21 Revised Law

22 Art. 56B.461. USE OF AUXILIARY FUND. As appropriated by the
23 legislature, the attorney general may use the compensation to
24 victims of crime auxiliary fund to cover costs incurred by the
25 attorney general in administering the address confidentiality
26 program established under Subchapter B, Chapter 58. (Code Crim.
27 Proc., Art. 56.54(1).)

28 Source Law

29 (1) As appropriated by the legislature, the
30 attorney general may use the compensation to victims
31 of crime auxiliary fund to cover costs incurred by the
32 attorney general in administering the address
33 confidentiality program established under Subchapter
34 C.

35 Revised Law

36 Art. 56B.462. PAYERS OF LAST RESORT. The fund and the
37 compensation to victims of crime auxiliary fund are the payers of
38 last resort. (Code Crim. Proc., Art. 56.34(f).)

39 Source Law

40 (f) The compensation to victims of crime fund
41 and the compensation to victims of crime auxiliary
42 fund are the payers of last resort.

43 SUBCHAPTER K. ADMINISTRATIVE PENALTY

44 Revised Law

45 Art. 56B.501. CONDUCT SUBJECT TO PENALTY; AMOUNT OF
46 PENALTY. (a) A person who presents to the attorney general, or
47 engages in conduct that results in the presentation to the attorney

1 general of, an application for compensation under this chapter that
2 contains a statement or representation the person knows to be false
3 is liable to the attorney general for:

4 (1) the amount paid in reliance on the application,
5 plus interest on that amount determined at the rate provided by law
6 for legal judgments and accruing from the date on which the payment
7 was made;

8 (2) payment of an administrative penalty in an amount
9 not to exceed twice the amount paid as a result of the false
10 application for benefits or claim for pecuniary loss; and

11 (3) payment of an administrative penalty in an amount
12 not to exceed \$10,000 for each item or service for which payment was
13 claimed.

14 (b) In determining the amount of the penalty to be assessed
15 under Subsection (a)(3), the attorney general shall consider:

16 (1) the seriousness of the violation;

17 (2) whether the person has previously submitted a
18 false application for benefits or a claim for pecuniary loss; and

19 (3) the amount necessary to deter the person from
20 submitting future false applications for benefits or claims for
21 pecuniary loss. (Code Crim. Proc., Arts. 56.64(a), (b).)

22 Source Law

23 Art. 56.64. ADMINISTRATIVE PENALTY. (a) A
24 person who presents to the attorney general under this
25 subchapter, or engages in conduct that results in the
26 presentation to the attorney general under this
27 subchapter of, an application for compensation under
28 this subchapter that contains a statement or
29 representation the person knows to be false is liable
30 to the attorney general for:

31 (1) the amount paid in reliance on the
32 application and interest on that amount determined at
33 the rate provided by law for legal judgments and
34 accruing from the date on which the payment was made;

35 (2) payment of an administrative penalty
36 not to exceed twice the amount paid because of the
37 false application for benefits or claim for pecuniary
38 loss; and

39 (3) payment of an administrative penalty
40 of not more than \$10,000 for each item or service for
41 which payment was claimed.

42 (b) In determining the amount of the penalty to
43 be assessed under Subsection (a)(3), the attorney
44 general shall consider:

45 (1) the seriousness of the violation;

1 (2) whether the person has previously
2 submitted a false application for benefits or a claim
3 for pecuniary loss; and

4 (3) the amount necessary to deter the
5 person from submitting future false applications for
6 benefits or claims for pecuniary loss.

7 Revised Law

8 Art. 56B.502. REPORT AND NOTICE OF VIOLATION AND PENALTY.

9 (a) On determining that a violation has occurred, the attorney
10 general may issue a report stating:

11 (1) the facts on which the determination is made; and

12 (2) the attorney general's recommendation on the
13 imposition of an administrative penalty, including a
14 recommendation on the amount of the penalty.

15 (b) The attorney general shall give written notice of the
16 report to the person described by Article 56B.501. The notice may
17 be given by certified mail and must:

18 (1) include a brief summary of the alleged violation;

19 (2) state the amount of the recommended penalty; and

20 (3) inform the person of the right to a hearing on the
21 occurrence of the violation, the amount of the penalty, or both.

22 (Code Crim. Proc., Arts. 56.64(c), (d).)

23 Source Law

24 (c) If the attorney general determines that a
25 violation has occurred, the attorney general may issue
26 a report that states the facts on which the
27 determination is made and the attorney general's
28 recommendation on the imposition of a penalty,
29 including a recommendation on the amount of the
30 penalty.

31 (d) The attorney general shall give written
32 notice of the report to the person. Notice under this
33 subsection may be given by certified mail and must:

34 (1) include a brief summary of the alleged
35 violation;

36 (2) include a statement of the amount of
37 the recommended penalty; and

38 (3) inform the person of the right to a
39 hearing on:

40 (A) the occurrence of the violation;

41 (B) the amount of the penalty; or

42 (C) both the occurrence of the
43 violation and the amount of the penalty.

44 Revised Law

45 Art. 56B.503. PENALTY TO BE PAID OR HEARING REQUESTED. (a)

46 Not later than the 20th day after the date the person receives the

1 notice, the person in writing may:

2 (1) accept the attorney general's determination and
3 recommended administrative penalty; or

4 (2) request a hearing on the occurrence of the
5 violation, the amount of the penalty, or both.

6 (b) If the person accepts the attorney general's
7 determination and recommended penalty, the attorney general by
8 order shall approve the determination and impose the recommended
9 penalty. (Code Crim. Proc., Arts. 56.64(e), (f).)

10 Source Law

11 (e) Not later than the 20th day after the date
12 the person receives the notice, the person, in
13 writing, may:

14 (1) accept the attorney general's
15 determination and recommended penalty; or

16 (2) request in writing a hearing on:

17 (A) the occurrence of the violation;

18 (B) the amount of the penalty; or

19 (C) both the occurrence of the
20 violation and the amount of the penalty.

21 (f) If the person accepts the determination and
22 recommended penalty of the attorney general, the
23 attorney general by order shall approve the
24 determination and impose the recommended penalty.

25 Revised Law

26 Art. 56B.504. HEARING. (a) If the person requests a
27 hearing as provided by Article 56B.503(a) or fails to respond to the
28 notice in a timely manner, the attorney general shall set a
29 contested case hearing under Chapter 2001, Government Code, and
30 notify the person of the hearing.

31 (b) The administrative law judge shall make findings of fact
32 and conclusions of law and promptly issue to the attorney general a
33 proposal for a decision regarding the occurrence of the violation
34 and the amount of a proposed administrative penalty. (Code Crim.
35 Proc., Art. 56.64(g) (part).)

36 Source Law

37 (g) If the person requests a hearing as provided
38 by Subsection (e) or fails to respond to the notice in
39 a timely manner, the attorney general shall set a
40 contested case hearing under Chapter 2001, Government
41 Code (Administrative Procedure Act), and notify the
42 person of the hearing. The administrative law judge
43 shall make findings of facts and conclusions of law and
44 promptly issue to the attorney general a proposal for a

1 decision regarding the occurrence of the violation and
2 the amount of a proposed penalty. . . .

3 Revised Law

4 Art. 56B.505. DECISION BY ATTORNEY GENERAL. (a) Based on
5 the findings of fact, conclusions of law, and proposal for a
6 decision, the attorney general by order may find that:

7 (1) a violation occurred and impose an administrative
8 penalty; or

9 (2) a violation did not occur.

10 (b) Notice of the attorney general's order given to the
11 person under Chapter 2001, Government Code, must include a
12 statement of the person's right to judicial review of the order.

13 (Code Crim. Proc., Arts. 56.64(g) (part), (h).)

14 Source Law

15 (g) . . . Based on the findings of fact,
16 conclusions of law, and proposal for a decision, the
17 attorney general by order may:

18 (1) find that a violation has occurred and
19 impose a penalty; or

20 (2) find that a violation has not
21 occurred.

22 (h) Notice of the attorney general's order given
23 to the person under Chapter 2001, Government Code,
24 must include a statement of the right of the person to
25 judicial review of the order.

26 Revised Law

27 Art. 56B.506. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

28 (a) Not later than the 30th day after the date the attorney
29 general's order becomes final under Section 2001.144, Government
30 Code, the person shall:

31 (1) pay the administrative penalty;

32 (2) pay the penalty and file a petition for judicial
33 review contesting the occurrence of the violation, the amount of
34 the penalty, or both; or

35 (3) without paying the penalty, file a petition for
36 judicial review contesting the occurrence of the violation, the
37 amount of the penalty, or both.

38 (b) Within the 30-day period, a person who acts under
39 Subsection (a)(3) may:

40 (1) stay enforcement of the penalty by:

1 (A) paying the penalty to the court for placement
2 in an escrow account; or

3 (B) giving to the court a supersedeas bond that
4 is approved by the court and that is:

5 (i) for the amount of the penalty; and

6 (ii) effective until judicial review of the
7 attorney general's order is final; or

8 (2) request the court to stay enforcement of the
9 penalty by:

10 (A) filing with the court a sworn affidavit of
11 the person stating that the person is financially unable to pay the
12 penalty or give the supersedeas bond; and

13 (B) delivering a copy of the affidavit to the
14 attorney general by certified mail.

15 (c) On receipt by the attorney general of a copy of an
16 affidavit under Subsection (b)(2), the attorney general may file
17 with the court a contest to the affidavit not later than the fifth
18 day after the date the copy is received.

19 (d) The court shall hold a hearing on the facts alleged in
20 the affidavit as soon as practicable and shall stay the enforcement
21 of the penalty on finding that the alleged facts are true. A person
22 who files an affidavit under Subsection (b)(2) has the burden of
23 proving that the person is financially unable to pay the penalty or
24 give a supersedeas bond. (Code Crim. Proc., Arts. 56.64(i), (j),
25 (k).)

26 Source Law

27 (i) Not later than the 30th day after the date
28 that the attorney general's order is final under
29 Section 2001.144, Government Code, the person shall:

30 (1) pay the amount of the penalty;

31 (2) pay the amount of the penalty and file
32 a petition for judicial review contesting:

33 (A) the occurrence of the violation;

34 (B) the amount of the penalty; or

35 (C) the occurrence of the violation
36 and the amount of the penalty; or

37 (3) without paying the amount of the
38 penalty, file a petition for judicial review
39 contesting:

40 (A) the occurrence of the violation;

41 (B) the amount of the penalty; or

1 (C) the occurrence of the violation
2 and the amount of the penalty.

3 (j) Within the 30-day period, a person who acts
4 under Subsection (i)(3) may:

5 (1) stay enforcement of the penalty by:

6 (A) paying the amount of the penalty
7 to the court for placement in an escrow account; or

8 (B) giving to the court a supersedeas
9 bond that is approved by the court for the amount of
10 the penalty and that is effective until all judicial
11 review of the attorney general's order is final; or

12 (2) request the court to stay enforcement
13 of the penalty by:

14 (A) filing with the court a sworn
15 affidavit of the person stating that the person is
16 financially unable to pay the amount of the penalty or
17 to give the supersedeas bond; and

18 (B) delivering a copy of the
19 affidavit to the attorney general by certified mail.

20 (k) On receipt by the attorney general of a copy
21 of an affidavit under Subsection (j)(2), the attorney
22 general may file with the court, not later than the
23 fifth day after the date the copy is received, a
24 contest to the affidavit. The court shall hold a
25 hearing on the facts alleged in the affidavit as soon
26 as practicable and shall stay the enforcement of the
27 penalty on finding that the alleged facts are true. A
28 person who files an affidavit under Subsection (j)(2)
29 has the burden of proving that the person is
30 financially unable to pay the amount of the penalty or
31 to give a supersedeas bond.

32 Revised Law

33 Art. 56B.507. COLLECTION OF PENALTY. If the person does not
34 pay the administrative penalty and the enforcement of the penalty
35 is not stayed, the attorney general may file suit to collect the
36 penalty. (Code Crim. Proc., Art. 56.64(1).)

37 Source Law

38 (1) If the person does not pay the amount of the
39 penalty and the enforcement of the penalty is not
40 stayed, the attorney general may file suit for
41 collection of the amount of the penalty.

42 Revised Law

43 Art. 56B.508. DECISION BY COURT. (a) If the court sustains
44 the finding that a violation occurred, the court may order the
45 person to pay the full or a reduced administrative penalty.

46 (b) If the court does not sustain the finding that a
47 violation occurred, the court shall order that a penalty is not
48 owed. (Code Crim. Proc., Art. 56.64(n).)

49 Source Law

50 (n) If the court upholds the finding that a
51 violation occurred, the court may order the person to
52 pay the full or reduced amount of the penalty. If the

1 court does not uphold the finding, the court shall
2 order that no penalty is owed.

3 Revised Law

4 Art. 56B.509. REMITTANCE OF PENALTY AND INTEREST. (a) If
5 the person paid the administrative penalty and the amount is
6 reduced or is not upheld by the court, the court shall order that
7 the appropriate amount plus accrued interest be remitted to the
8 person.

9 (b) The interest accrues at the rate charged on loans to
10 depository institutions by the New York Federal Reserve Bank. The
11 interest shall be paid for the period beginning on the date the
12 penalty was paid and ending on the date the penalty is remitted.
13 (Code Crim. Proc., Art. 56.64(o) (part).)

14 Source Law

15 (o) If the person paid the amount of the penalty
16 and if that amount is reduced or is not upheld by the
17 court, the court shall order that the appropriate
18 amount plus accrued interest be remitted to the
19 person. The rate of the interest is the rate charged
20 on loans to depository institutions by the New York
21 Federal Reserve Bank, and the interest shall be paid
22 for the period beginning on the date the penalty was
23 paid and ending on the date the penalty is
24 remitted. . . .

25 Revised Law

26 Art. 56B.510. RELEASE OF BOND. (a) If the person gave a
27 supersedeas bond and the administrative penalty is not upheld by
28 the court, the court shall order the release of the bond.

29 (b) If the person gave a supersedeas bond and the amount of
30 the penalty is reduced, the court shall order the release of the
31 bond after the person pays the amount. (Code Crim. Proc., Art.
32 56.64(o) (part).)

33 Source Law

34 (o) . . . If the person gave a supersedeas bond
35 and if the amount of the penalty is not upheld by the
36 court, the court shall order the release of the bond.
37 If the person gave a supersedeas bond and if the amount
38 of the penalty is reduced, the court shall order the
39 release of the bond after the person pays the amount.

40 Revised Law

41 Art. 56B.511. DISPOSITION OF PENALTY. An administrative
42 penalty collected under this subchapter shall be sent to the

1 comptroller and deposited to the credit of the compensation to
2 victims of crime fund. (Code Crim. Proc., Art. 56.64(p).)

3 Source Law

4 (p) A penalty collected under this article shall
5 be sent to the comptroller and deposited to the credit
6 of the compensation to victims of crime fund.

7 Revised Law

8 Art. 56B.512. RECOVERY OF EXPENSES. In addition to the
9 administrative penalty authorized by this subchapter, the attorney
10 general may recover all expenses incurred by the attorney general
11 in the investigation, institution, and prosecution of the suit,
12 including investigative costs, witness fees, attorney's fees, and
13 deposition expenses. (Code Crim. Proc., Art. 56.64(r).)

14 Source Law

15 (r) In addition to the administrative penalty
16 authorized by this article, the attorney general may
17 recover all expenses incurred by the attorney general
18 in the investigation, institution, and prosecution of
19 the suit, including investigative costs, witness fees,
20 attorney's fees, and deposition expenses.

21 Revised Law

22 Art. 56B.513. ADMINISTRATIVE PROCEDURE. A proceeding under
23 this subchapter is subject to Chapter 2001, Government Code. (Code
24 Crim. Proc., Art. 56.64(q).)

25 Source Law

26 (q) All proceedings under this article are
27 subject to Chapter 2001, Government Code.

28 Revisor's Note
29 (End of Subchapter)

30 Article 56.64(m), Code of Criminal Procedure,
31 provides that judicial review of an order of the
32 attorney general is instituted by filing a petition as
33 provided by Section 2001.176, Government Code, and is
34 governed by the substantial evidence rule. The
35 revised law omits the reference to instituting
36 judicial review as unnecessary because Article
37 56.64(q), revised in this chapter as Article 56B.513,
38 provides that a proceeding under Article 56.64,

1 revised in this chapter as Subchapter K, is subject to
2 Chapter 2001, Government Code. The revised law omits
3 the reference to the judicial review standard as
4 unnecessary because the standard of review for a
5 contested case is provided under Section 2001.174,
6 Government Code. The omitted law reads:

7 (m) Judicial review of the order of
8 the attorney general:

9 (1) is instituted by filing a
10 petition as provided by Section 2001.176,
11 Government Code; and

12 (2) is governed by the
13 substantial evidence rule.

14 SUBCHAPTER L. OTHER PENALTIES AND SANCTIONS

15 Revised Law

16 Art. 56B.551. LETTER OF REPRIMAND. (a) The attorney
17 general may issue a letter of reprimand against an individual who
18 the attorney general finds has filed or has caused to be filed under
19 this chapter an application for benefits or claim for pecuniary
20 loss that contains a statement or representation that the
21 individual knows is false.

22 (b) The attorney general must give the individual notice of
23 the proposed action before issuing the letter.

24 (c) An individual may challenge the denial of compensation
25 and the issuance of a letter of reprimand in a contested case
26 hearing under Chapter 2001, Government Code.

27 (d) A letter of reprimand issued under this article is
28 public information. (Code Crim. Proc., Art. 56.62.)

29 Source Law

30 Art. 56.62. PUBLIC LETTER OF REPRIMAND. (a)
31 The attorney general may issue a letter of reprimand
32 against an individual if the attorney general finds
33 that the person has filed or has caused to be filed
34 under this subchapter an application for benefits or
35 claim for pecuniary loss that contains a statement or
36 representation that the person knows to be false.

37 (b) The attorney general must give the person
38 notice of the proposed action before issuing the
39 letter.

40 (c) A person may challenge the denial of
41 compensation and the issuance of a letter of reprimand
42 in a contested case hearing under Chapter 2001,
43 Government Code (Administrative Procedure Act).

44 (d) A letter of reprimand issued under this

1 article is public information.

2 Revisor's Note

3 Article 56.62(a), Code of Criminal Procedure,
4 authorizes the attorney general to issue a letter of
5 reprimand against "an individual" who engaged in
6 certain conduct. Articles 56.62(a), (b), and (c),
7 Code of Criminal Procedure, subsequently refer to that
8 individual as either "the person" or "[a] person." The
9 revised law substitutes "individual" for "person" for
10 clarity and consistency in the terminology used within
11 the article because it is clear that the referenced
12 person is an individual.

13 Revised Law

14 Art. 56B.552. CIVIL PENALTY. (a) A person is subject to a
15 civil penalty of not less than \$2,500 or more than \$25,000 for each
16 application for compensation that:

17 (1) is filed under this chapter by the person or as a
18 result of the person's conduct; and

19 (2) contains a material statement or representation
20 that the person knows is false.

21 (b) The attorney general shall institute and conduct a suit
22 to collect on behalf of the state the civil penalty authorized by
23 this article.

24 (c) A civil penalty recovered under this article shall be
25 deposited to the credit of the compensation to victims of crime
26 fund.

27 (d) The civil penalty authorized by this article is in
28 addition to any other civil, administrative, or criminal penalty
29 provided by law.

30 (e) In addition to the civil penalty authorized by this
31 article, the attorney general may recover expenses incurred by the
32 attorney general in the investigation, institution, and
33 prosecution of the suit, including investigative costs, witness
34 fees, attorney's fees, and deposition expenses. (Code Crim. Proc.,

1 Art. 56.63.)

2 Source Law

3 Art. 56.63. CIVIL PENALTY. (a) A person is
4 subject to a civil penalty of not less than \$2,500 or
5 more than \$25,000 for each application for
6 compensation that:

7 (1) is filed under this subchapter by the
8 person or is filed under this subchapter as a result of
9 conduct of the person; and

10 (2) contains a material statement or
11 representation that the person knows to be false.

12 (b) The attorney general shall institute and
13 conduct the suit to collect the civil penalty
14 authorized by this article on behalf of the state.

15 (c) A civil penalty recovered under this article
16 shall be deposited to the credit of the compensation to
17 victims of crime fund.

18 (d) The civil penalty authorized by this article
19 is in addition to any other civil, administrative, or
20 criminal penalty provided by law.

21 (e) In addition to the civil penalty authorized
22 by this article, the attorney general may recover
23 expenses incurred by the attorney general in the
24 investigation, institution, and prosecution of the
25 suit, including investigative costs, witness fees,
26 attorney's fees, and deposition expenses.

27 CHAPTER 58. CONFIDENTIALITY OF IDENTIFYING INFORMATION AND MEDICAL
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23 CHAPTER 58. CONFIDENTIALITY OF IDENTIFYING INFORMATION AND MEDICAL
24 RECORDS OF CERTAIN CRIME VICTIMS

25 SUBCHAPTER A. GENERAL PROVISIONS

26 Revised Law

27 Art. 58.001. GENERAL DEFINITIONS. In this chapter:
28 (1) "Name" means the legal name of a person.
29 (2) "Pseudonym" means a set of initials or a
30 fictitious name chosen by a victim to designate the victim in all
31 public files and records concerning the offense, including police
32 summary reports, press releases, and records of judicial
33 proceedings.
34 (3) "Public servant" has the meaning assigned by

1 Section 1.07(a), Penal Code. (Code Crim. Proc., Arts. 57.01(1),
2 (2), (3), 57A.01(1), (2), (3), 57B.01(1), (2), (3), 57D.01(1), (2),
3 (3).)

4 Source Law

5 Art. 57.01. DEFINITIONS. In this chapter:

6 (1) "Name" means the legal name of a
7 person.

8 (2) "Pseudonym" means a set of initials or
9 a fictitious name chosen by a victim to designate the
10 victim in all public files and records concerning the
11 offense, including police summary reports, press
12 releases, and records of judicial proceedings.

13 (3) "Public servant" has the meaning
14 assigned by Subsection (a), Section 1.07, Penal Code.

15 Art. 57A.01. DEFINITIONS. In this chapter:

16 (1) "Name" means the legal name of a
17 person.

18 (2) "Pseudonym" means a set of initials or
19 a fictitious name chosen by a victim to designate the
20 victim in all public files and records concerning the
21 offense, including police summary reports, press
22 releases, and records of judicial proceedings.

23 (3) "Public servant" has the meaning
24 assigned by Section 1.07(a), Penal Code.

25 Art. 57B.01. DEFINITIONS. In this chapter:

26 (1) "Name" means the legal name of a
27 person.

28 (2) "Pseudonym" means a set of initials or
29 a fictitious name chosen by a victim to designate the
30 victim in all public files and records concerning the
31 offense, including police summary reports, press
32 releases, and records of judicial proceedings.

33 (3) "Public servant" has the meaning
34 assigned by Subsection (a), Section 1.07, Penal Code.

35 Art. 57D.01. DEFINITIONS. In this chapter:

36 (1) "Name" means the legal name of a
37 person.

38 (2) "Pseudonym" means a set of initials or
39 a fictitious name chosen by a victim to designate the
40 victim in all public files and records concerning the
41 offense, including police summary reports, press
42 releases, and records of judicial proceedings.

43 (3) "Public servant" has the meaning
44 assigned by Section 1.07(a), Penal Code.

45 SUBCHAPTER B. ADDRESS CONFIDENTIALITY PROGRAM FOR CERTAIN CRIME

46 VICTIMS

47 Revised Law

48 Art. 58.051. DEFINITIONS. In this subchapter:

49 (1) "Applicant" means a person who applies to
50 participate in the program.

51 (2) "Family violence" has the meaning assigned by
52 Section 71.004, Family Code.

1 (3) "Family violence shelter center" has the meaning
2 assigned by Section 51.002, Human Resources Code.

3 (4) "Household" has the meaning assigned by Section
4 71.005, Family Code.

5 (5) "Mail" means first class mail and any mail sent by
6 a government agency. The term does not include a package,
7 regardless of size or type of mailing.

8 (6) "Participant" means an applicant who is certified
9 for participation in the program.

10 (7) "Program" means the address confidentiality
11 program created under this subchapter.

12 (8) "Sexual abuse" means any conduct that constitutes
13 an offense under Section 21.02, 21.11, or 25.02, Penal Code.

14 (9) "Sexual assault" means any conduct that
15 constitutes an offense under Section 22.011 or 22.021, Penal Code.

16 (10) "Stalking" means any conduct that constitutes an
17 offense under Section 42.072, Penal Code.

18 (11) "Trafficking of persons" means any conduct that:

19 (A) constitutes an offense under Section 20A.02,
20 20A.03, 43.03, 43.04, 43.05, 43.25, 43.251, or 43.26, Penal Code;
21 and

22 (B) results in a person:

23 (i) engaging in forced labor or services;

24 or

25 (ii) otherwise becoming a victim of the
26 offense. (Code Crim. Proc., Art. 56.81.)

27 Source Law

28 Art. 56.81. DEFINITIONS. In this subchapter:

29 (1) "Applicant" means a person who applies
30 to participate in the program.

31 (2) "Family violence" has the meaning
32 assigned by Section 71.004, Family Code.

33 (3) "Family violence shelter center" has
34 the meaning assigned by Section 51.002, Human
35 Resources Code.

36 (3-a) "Household" has the meaning assigned
37 by Section 71.005, Family Code.

38 (4) "Mail" means first class mail and any
39 mail sent by a government agency. The term does not
40 include a package, regardless of size or type of

1 mailing.

2 (5) "Participant" means an applicant who
3 is certified for participation in the program.

4 (6) "Program" means the address
5 confidentiality program created under this
6 subchapter.

7 (6-a) "Sexual abuse" means any conduct
8 that constitutes an offense under Section 21.02,
9 21.11, or 25.02, Penal Code.

10 (6-b) "Sexual assault" means any conduct
11 that constitutes an offense under Section 22.011 or
12 22.021, Penal Code.

13 (6-c) "Stalking" means any conduct that
14 constitutes an offense under Section 42.072, Penal
15 Code.

16 (7) "Trafficking of persons" means any
17 conduct that constitutes an offense under Section
18 20A.02, 20A.03, 43.03, 43.04, 43.05, 43.25, 43.251, or
19 43.26, Penal Code, and that results in a person:

20 (A) engaging in forced labor or
21 services; or

22 (B) otherwise becoming a victim of
23 the offense.

24 Revisor's Note

25 (1) Article 56.01, Code of Criminal Procedure,
26 provides definitions for purposes of Chapter 56, Code
27 of Criminal Procedure. Article 56.81, Code of
28 Criminal Procedure, revised as this article, provides
29 definitions that apply only to Subchapter C, Chapter
30 56, revised as Subchapter B of this chapter. The terms
31 "close relative of a deceased victim" and "guardian of
32 a victim" as defined by Article 56.01 are not used in
33 Subchapter C, Chapter 56, and are therefore not
34 revised in this article. Articles 56.01 and 56.81
35 contain different definitions for the term "sexual
36 assault." Because Article 56.81 provides definitions
37 that are meant to apply only to Subchapter C, Chapter
38 56, it is clear that the specific definition of "sexual
39 assault" provided by Article 56.81 was intended to
40 supersede the general definition of "sexual assault"
41 provided by Article 56.01, and therefore the
42 definition of "sexual assault" provided by Article
43 56.01 is not revised in this article.

44 (2) Article 56.01, Code of Criminal Procedure,
45 defines "victim" as "a person who is the victim of the

1 offense of sexual assault, kidnapping, aggravated
2 robbery, trafficking of persons, or injury to a child,
3 elderly individual, or disabled individual or who has
4 suffered personal injury or death as a result of the
5 criminal conduct of another" for purposes of Chapter
6 56, Code of Criminal Procedure. While Subchapter C,
7 Chapter 56, Code of Criminal Procedure, revised as
8 this subchapter, does not contain a different
9 definition of "victim," Article 56.82(a) in that
10 subchapter specifically provides that the address
11 confidentiality program is open to "a victim of family
12 violence, sexual assault or abuse, stalking, or
13 trafficking of persons." It is clear that, in the
14 context of the address confidentiality program under
15 Subchapter C, Chapter 56, Code of Criminal Procedure,
16 revised as Subchapter B of this chapter, the word
17 "victim" is not meant to include a victim of the
18 offenses listed in the chapter-wide definition under
19 Article 56.01 but rather a victim of the offenses
20 listed under Article 56.82(a). For this reason, the
21 definition provided by Article 56.01 is not revised in
22 this article because it is clear that the definition
23 for "victim" provided by Article 56.01 was not
24 intended to apply to Subchapter C.

25 Revised Law

26 Art. 58.052. ADDRESS CONFIDENTIALITY PROGRAM. (a) The
27 attorney general shall establish an address confidentiality
28 program, as provided by this subchapter, to assist a victim of
29 family violence, sexual assault or abuse, stalking, or trafficking
30 of persons in maintaining a confidential address.

31 (b) The attorney general shall:

32 (1) designate a substitute post office box address
33 that a participant may use in place of the participant's true
34 residential, business, or school address;

1 (2) act as agent to receive service of process and mail
2 on behalf of the participant; and

3 (3) forward to the participant mail received by the
4 office of the attorney general on behalf of the participant.

5 (c) A summons, writ, notice, demand, or process may be
6 served on the attorney general on behalf of the participant by
7 delivery of two copies of the document to the office of the attorney
8 general. The attorney general shall retain a copy of the summons,
9 writ, notice, demand, or process and forward the original to the
10 participant not later than the third day after the date of service
11 on the attorney general.

12 (d) The attorney general shall make and retain a copy of the
13 envelope in which certified mail is received on behalf of the
14 participant.

15 (e) The attorney general shall adopt rules to administer the
16 program. (Code Crim. Proc., Arts. 56.82, 56.93.)

17 Source Law

18 Art. 56.82. ADDRESS CONFIDENTIALITY PROGRAM.

19 (a) The attorney general shall establish an address
20 confidentiality program, as provided by this
21 subchapter, to assist a victim of family violence,
22 sexual assault or abuse, stalking, or trafficking of
23 persons in maintaining a confidential address.

24 (b) The attorney general shall:

25 (1) designate a substitute post office box
26 address that a participant may use in place of the
27 participant's true residential, business, or school
28 address;

29 (2) act as agent to receive service of
30 process and mail on behalf of the participant; and

31 (3) forward to the participant mail
32 received by the office of the attorney general on
33 behalf of the participant.

34 (c) A summons, writ, notice, demand, or process
35 may be served on the attorney general on behalf of the
36 participant by delivery of two copies of the document
37 to the office of the attorney general. The attorney
38 general shall retain a copy of the summons, writ,
39 notice, demand, or process and forward the original to
40 the participant not later than the third day after the
41 date of service on the attorney general.

42 (d) The attorney general shall make and retain a
43 copy of the envelope in which certified mail is
44 received on behalf of the participant.

45 Art. 56.93. RULES. The attorney general shall
46 adopt rules to administer the program.

1 Revised Law

2 Art. 58.053. AGENCY ACCEPTANCE OF SUBSTITUTE ADDRESS
3 REQUIRED; EXEMPTIONS. (a) Except as provided by Subsection (b), a
4 state or local agency must accept the substitute post office box
5 address designated by the attorney general if the substitute
6 address is presented to the agency by a participant in place of the
7 participant's true residential, business, or school address.

8 (b) The attorney general by rule may permit an agency to
9 require a participant to provide the participant's true
10 residential, business, or school address, if necessary for the
11 agency to perform a duty or function that is imposed by law or
12 administrative requirement. (Code Crim. Proc., Art. 56.89.)

13 Source Law

14 Art. 56.89. ACCEPTANCE OF SUBSTITUTE ADDRESS;
15 EXEMPTIONS. (a) Except as provided by Subsection (b),
16 a state or local agency must accept the substitute post
17 office box address designated by the attorney general
18 if the substitute address is presented to the agency by
19 a participant in place of the participant's true
20 residential, business, or school address.

21 (b) The attorney general by rule may permit an
22 agency to require a participant to provide the
23 participant's true residential, business, or school
24 address, if necessary for the agency to perform a duty
25 or function that is imposed by law or administrative
26 requirement.

27 Revised Law

28 Art. 58.054. ELIGIBILITY. To be eligible to participate in
29 the program:

30 (1) an applicant must:

31 (A) meet with a victim's assistance counselor
32 from a state or local agency or other for-profit or nonprofit entity
33 that is identified by the attorney general as an entity that
34 provides shelter or civil legal services or counseling to victims
35 of family violence, sexual assault or abuse, stalking, or
36 trafficking of persons;

37 (B) be protected under, or be filing an
38 application on behalf of a victim who is the applicant's child or
39 another person in the applicant's household and who is protected
40 under:

1 (i) a temporary injunction issued under
2 Subchapter F, Chapter 6, Family Code;

3 (ii) a temporary ex parte order issued
4 under Chapter 83, Family Code;

5 (iii) an order issued under Subchapter A or
6 B, Chapter 7B, of this code or Chapter 85, Family Code; or

7 (iv) a magistrate's order for emergency
8 protection issued under Article 17.292; or

9 (C) possess documentation of family violence, as
10 identified by the rules adopted under Article 58.056, or of sexual
11 assault or abuse or stalking, as described by Section 92.0161,
12 Property Code; and

13 (2) an applicant must:

14 (A) file an application for participation with
15 the attorney general or a state or local agency or other entity
16 identified by the attorney general under Subdivision (1);

17 (B) file an affirmation that the applicant has
18 discussed safety planning with a victim's assistance counselor
19 described by Subdivision (1)(A);

20 (C) designate the attorney general as agent to
21 receive service of process and mail on behalf of the applicant; and

22 (D) live at a residential address, or relocate to
23 a residential address, that is unknown to the person who committed
24 or is alleged to have committed the family violence, sexual assault
25 or abuse, stalking, or trafficking of persons. (Code Crim. Proc.,
26 Art. 56.83(a).)

27 Source Law

28 Art. 56.83. ELIGIBILITY TO PARTICIPATE IN
29 PROGRAM. (a) To be eligible to participate in the
30 program, an applicant must:

31 (1) either:
32 (A) meet with a victim's assistance
33 counselor from a state or local agency or other entity,
34 whether for-profit or nonprofit, that is identified by
35 the attorney general as an entity that provides
36 shelter or civil legal services or counseling to
37 victims of family violence, sexual assault or abuse,
38 stalking, or trafficking of persons;

39 (B) be protected under, or be filing
40 an application on behalf of a victim who is the

1 applicant's child or another person in the applicant's
2 household and who is protected under:

3 (i) a temporary injunction
4 issued under Subchapter F, Chapter 6, Family Code;

5 (ii) a temporary ex parte order
6 issued under Chapter 83, Family Code;

7 (iii) an order issued under
8 Chapter 7A or Article 6.09 of this code or Chapter 85,
9 Family Code; or

10 (iv) a magistrate's order for
11 emergency protection issued under Article 17.292; or

12 (C) possess documentation of family
13 violence, as identified by the rules adopted under
14 this section, or of sexual assault or abuse or
15 stalking, as described by Section 92.0161, Property
16 Code;

17 (2) file an application for participation
18 with the attorney general or a state or local agency or
19 other entity identified by the attorney general under
20 Subdivision (1);

21 (3) file an affirmation that the applicant
22 has discussed safety planning with a victim's
23 assistance counselor described by Subdivision (1)(A);

24 (4) designate the attorney general as
25 agent to receive service of process and mail on behalf
26 of the applicant; and

27 (5) live at a residential address, or
28 relocate to a residential address, that is unknown to
29 the person who committed or is alleged to have
30 committed the family violence, sexual assault or
31 abuse, stalking, or trafficking of persons.

32 Revisor's Note

33 Article 56.83(a)(1)(C), Code of Criminal
34 Procedure, refers to documentation of family violence,
35 as identified by the rules adopted under "this
36 section." The quoted language is a drafting error
37 because Chapter 56, Code of Criminal Procedure, is
38 organized in articles rather than sections. The
39 revised law substitutes a reference to Article 58.056,
40 Code of Criminal Procedure, for the quoted language
41 because the provisions of Article 56.83 relating to
42 rulemaking authority are revised in that article.

43 Revised Law

44 Art. 58.055. APPLICATION. (a) An application under
45 Article 58.054(2)(A) must contain:

46 (1) a signed, sworn statement by the applicant stating
47 that the applicant fears for the safety of the applicant, the
48 applicant's child, or another person in the applicant's household
49 because of a threat of immediate or future harm caused by the person

1 who committed or is alleged to have committed the family violence,
2 sexual assault or abuse, stalking, or trafficking of persons;

3 (2) the applicant's true residential address and, if
4 applicable, the applicant's business and school addresses; and

5 (3) a statement by the applicant of whether there is an
6 existing court order or a pending court case for child support or
7 child custody or visitation that involves the applicant, the
8 applicant's child, or another person in the applicant's household
9 and, if so, the name and address of:

10 (A) the legal counsel of record; and

11 (B) each parent involved in the court order or
12 pending case.

13 (b) An application under Article 58.054(2)(A) must be
14 completed by the applicant in person at the state or local agency or
15 other entity with which the application is filed.

16 (c) A state or local agency or other entity with which an
17 application is filed under Article 58.054(2)(A) shall forward the
18 application to the office of the attorney general.

19 (d) Any assistance or counseling provided by the attorney
20 general or an employee or agent of the attorney general to an
21 applicant does not constitute legal advice.

22 (e) The attorney general shall make program information and
23 application materials available online. (Code Crim. Proc., Arts.
24 56.83(b), (c) (part), (d), (f), 56.92.)

25 Source Law

26 [Art. 56.83]

27 (b) An application under Subsection (a)(2) must
28 contain:

29 (1) a signed, sworn statement by the
30 applicant stating that the applicant fears for the
31 safety of the applicant, the applicant's child, or
32 another person in the applicant's household because of
33 a threat of immediate or future harm caused by the
34 person who committed or is alleged to have committed
35 the family violence, sexual assault or abuse,
36 stalking, or trafficking of persons;

37 (2) the applicant's true residential
38 address and, if applicable, the applicant's business
39 and school addresses; and

40 (3) a statement by the applicant of
41 whether there is an existing court order or a pending
42 court case for child support or child custody or

1 visitation that involves the applicant, the
2 applicant's child, or another person in the applicant's
3 household and, if so, the name and address of:

4 (A) the legal counsel of record; and
5 (B) each parent involved in the court
6 order or pending case.

7 (c) An application under Subsection (a)(2) must
8 be completed by the applicant in person at the state or
9 local agency or other entity with which the
10 application is filed. . . .

11 (d) A state or local agency or other entity with
12 which an application is filed under Subsection (a)(2)
13 shall forward the application to the office of the
14 attorney general.

15 (f) Any assistance or counseling provided by the
16 attorney general or an employee or agent of the
17 attorney general to an applicant does not constitute
18 legal advice.

19 Art. 56.92. PROGRAM INFORMATION AND APPLICATION
20 MATERIALS. The attorney general shall make program
21 information and application materials available
22 online.

23 Revised Law

24 Art. 58.056. APPLICATION AND ELIGIBILITY RULES AND
25 PROCEDURES. (a) The attorney general may establish procedures for
26 requiring an applicant, in appropriate circumstances, to submit
27 with the application under Article 58.054(2)(A) independent
28 documentary evidence of family violence, sexual assault or abuse,
29 stalking, or trafficking of persons in the form of:

30 (1) an active or recently issued order described by
31 Article 58.054(1)(B);

32 (2) an incident report or other record maintained by a
33 law enforcement agency or official;

34 (3) a statement of a physician or other health care
35 provider regarding the medical condition of the applicant,
36 applicant's child, or other person in the applicant's household as a
37 result of the family violence, sexual assault or abuse, stalking,
38 or trafficking of persons;

39 (4) a statement of a mental health professional, a
40 member of the clergy, an attorney or other legal advocate, a trained
41 staff member of a family violence center, or another professional
42 who has assisted the applicant, applicant's child, or other person
43 in the applicant's household in addressing the effects of the
44 family violence, sexual assault or abuse, stalking, or trafficking

1 of persons; or

2 (5) any other independent documentary evidence
3 necessary to show the applicant's eligibility to participate in the
4 program.

5 (b) The attorney general by rule may establish additional
6 eligibility requirements for participation in the program that are
7 consistent with the purpose of the program as stated in Article
8 58.052(a). (Code Crim. Proc., Arts. 56.83(e), (e-1).)

9 Source Law

10 (e) The attorney general by rule may establish
11 additional eligibility requirements for participation
12 in the program that are consistent with the purpose of
13 the program as stated in Article 56.82(a).

14 (e-1) The attorney general may establish
15 procedures for requiring an applicant, in appropriate
16 circumstances, to submit with the application under
17 Subsection (a)(2) independent documentary evidence of
18 family violence, sexual assault or abuse, stalking, or
19 trafficking of persons in the form of:

20 (1) an active or recently issued order
21 described by Subsection (a)(1)(B);

22 (2) an incident report or other record
23 maintained by a law enforcement agency or official;

24 (3) a statement of a physician or other
25 health care provider regarding the medical condition
26 of the applicant, applicant's child, or other person in
27 the applicant's household as a result of the family
28 violence, sexual assault or abuse, stalking, or
29 trafficking of persons;

30 (4) a statement of a mental health
31 professional, a member of the clergy, an attorney or
32 other legal advocate, a trained staff member of a
33 family violence center, or another professional who
34 has assisted the applicant, applicant's child, or
35 other person in the applicant's household in
36 addressing the effects of the family violence, sexual
37 assault or abuse, stalking, or trafficking of persons;
38 or

39 (5) any other independent documentary
40 evidence necessary to show the applicant's eligibility
41 to participate in the program.

42 Revised Law

43 Art. 58.057. FALSE STATEMENT ON APPLICATION. (a) An
44 applicant who knowingly or intentionally makes a false statement in
45 an application under Article 58.054(2)(A) is subject to prosecution
46 under Chapter 37, Penal Code.

47 (b) An applicant is ineligible for, and a participant may be
48 excluded from, participation in the program if the applicant or
49 participant knowingly makes a false statement on an application

1 filed under Article 58.054(2)(A). (Code Crim. Proc., Arts.
2 56.83(c) (part), 56.86(a).)

3 Source Law

4 [Art. 56.83]

5 (c) . . . An applicant who knowingly or
6 intentionally makes a false statement in an
7 application under Subsection (a)(2) is subject to
8 prosecution under Chapter 37, Penal Code.

9 Art. 56.86. INELIGIBILITY AND CANCELLATION.

10 (a) An applicant is ineligible for, and a participant
11 may be excluded from, participation in the program if
12 the applicant or participant knowingly makes a false
13 statement on an application filed under Article
14 56.83(a)(2).

15 Revised Law

16 Art. 58.058. EXCLUSION FROM PARTICIPATION IN PROGRAM;
17 WITHDRAWAL. (a) A participant may be excluded from participation
18 in the program if:

19 (1) mail forwarded to the participant by the attorney
20 general is returned undeliverable on at least four occasions;

21 (2) the participant changes the participant's true
22 residential address as provided in the application filed under
23 Article 58.054(2)(A) and does not notify the attorney general of
24 the change at least 10 days before the date of the change; or

25 (3) the participant changes the participant's name.

26 (b) A participant may withdraw from the program by notifying
27 the attorney general in writing of the withdrawal. (Code Crim.
28 Proc., Arts. 56.86(b), 56.87.)

29 Source Law

30 [Art. 56.86]

31 (b) A participant may be excluded from
32 participation in the program if:

33 (1) mail forwarded to the participant by
34 the attorney general is returned undeliverable on at
35 least four occasions;

36 (2) the participant changes the
37 participant's true residential address as provided in
38 the application filed under Article 56.83(a)(2) and
39 does not notify the attorney general of the change at
40 least 10 days before the date of the change; or

41 (3) the participant changes the
42 participant's name.

43 Art. 56.87. WITHDRAWAL. A participant may
44 withdraw from the program by notifying the attorney
45 general in writing of the withdrawal.

1 Revised Law

2 Art. 58.059. CERTIFICATION OF PARTICIPATION IN PROGRAM.

3 (a) The attorney general shall certify for participation in the
4 program an applicant who satisfies the eligibility requirements
5 under Articles 58.054 and 58.056(b).

6 (b) A certification under this article expires on the third
7 anniversary of the date of certification.

8 (c) To renew a certification under this article, a
9 participant must satisfy the eligibility requirements under
10 Articles 58.054 and 58.056(b) as if the participant were originally
11 applying for participation in the program. (Code Crim. Proc.,
12 Arts. 56.84, 56.85.)

13 Source Law

14 Art. 56.84. CERTIFICATION; EXPIRATION. (a)
15 The attorney general shall certify for participation
16 in the program an applicant who satisfies the
17 eligibility requirements under Article 56.83.

18 (b) A certification under this article expires
19 on the third anniversary of the date of certification.

20 Art. 56.85. RENEWAL. To renew a certification
21 under Article 56.84, a participant must satisfy the
22 eligibility requirements under Article 56.83 as if the
23 participant were originally applying for
24 participation in the program.

25 Revisor's Note

26 Articles 56.84(a) and 56.85, Code of Criminal
27 Procedure, refer to the "eligibility requirements
28 under Article 56.83." The relevant provisions of
29 Article 56.83, Code of Criminal Procedure, relating to
30 the eligibility requirements are Subsections (a) and
31 (e), revised as Articles 58.054 and 58.056(b) of this
32 chapter, and the revised law is drafted accordingly.

33 Revised Law

34 Art. 58.060. CONFIDENTIALITY OF PARTICIPANT INFORMATION;
35 DESTRUCTION OF INFORMATION. (a) Information relating to a
36 participant:

37 (1) is confidential, except as provided by Article
38 58.061; and

39 (2) may not be disclosed under Chapter 552, Government

1 Code.

2 (b) Except as provided by Article 58.052(d), the attorney
3 general may not make a copy of any mail received by the office of the
4 attorney general on behalf of the participant.

5 (c) The attorney general shall destroy all information
6 relating to a participant on the third anniversary of the date the
7 participant's participation in the program ends. (Code Crim.
8 Proc., Art. 56.88.)

9 Source Law

10 Art. 56.88. CONFIDENTIALITY; DESTRUCTION OF
11 INFORMATION. (a) Information relating to a
12 participant:

13 (1) is confidential, except as provided by
14 Article 56.90; and

15 (2) may not be disclosed under Chapter
16 552, Government Code.

17 (b) Except as provided by Article 56.82(d), the
18 attorney general may not make a copy of any mail
19 received by the office of the attorney general on
20 behalf of the participant.

21 (c) The attorney general shall destroy all
22 information relating to a participant on the third
23 anniversary of the date participation in the program
24 ends.

25 Revised Law

26 Art. 58.061. EXCEPTIONS. (a) The attorney general shall
27 disclose a participant's true residential, business, or school
28 address if:

29 (1) requested by:

30 (A) a law enforcement agency for the purpose of
31 conducting an investigation;

32 (B) the Department of Family and Protective
33 Services for the purpose of conducting a child protective services
34 investigation under Chapter 261, Family Code; or

35 (C) the Department of State Health Services or a
36 local health authority for the purpose of making a notification
37 described by Article 21.31 of this code, Section 54.033, Family
38 Code, or Section 81.051, Health and Safety Code; or

39 (2) required by court order.

40 (b) The attorney general may disclose a participant's true
41 residential, business, or school address if:

1 (1) the participant consents to the disclosure; and
2 (2) the disclosure is necessary to administer the
3 program.

4 (c) A person to whom a participant's true residential,
5 business, or school address is disclosed under this article shall
6 maintain the requested information in a manner that protects the
7 confidentiality of the participant's true residential, business,
8 or school address. (Code Crim. Proc., Art. 56.90.)

9 Source Law

10 Art. 56.90. EXCEPTIONS. (a) The attorney
11 general:

12 (1) shall disclose a participant's true
13 residential, business, or school address if:

14 (A) requested by:

15 (i) a law enforcement agency
16 for the purpose of conducting an investigation;

17 (ii) the Department of Family
18 and Protective Services for the purpose of conducting
19 a child protective services investigation under
20 Chapter 261, Family Code; or

21 (iii) the Department of State
22 Health Services or a local health authority for the
23 purpose of making a notification described by Article
24 21.31 of this code, Section 54.033, Family Code, or
25 Section 81.051, Health and Safety Code; or

26 (B) required by court order; and

27 (2) may disclose a participant's true
28 residential, business, or school address if:

29 (A) the participant consents to the
30 disclosure; and

31 (B) the disclosure is necessary to
32 administer the program.

33 (b) A person to whom a participant's true
34 residential, business, or school address is disclosed
35 under this section shall maintain the requested
36 information in a manner that protects the
37 confidentiality of the participant's true residential,
38 business, or school address.

39 Revisor's Note

40 Article 56.90(b), Code of Criminal Procedure,
41 refers to a person to whom a participant's true
42 residential, business, or school address is disclosed
43 under "this section." The quoted language is a
44 drafting error because Chapter 56, Code of Criminal
45 Procedure, is organized in articles rather than
46 sections. The revised law is drafted accordingly.

47 Revised Law

48 Art. 58.062. LIABILITY. (a) The attorney general or an

1 agent or employee of the attorney general is immune from liability
2 for any act or omission by the agent or employee in administering
3 the program if the agent or employee was acting in good faith and in
4 the course and scope of assigned responsibilities and duties.

5 (b) An agent or employee of the attorney general who does
6 not act in good faith and in the course and scope of assigned
7 responsibilities and duties in disclosing a participant's true
8 residential, business, or school address is subject to prosecution
9 under Chapter 39, Penal Code. (Code Crim. Proc., Art. 56.91.)

10 Source Law

11 Art. 56.91. LIABILITY. (a) The attorney
12 general or an agent or employee of the attorney general
13 is immune from liability for any act or omission by the
14 agent or employee in administering the program if the
15 agent or employee was acting in good faith and in the
16 course and scope of assigned responsibilities and
17 duties.

18 (b) An agent or employee of the attorney general
19 who does not act in good faith and in the course and
20 scope of assigned responsibilities and duties in
21 disclosing a participant's true residential, business,
22 or school address is subject to prosecution under
23 Chapter 39, Penal Code.

24 SUBCHAPTER C. CONFIDENTIALITY OF IDENTIFYING INFORMATION OF SEX
25 OFFENSE VICTIMS

26 Revised Law

27 Art. 58.101. DEFINITION. In this subchapter, "victim"
28 means a person who was the subject of:

29 (1) an offense the commission of which leads to a
30 reportable conviction or adjudication under Chapter 62; or

31 (2) an offense that is part of the same criminal
32 episode, as defined by Section 3.01, Penal Code, as an offense
33 described by Subdivision (1). (Code Crim. Proc., Art. 57.01(4).)

34 Source Law

35 (4) "Victim" means a person who was the
36 subject of:

37 (A) an offense the commission of
38 which leads to a reportable conviction or adjudication
39 under Chapter 62; or

40 (B) an offense that is part of the
41 same criminal episode, as defined by Section 3.01,
42 Penal Code, as an offense described by Paragraph (A).

1 Revised Law

2 Art. 58.102. DESIGNATION OF PSEUDONYM; PSEUDONYM FORM. (a)

3 A victim may choose a pseudonym to be used instead of the victim's
4 name to designate the victim in all public files and records
5 concerning the offense, including police summary reports, press
6 releases, and records of judicial proceedings. A victim who elects
7 to use a pseudonym as provided by this subchapter must complete a
8 pseudonym form developed under Subsection (b) and return the form
9 to the law enforcement agency investigating the offense.

10 (b) The Sexual Assault Prevention and Crisis Services
11 Program of the office of the attorney general shall develop and
12 distribute to all law enforcement agencies of the state a pseudonym
13 form to record the name, address, telephone number, and pseudonym
14 of a victim. (Code Crim. Proc., Arts. 57.02(a), (b).)

15 Source Law

16 Art. 57.02. CONFIDENTIALITY OF FILES AND
17 RECORDS. (a) The Sexual Assault Prevention and Crisis
18 Services Program of the office of the attorney general
19 shall develop and distribute to all law enforcement
20 agencies of the state a pseudonym form to record the
21 name, address, telephone number, and pseudonym of a
22 victim.

23 (b) A victim may choose a pseudonym to be used
24 instead of the victim's name to designate the victim in
25 all public files and records concerning the offense,
26 including police summary reports, press releases, and
27 records of judicial proceedings. A victim who elects
28 to use a pseudonym as provided by this article must
29 complete a pseudonym form developed under this article
30 and return the form to the law enforcement agency
31 investigating the offense.

32 Revisor's Note

33 (1) Article 57.02(b), Code of Criminal
34 Procedure, refers to a victim who elects to use a
35 pseudonym as provided by "this article," meaning
36 Article 57.02, Code of Criminal Procedure. The
37 provisions of Article 57.02 relating to a victim who
38 elects to use a pseudonym are revised in this
39 subchapter, and the revised law is drafted
40 accordingly.

41 (2) Article 57.02(b), Code of Criminal

1 Procedure, refers to a pseudonym form developed under
2 "this article," meaning Article 57.02, Code of
3 Criminal Procedure. The provision of Article 57.02
4 relating to the development of a pseudonym form is
5 Article 57.02(a), revised in this chapter as Article
6 58.102(b), and the revised law is drafted accordingly.

7 Revised Law

8 Art. 58.103. VICTIM INFORMATION CONFIDENTIAL. (a) A
9 victim who completes a pseudonym form and returns the form to the
10 law enforcement agency investigating the offense may not be
11 required to disclose the victim's name, address, and telephone
12 number in connection with the investigation or prosecution of the
13 offense.

14 (b) A completed and returned pseudonym form is confidential
15 and may not be disclosed to any person other than a defendant in the
16 case or the defendant's attorney, except on an order of a court.
17 The court finding required by Article 58.104 is not required to
18 disclose the confidential pseudonym form to the defendant in the
19 case or to the defendant's attorney.

20 (c) If a victim completes a pseudonym form and returns the
21 form to a law enforcement agency under Article 58.102(a), the law
22 enforcement agency receiving the form shall:

23 (1) remove the victim's name and substitute the
24 pseudonym for the name on all reports, files, and records in the
25 agency's possession;

26 (2) notify the attorney representing the state of the
27 pseudonym and that the victim has elected to be designated by the
28 pseudonym; and

29 (3) maintain the form in a manner that protects the
30 confidentiality of the information contained on the form.

31 (d) An attorney representing the state who receives notice
32 that a victim has elected to be designated by a pseudonym shall
33 ensure that the victim is designated by the pseudonym in all legal
34 proceedings concerning the offense. (Code Crim. Proc., Arts.

1 57.02(c), (d), (e), (f).)

2 Source Law

3 (c) A victim who completes and returns a
4 pseudonym form to the law enforcement agency
5 investigating the offense may not be required to
6 disclose the victim's name, address, and telephone
7 number in connection with the investigation or
8 prosecution of the offense.

9 (d) A completed and returned pseudonym form is
10 confidential and may not be disclosed to any person
11 other than a defendant in the case or the defendant's
12 attorney, except on an order of a court of competent
13 jurisdiction. The court finding required by
14 Subsection (g) of this article is not required to
15 disclose the confidential pseudonym form to the
16 defendant in the case or to the defendant's attorney.

17 (e) If a victim completes and returns a
18 pseudonym form to a law enforcement agency under this
19 article, the law enforcement agency receiving the form
20 shall:

21 (1) remove the victim's name and
22 substitute the pseudonym for the name on all reports,
23 files, and records in the agency's possession;

24 (2) notify the attorney for the state of
25 the pseudonym and that the victim has elected to be
26 designated by the pseudonym; and

27 (3) maintain the form in a manner that
28 protects the confidentiality of the information
29 contained on the form.

30 (f) An attorney for the state who receives
31 notice that a victim has elected to be designated by a
32 pseudonym shall ensure that the victim is designated
33 by the pseudonym in all legal proceedings concerning
34 the offense.

35 Revisor's Note

36 (1) Article 57.02(d), Code of Criminal
37 Procedure, refers to a court "of competent
38 jurisdiction." Throughout this chapter, the revised
39 law omits the quoted language as unnecessary. The
40 determination of whether a particular court has
41 jurisdiction over a matter is made under other law, and
42 it is not necessary to refer to that determination.

43 (2) Article 57.02(e), Code of Criminal
44 Procedure, refers to a victim who completes and
45 returns a pseudonym form to a law enforcement agency
46 under "this article," meaning Article 57.02, Code of
47 Criminal Procedure. The provision of Article 57.02
48 relating to a victim who completes and returns a
49 pseudonym form to a law enforcement agency is Article

1 57.02(b), revised in this chapter as Article
2 58.102(a), and the revised law is drafted accordingly.

3 (3) Articles 57.02(e)(2) and (f), Code of
4 Criminal Procedure, refer to an "attorney for the
5 state." Throughout this chapter, the revised law
6 substitutes "attorney representing the state" for
7 "attorney for the state" because "attorney
8 representing the state" is more commonly used in the
9 Code of Criminal Procedure.

10 Revised Law

11 Art. 58.104. COURT-ORDERED DISCLOSURE OF VICTIM
12 INFORMATION. A court may order the disclosure of a victim's name,
13 address, and telephone number only if the court finds that the
14 information is essential in the trial of the defendant for the
15 offense or the identity of the victim is in issue. (Code Crim.
16 Proc., Art. 57.02(g).)

17 Source Law

18 (g) A court of competent jurisdiction may order
19 the disclosure of a victim's name, address, and
20 telephone number only if the court finds that the
21 information is essential in the trial of the defendant
22 for the offense or the identity of the victim is in
23 issue.

24 Revised Law

25 Art. 58.105. DISCLOSURE OF CERTAIN CHILD VICTIM INFORMATION
26 PROHIBITED. Except as required or permitted by other law or by
27 court order, a public servant or other person who has access to or
28 obtains the name, address, telephone number, or other identifying
29 information of a victim younger than 17 years of age may not release
30 or disclose the identifying information to any person who is not
31 assisting in the investigation, prosecution, or defense of the
32 case. This article does not apply to the release or disclosure of a
33 victim's identifying information by:

34 (1) the victim; or

35 (2) the victim's parent, conservator, or guardian,
36 unless the parent, conservator, or guardian is a defendant in the

1 case. (Code Crim. Proc., Art. 57.02(h).)

2 Source Law

3 (h) Except as required or permitted by other law
4 or by court order, a public servant or other person who
5 has access to or obtains the name, address, telephone
6 number, or other identifying information of a victim
7 younger than 17 years of age may not release or
8 disclose the identifying information to any person who
9 is not assisting in the investigation, prosecution, or
10 defense of the case. This subsection does not apply to
11 the release or disclosure of a victim's identifying
12 information by:

- 13 (1) the victim; or
- 14 (2) the victim's parent, conservator, or
15 guardian, unless the parent, conservator, or guardian
16 is a defendant in the case.

17 Revised Law

18 Art. 58.106. DISCLOSURE OF INFORMATION OF CONFINED VICTIM.
19 This subchapter does not prohibit the inspector general of the
20 Texas Department of Criminal Justice from disclosing a victim's
21 identifying information to an employee of the department or the
22 department's ombudsperson if the victim is an inmate or state jail
23 defendant confined in a facility operated by or under contract with
24 the department. (Code Crim. Proc., Art. 57.02(i) as added Acts 80th
25 Leg., R.S., Chs. 619, 1217.)

26 Source Law

27 (i) [as added Acts 2007, 80th Leg., R.S., Ch.
28 619] This article does not prohibit the inspector
29 general of the Texas Department of Criminal Justice
30 from disclosing a victim's identifying information to
31 an employee of the department if the victim is an
32 inmate or state jail defendant confined in a facility
33 operated by or under contract with the department.

34 (i) [as added Acts 2007, 80th Leg., R.S., Ch.
35 1217] This article does not prohibit the inspector
36 general of the Texas Department of Criminal Justice
37 from disclosing a victim's identifying information to
38 the department's ombudsperson if the victim is an
39 inmate or state jail defendant confined in a facility
40 operated by or under contract with the department.

41 Revisor's Note

42 Article 57.02(i), Code of Criminal Procedure, as
43 added by Chapters 619 (H.B. 433) and 1217 (H.B. 1944),
44 Acts of the 80th Legislature, Regular Session, 2007,
45 provides that "[t]his article," meaning Article 57.02,
46 Code of Criminal Procedure, does not prohibit certain
47 disclosures of a victim's identifying information by

1 the inspector general of the Texas Department of
2 Criminal Justice. Article 57.02 is revised in this
3 subchapter, and the revised law is drafted
4 accordingly.

5 Revised Law

6 Art. 58.107. OFFENSE. (a) A public servant commits an
7 offense if the public servant:

8 (1) has access to the name, address, or telephone
9 number of a victim 17 years of age or older who has chosen a
10 pseudonym under this subchapter; and

11 (2) knowingly discloses the name, address, or
12 telephone number of the victim to:

13 (A) a person who is not assisting in the
14 investigation or prosecution of the offense; or

15 (B) a person other than:

16 (i) the defendant;

17 (ii) the defendant's attorney; or

18 (iii) the person specified in the order of a
19 court.

20 (b) Unless the disclosure is required or permitted by other
21 law, a public servant or other person commits an offense if the
22 person:

23 (1) has access to or obtains the name, address, or
24 telephone number of a victim younger than 17 years of age; and

25 (2) knowingly discloses the name, address, or
26 telephone number of the victim to:

27 (A) a person who is not assisting in the
28 investigation or prosecution of the offense; or

29 (B) a person other than:

30 (i) the defendant;

31 (ii) the defendant's attorney; or

32 (iii) a person specified in an order of a
33 court.

34 (c) It is an affirmative defense to prosecution under

1 Subsection (b) that the actor is:

2 (1) the victim; or

3 (2) the victim's parent, conservator, or guardian,
4 unless the actor is a defendant in the case.

5 (d) It is an exception to the application of this article
6 that:

7 (1) the person who discloses the name, address, or
8 telephone number of a victim is the inspector general of the Texas
9 Department of Criminal Justice;

10 (2) the victim is an inmate or state jail defendant
11 confined in a facility operated by or under contract with the
12 department; and

13 (3) the person to whom the disclosure is made is an
14 employee of the department or the department's ombudsperson.

15 (e) An offense under this article is a Class C misdemeanor.
16 (Code Crim. Proc., Art. 57.03.)

17 Source Law

18 Art. 57.03. OFFENSE. (a) A public servant with
19 access to the name, address, or telephone number of a
20 victim 17 years of age or older who has chosen a
21 pseudonym under this chapter commits an offense if the
22 public servant knowingly discloses the name, address,
23 or telephone number of the victim to any person who is
24 not assisting in the investigation or prosecution of
25 the offense or to any person other than the defendant,
26 the defendant's attorney, or the person specified in
27 the order of a court of competent jurisdiction.

28 (b) Unless the disclosure is required or
29 permitted by other law, a public servant or other
30 person commits an offense if the person:

31 (1) has access to or obtains the name,
32 address, or telephone number of a victim younger than
33 17 years of age; and

34 (2) knowingly discloses the name, address,
35 or telephone number of the victim to any person who is
36 not assisting in the investigation or prosecution of
37 the offense or to any person other than the defendant,
38 the defendant's attorney, or a person specified in an
39 order of a court of competent jurisdiction.

40 (c) It is an affirmative defense to prosecution
41 under Subsection (b) that the actor is:

42 (1) the victim; or

43 (2) the victim's parent, conservator, or
44 guardian, unless the actor is a defendant in the case.

45 (c-1) [as added Acts 2007, 80th Leg., R.S., Ch.
46 619] It is an exception to the application of this
47 article that:

48 (1) the person who discloses the name,
49 address, or telephone number of a victim is the
50 inspector general of the Texas Department of Criminal

1 Justice;

2 (2) the victim is an inmate or state jail
3 defendant confined in a facility operated by or under
4 contract with the Texas Department of Criminal
5 Justice; and

6 (3) the person to whom the disclosure is
7 made is an employee of the department.

8 (c-1) [as added Acts 2007, 80th Leg., R.S., Ch.
9 1217] It is an exception to the application of this
10 article that:

11 (1) the person who discloses the name,
12 address, or telephone number of a victim is the
13 inspector general of the Texas Department of Criminal
14 Justice;

15 (2) the victim is an inmate or state jail
16 defendant confined in a facility operated by or under
17 contract with the department; and

18 (3) the person to whom the disclosure is
19 made is the department's ombudsperson.

20 (d) An offense under this article is a Class C
21 misdemeanor.

22 SUBCHAPTER D. CONFIDENTIALITY OF IDENTIFYING INFORMATION OF
23 VICTIMS OF STALKING

24 Revised Law

25 Art. 58.151. DEFINITION. In this subchapter, "victim"
26 means a person who is the subject of:

27 (1) an offense that allegedly constitutes stalking
28 under Section 42.072, Penal Code; or

29 (2) an offense that is part of the same criminal
30 episode, as defined by Section 3.01, Penal Code, as an offense under
31 Section 42.072, Penal Code. (Code Crim. Proc., Art. 57A.01(4).)

32 Source Law

33 (4) "Victim" means a person who is the
34 subject of:

35 (A) an offense that allegedly
36 constitutes stalking under Section 42.072, Penal Code;
37 or

38 (B) an offense that is part of the
39 same criminal episode, as defined by Section 3.01,
40 Penal Code, as an offense under Section 42.072, Penal
41 Code.

42 Revised Law

43 Art. 58.152. DESIGNATION OF PSEUDONYM; PSEUDONYM FORM. (a)
44 A victim may choose a pseudonym to be used instead of the victim's
45 name to designate the victim in all public files and records
46 concerning the offense, including police summary reports, press
47 releases, and records of judicial proceedings. A victim who elects
48 to use a pseudonym as provided by this subchapter must complete a

1 pseudonym form developed under Subsection (b) and return the form
2 to the law enforcement agency investigating the offense.

3 (b) The office of the attorney general shall develop and
4 distribute to all law enforcement agencies of the state a pseudonym
5 form to record the name, address, telephone number, and pseudonym
6 of a victim. (Code Crim. Proc., Arts. 57A.02(a), (b).)

7 Source Law

8 Art. 57A.02. CONFIDENTIALITY OF FILES AND
9 RECORDS. (a) The office of the attorney general shall
10 develop and distribute to all law enforcement agencies
11 of the state a pseudonym form to record the name,
12 address, telephone number, and pseudonym of a victim.

13 (b) A victim may choose a pseudonym to be used
14 instead of the victim's name to designate the victim in
15 all public files and records concerning the offense,
16 including police summary reports, press releases, and
17 records of judicial proceedings. A victim who elects
18 to use a pseudonym as provided by this article must
19 complete a pseudonym form developed under this article
20 and return the form to the law enforcement agency
21 investigating the offense.

22 Revisor's Note

23 (1) Article 57A.02(b), Code of Criminal
24 Procedure, refers to a victim who elects to use a
25 pseudonym as provided by "this article," meaning
26 Article 57A.02, Code of Criminal Procedure. The
27 provisions of Article 57A.02 relating to a victim who
28 elects to use a pseudonym are revised in this
29 subchapter, and the revised law is drafted
30 accordingly.

31 (2) Article 57A.02(b), Code of Criminal
32 Procedure, refers to a pseudonym form developed under
33 "this article," meaning Article 57A.02, Code of
34 Criminal Procedure. The provision of Article 57A.02
35 relating to the development of a pseudonym form is
36 Article 57A.02(a), revised in this chapter as Article
37 58.152(b), and the revised law is drafted accordingly.

38 Revised Law

39 Art. 58.153. VICTIM INFORMATION CONFIDENTIAL. (a) A
40 victim who completes a pseudonym form and returns the form to the

1 law enforcement agency investigating the offense may not be
2 required to disclose the victim's name, address, and telephone
3 number in connection with the investigation or prosecution of the
4 offense.

5 (b) A completed and returned pseudonym form is confidential
6 and may not be disclosed to any person other than the victim
7 identified by the pseudonym form, a defendant in the case, or the
8 defendant's attorney, except on an order of a court. The court
9 finding required by Article 58.154 is not required to disclose the
10 confidential pseudonym form to the victim identified by the
11 pseudonym form, the defendant in the case, or the defendant's
12 attorney.

13 (c) If a victim completes a pseudonym form and returns the
14 form to a law enforcement agency under Article 58.152(a), the law
15 enforcement agency receiving the form shall:

16 (1) remove the victim's name and substitute the
17 pseudonym for the name on all reports, files, and records in the
18 agency's possession;

19 (2) notify the attorney representing the state of the
20 pseudonym and that the victim has elected to be designated by the
21 pseudonym;

22 (3) provide to the victim a copy of the completed
23 pseudonym form showing that the form was returned to the law
24 enforcement agency; and

25 (4) maintain the form in a manner that protects the
26 confidentiality of the information contained on the form.

27 (d) An attorney representing the state who receives notice
28 that a victim has elected to be designated by a pseudonym shall
29 ensure that the victim is designated by the pseudonym in all legal
30 proceedings concerning the offense. (Code Crim. Proc.,
31 Arts. 57A.02(c), (d), (e), (f).)

32 Source Law

33 (c) A victim who completes and returns a
34 pseudonym form to the law enforcement agency
35 investigating the offense may not be required to

1 disclose the victim's name, address, and telephone
2 number in connection with the investigation or
3 prosecution of the offense.

4 (d) A completed and returned pseudonym form is
5 confidential and may not be disclosed to any person
6 other than the victim identified by the pseudonym
7 form, a defendant in the case, or the defendant's
8 attorney, except on an order of a court of competent
9 jurisdiction. The court finding required by
10 Subsection (g) is not required to disclose the
11 confidential pseudonym form to the victim identified
12 by the pseudonym form, the defendant in the case, or
13 the defendant's attorney.

14 (e) If a victim completes and returns a
15 pseudonym form to a law enforcement agency under this
16 article, the law enforcement agency receiving the form
17 shall:

18 (1) remove the victim's name and
19 substitute the pseudonym for the name on all reports,
20 files, and records in the agency's possession;

21 (2) notify the attorney for the state of
22 the pseudonym and that the victim has elected to be
23 designated by the pseudonym;

24 (3) provide to the victim a copy of the
25 completed pseudonym form showing that the form was
26 returned to the law enforcement agency; and

27 (4) maintain the form in a manner that
28 protects the confidentiality of the information
29 contained on the form.

30 (f) An attorney for the state who receives
31 notice that a victim has elected to be designated by a
32 pseudonym shall ensure that the victim is designated
33 by the pseudonym in all legal proceedings concerning
34 the offense.

35 Revisor's Note

36 Article 57A.02(e), Code of Criminal Procedure,
37 refers to a victim who completes and returns a
38 pseudonym form to a law enforcement agency under "this
39 article," meaning Article 57A.02, Code of Criminal
40 Procedure. The provision of Article 57A.02 relating
41 to a victim who completes and returns a pseudonym form
42 to a law enforcement agency is Article 57A.02(b),
43 revised in this chapter as Article 58.152(a), and the
44 revised law is drafted accordingly.

45 Revised Law

46 Art. 58.154. COURT-ORDERED DISCLOSURE OF VICTIM
47 INFORMATION. A court may order the disclosure of a victim's name,
48 address, and telephone number only if the court finds that:

49 (1) the information is essential in the trial of the
50 defendant for the offense;

51 (2) the identity of the victim is in issue; or

1 (3) the disclosure is in the best interest of the
2 victim. (Code Crim. Proc., Art. 57A.02(g).)

3 Source Law

4 (g) A court of competent jurisdiction may order
5 the disclosure of a victim's name, address, and
6 telephone number only if the court finds that:

7 (1) the information is essential in the
8 trial of the defendant for the offense;

9 (2) the identity of the victim is in issue;
10 or

11 (3) the disclosure is in the best interest
12 of the victim.

13 Revised Law

14 Art. 58.155. DISCLOSURE OF CERTAIN CHILD VICTIM INFORMATION
15 PROHIBITED. Except as required or permitted by other law or by
16 court order, a public servant or other person who has access to or
17 obtains the name, address, telephone number, or other identifying
18 information of a victim younger than 17 years of age may not release
19 or disclose the identifying information to any person who is not
20 assisting in the investigation, prosecution, or defense of the
21 case. This article does not apply to the release or disclosure of a
22 victim's identifying information by:

23 (1) the victim; or

24 (2) the victim's parent, conservator, or guardian,
25 unless the victim's parent, conservator, or guardian allegedly
26 committed the offense described by Article 58.151. (Code Crim.
27 Proc., Art. 57A.02(h).)

28 Source Law

29 (h) Except as required or permitted by other law
30 or by court order, a public servant or other person who
31 has access to or obtains the name, address, telephone
32 number, or other identifying information of a victim
33 younger than 17 years of age may not release or
34 disclose the identifying information to any person who
35 is not assisting in the investigation, prosecution, or
36 defense of the case. This subsection does not apply to
37 the release or disclosure of a victim's identifying
38 information by:

39 (1) the victim; or

40 (2) the victim's parent, conservator, or
41 guardian, unless the victim's parent, conservator, or
42 guardian allegedly committed the offense described by
43 Article 57A.01(4).

44 Revised Law

45 Art. 58.156. OFFENSE. (a) A public servant commits an

1 offense if the public servant:

2 (1) has access to the name, address, or telephone
3 number of a victim 17 years of age or older who has chosen a
4 pseudonym under this subchapter; and

5 (2) knowingly discloses the name, address, or
6 telephone number of the victim to:

7 (A) a person who is not assisting in the
8 investigation or prosecution of the offense; or

9 (B) a person other than:

10 (i) the defendant;

11 (ii) the defendant's attorney; or

12 (iii) the person specified in the order of a
13 court.

14 (b) Unless the disclosure is required or permitted by other
15 law, a public servant or other person commits an offense if the
16 person:

17 (1) has access to or obtains the name, address, or
18 telephone number of a victim younger than 17 years of age; and

19 (2) knowingly discloses the name, address, or
20 telephone number of the victim to:

21 (A) a person who is not assisting in the
22 investigation or prosecution of the offense; or

23 (B) a person other than:

24 (i) the defendant;

25 (ii) the defendant's attorney; or

26 (iii) a person specified in an order of a
27 court.

28 (c) It is an affirmative defense to prosecution under
29 Subsection (b) that the actor is:

30 (1) the victim; or

31 (2) the victim's parent, conservator, or guardian,
32 unless the victim's parent, conservator, or guardian allegedly
33 committed the offense described by Article 58.151.

34 (d) An offense under this article is a Class C misdemeanor.

1 (Code Crim. Proc., Art. 57A.03.)

2 Source Law

3 Art. 57A.03. OFFENSE. (a) A public servant
4 with access to the name, address, or telephone number
5 of a victim 17 years of age or older who has chosen a
6 pseudonym under this chapter commits an offense if the
7 public servant knowingly discloses the name, address,
8 or telephone number of the victim to any person who is
9 not assisting in the investigation or prosecution of
10 the offense or to any person other than the defendant,
11 the defendant's attorney, or the person specified in
12 the order of a court of competent jurisdiction.

13 (b) Unless the disclosure is required or
14 permitted by other law, a public servant or other
15 person commits an offense if the person:

16 (1) has access to or obtains the name,
17 address, or telephone number of a victim younger than
18 17 years of age; and

19 (2) knowingly discloses the name, address,
20 or telephone number of the victim to any person who is
21 not assisting in the investigation or prosecution of
22 the offense or to any person other than the defendant,
23 the defendant's attorney, or a person specified in an
24 order of a court of competent jurisdiction.

25 (c) It is an affirmative defense to prosecution
26 under Subsection (b) that the actor is:

27 (1) the victim; or

28 (2) the victim's parent, conservator, or
29 guardian, unless the victim's parent, conservator, or
30 guardian allegedly committed the offense described by
31 Article 57A.01(4).

32 (d) An offense under this article is a Class C
33 misdemeanor.

34 Revised Law

35 Art. 58.157. EFFECT ON OTHER LAW. This subchapter does not
36 affect:

37 (1) a victim's responsibility to provide documentation
38 of stalking under Section 92.0161, Property Code; or

39 (2) a person's power or duty to disclose the documented
40 information as provided by Subsection (j) of that section. (Code
41 Crim. Proc., Art. 57A.04.)

42 Source Law

43 Art. 57A.04. EFFECT ON OTHER LAW. This chapter
44 does not affect:

45 (1) a victim's responsibility to provide
46 documentation of stalking under Section 92.0161,
47 Property Code; or

48 (2) a person's power or duty to disclose
49 the documented information as provided by Subsection
50 (j) of that section.

1 SUBCHAPTER E. CONFIDENTIALITY OF IDENTIFYING INFORMATION OF
2 VICTIMS OF FAMILY VIOLENCE

3 Revised Law

4 Art. 58.201. DEFINITION. In this subchapter, "victim"
5 means a person who is the subject of:

6 (1) an offense that allegedly constitutes family
7 violence, as defined by Section 71.004, Family Code; or

8 (2) an offense that is part of the same criminal
9 episode, as defined by Section 3.01, Penal Code, as an offense
10 described by Subdivision (1). (Code Crim. Proc., Art. 57B.01(4).)

11 Source Law

12 (4) "Victim" means a person who is the
13 subject of:

14 (A) an offense that allegedly
15 constitutes family violence, as defined by Section
16 71.004, Family Code; or

17 (B) an offense that is part of the
18 same criminal episode, as defined by Section 3.01,
19 Penal Code, as an offense described by Paragraph (A).

20 Revised Law

21 Art. 58.202. DESIGNATION OF PSEUDONYM; PSEUDONYM FORM. (a)
22 A victim may choose a pseudonym to be used instead of the victim's
23 name to designate the victim in all public files and records
24 concerning the offense, including police summary reports, press
25 releases, and records of judicial proceedings. A victim who elects
26 to use a pseudonym as provided by this subchapter must complete a
27 pseudonym form developed under Subsection (b) and return the form
28 to the law enforcement agency investigating the offense.

29 (b) The office of the attorney general shall develop and
30 distribute to all law enforcement agencies of the state a pseudonym
31 form to record the name, address, telephone number, and pseudonym
32 of a victim. (Code Crim. Proc., Arts. 57B.02(a), (b).)

33 Source Law

34 Art. 57B.02. CONFIDENTIALITY OF FILES AND
35 RECORDS. (a) The office of the attorney general shall
36 develop and distribute to all law enforcement agencies
37 of the state a pseudonym form to record the name,
38 address, telephone number, and pseudonym of a victim.

39 (b) A victim may choose a pseudonym to be used
40 instead of the victim's name to designate the victim in
41 all public files and records concerning the offense,

1 including police summary reports, press releases, and
2 records of judicial proceedings. A victim who elects
3 to use a pseudonym as provided by this article must
4 complete a pseudonym form developed under this article
5 and return the form to the law enforcement agency
6 investigating the offense.

7 Revisor's Note

8 (1) Article 57B.02(b), Code of Criminal
9 Procedure, refers to a victim who elects to use a
10 pseudonym as provided by "this article," meaning
11 Article 57B.02, Code of Criminal Procedure. The
12 provisions of Article 57B.02 relating to a victim who
13 elects to use a pseudonym are revised in this
14 subchapter, and the revised law is drafted
15 accordingly.

16 (2) Article 57B.02(b), Code of Criminal
17 Procedure, refers to a pseudonym form developed under
18 "this article," meaning Article 57B.02, Code of
19 Criminal Procedure. The provision of Article 57B.02
20 relating to the development of a pseudonym form is
21 Article 57B.02(a), revised in this chapter as Article
22 58.202(b), and the revised law is drafted accordingly.

23 Revised Law

24 Art. 58.203. VICTIM INFORMATION CONFIDENTIAL. (a) A
25 victim who completes a pseudonym form and returns the form to the
26 law enforcement agency investigating the offense may not be
27 required to disclose the victim's name, address, and telephone
28 number in connection with the investigation or prosecution of the
29 offense.

30 (b) A completed and returned pseudonym form is confidential
31 and may not be disclosed to any person other than a defendant in the
32 case or the defendant's attorney, except on an order of a court.
33 The court finding required by Article 58.204 is not required to
34 disclose the confidential pseudonym form to the defendant in the
35 case or to the defendant's attorney.

36 (c) If a victim completes a pseudonym form and returns the
37 form to a law enforcement agency under Article 58.202(a), the law

1 enforcement agency receiving the form shall:

2 (1) remove the victim's name and substitute the
3 pseudonym for the name on all reports, files, and records in the
4 agency's possession;

5 (2) notify the attorney representing the state of the
6 pseudonym and that the victim has elected to be designated by the
7 pseudonym; and

8 (3) maintain the form in a manner that protects the
9 confidentiality of the information contained on the form.

10 (d) An attorney representing the state who receives notice
11 that a victim has elected to be designated by a pseudonym shall
12 ensure that the victim is designated by the pseudonym in all legal
13 proceedings concerning the offense. (Code Crim. Proc.,
14 Arts. 57B.02(c), (d), (e), (f).)

15 Source Law

16 (c) A victim who completes and returns a
17 pseudonym form to the law enforcement agency
18 investigating the offense may not be required to
19 disclose the victim's name, address, and telephone
20 number in connection with the investigation or
21 prosecution of the offense.

22 (d) A completed and returned pseudonym form is
23 confidential and may not be disclosed to any person
24 other than a defendant in the case or the defendant's
25 attorney, except on an order of a court of competent
26 jurisdiction. The court finding required by
27 Subsection (g) is not required to disclose the
28 confidential pseudonym form to the defendant in the
29 case or to the defendant's attorney.

30 (e) If a victim completes and returns a
31 pseudonym form to a law enforcement agency under this
32 article, the law enforcement agency receiving the form
33 shall:

34 (1) remove the victim's name and
35 substitute the pseudonym for the name on all reports,
36 files, and records in the agency's possession;

37 (2) notify the attorney for the state of
38 the pseudonym and that the victim has elected to be
39 designated by the pseudonym; and

40 (3) maintain the form in a manner that
41 protects the confidentiality of the information
42 contained on the form.

43 (f) An attorney for the state who receives
44 notice that a victim has elected to be designated by a
45 pseudonym shall ensure that the victim is designated
46 by the pseudonym in all legal proceedings concerning
47 the offense.

48 Revisor's Note

49 Article 57B.02(e), Code of Criminal Procedure,

1 refers to a victim who completes and returns a
2 pseudonym form to a law enforcement agency under "this
3 article," meaning Article 57B.02, Code of Criminal
4 Procedure. The provision of Article 57B.02 relating
5 to a victim who completes and returns a pseudonym form
6 to a law enforcement agency is Article 57B.02(b),
7 revised in this chapter as Article 58.202(a), and the
8 revised law is drafted accordingly.

9 Revised Law

10 Art. 58.204. COURT-ORDERED DISCLOSURE OF VICTIM
11 INFORMATION. A court may order the disclosure of a victim's name,
12 address, and telephone number only if the court finds that the
13 information is essential in the trial of the defendant for the
14 offense or the identity of the victim is in issue. (Code Crim.
15 Proc., Art. 57B.02(g).)

16 Source Law

17 (g) A court of competent jurisdiction may order
18 the disclosure of a victim's name, address, and
19 telephone number only if the court finds that the
20 information is essential in the trial of the defendant
21 for the offense or the identity of the victim is in
22 issue.

23 Revised Law

24 Art. 58.205. DISCLOSURE OF CERTAIN CHILD VICTIM INFORMATION
25 PROHIBITED. Except as required or permitted by other law or by
26 court order, a public servant or other person who has access to or
27 obtains the name, address, telephone number, or other identifying
28 information of a victim younger than 17 years of age may not release
29 or disclose the identifying information to any person who is not
30 assisting in the investigation, prosecution, or defense of the
31 case. This article does not apply to the release or disclosure of a
32 victim's identifying information by:

33 (1) the victim; or

34 (2) the victim's parent, conservator, or guardian,
35 unless the victim's parent, conservator, or guardian allegedly
36 committed the offense described by Article 58.201. (Code

1 Crim. Proc., Art. 57B.02(h).)

2 Source Law

3 (h) Except as required or permitted by other law
4 or by court order, a public servant or other person who
5 has access to or obtains the name, address, telephone
6 number, or other identifying information of a victim
7 younger than 17 years of age may not release or
8 disclose the identifying information to any person who
9 is not assisting in the investigation, prosecution, or
10 defense of the case. This subsection does not apply to
11 the release or disclosure of a victim's identifying
12 information by:

- 13 (1) the victim; or
- 14 (2) the victim's parent, conservator, or
15 guardian, unless the victim's parent, conservator, or
16 guardian allegedly committed the offense described by
17 Article 57B.01(4).

18 Revised Law

19 Art. 58.206. OFFENSE. (a) A public servant commits an
20 offense if the public servant:

21 (1) has access to the name, address, or telephone
22 number of a victim 17 years of age or older who has chosen a
23 pseudonym under this subchapter; and

24 (2) knowingly discloses the name, address, or
25 telephone number of the victim to:

26 (A) a person who is not assisting in the
27 investigation or prosecution of the offense; or

28 (B) a person other than:

29 (i) the defendant;

30 (ii) the defendant's attorney; or

31 (iii) the person specified in the order of a
32 court.

33 (b) Unless the disclosure is required or permitted by other
34 law, a public servant or other person commits an offense if the
35 person:

36 (1) has access to or obtains the name, address, or
37 telephone number of a victim younger than 17 years of age; and

38 (2) knowingly discloses the name, address, or
39 telephone number of the victim to:

40 (A) a person who is not assisting in the
41 investigation or prosecution of the offense; or

1 (B) a person other than:
2 (i) the defendant;
3 (ii) the defendant's attorney; or
4 (iii) a person specified in an order of a
5 court.

6 (c) It is an affirmative defense to prosecution under
7 Subsection (b) that the actor is:

8 (1) the victim; or
9 (2) the victim's parent, conservator, or guardian,
10 unless the victim's parent, conservator, or guardian allegedly
11 committed the offense described by Article 58.201.

12 (d) An offense under this article is a Class C misdemeanor.
13 (Code Crim. Proc., Art. 57B.03.)

14 Source Law

15 Art. 57B.03. OFFENSE. (a) A public servant
16 with access to the name, address, or telephone number
17 of a victim 17 years of age or older who has chosen a
18 pseudonym under this chapter commits an offense if the
19 public servant knowingly discloses the name, address,
20 or telephone number of the victim to any person who is
21 not assisting in the investigation or prosecution of
22 the offense or to any person other than the defendant,
23 the defendant's attorney, or the person specified in
24 the order of a court of competent jurisdiction.

25 (b) Unless the disclosure is required or
26 permitted by other law, a public servant or other
27 person commits an offense if the person:

28 (1) has access to or obtains the name,
29 address, or telephone number of a victim younger than
30 17 years of age; and

31 (2) knowingly discloses the name, address,
32 or telephone number of the victim to any person who is
33 not assisting in the investigation or prosecution of
34 the offense or to any person other than the defendant,
35 the defendant's attorney, or a person specified in an
36 order of a court of competent jurisdiction.

37 (c) It is an affirmative defense to prosecution
38 under Subsection (b) that the actor is:

39 (1) the victim; or
40 (2) the victim's parent, conservator, or
41 guardian, unless the victim's parent, conservator, or
42 guardian allegedly committed the offense described by
43 Article 57B.01(4).

44 (d) An offense under this article is a Class C
45 misdemeanor.

46 Revised Law

47 Art. 58.207. APPLICABILITY OF SUBCHAPTER TO DEPARTMENT OF
48 FAMILY AND PROTECTIVE SERVICES. (a) This subchapter does not
49 require the Department of Family and Protective Services to use a

1 pseudonym in a department report, file, or record relating to the
2 abuse, neglect, or exploitation of a child or adult who may also be
3 the subject of an offense described by Article 58.201.

4 (b) To the extent permitted by law, the Department of Family
5 and Protective Services and a department employee, as necessary in
6 performing department duties, may disclose the name of a victim who
7 elects to use a pseudonym under this subchapter. (Code
8 Crim. Proc., Art. 57B.04.)

9 Source Law

10 Art. 57B.04. APPLICABILITY OF CHAPTER TO
11 DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES. Nothing
12 in this chapter requires the Department of Family and
13 Protective Services to use a pseudonym in a department
14 report, file, or record relating to the abuse,
15 neglect, or exploitation of a child or adult who may
16 also be the subject of an offense described by Article
17 57B.01(4). To the extent permitted by law, the
18 Department of Family and Protective Services and a
19 department employee, as necessary in performing
20 department duties, may disclose the name of a victim
21 who elects to use a pseudonym under this chapter.

22 Revised Law

23 Art. 58.208. APPLICABILITY OF SUBCHAPTER TO POLITICAL
24 SUBDIVISIONS. This subchapter does not require a political
25 subdivision to use a pseudonym in a report, file, or record that:

- 26 (1) is not intended for distribution to the public; or
27 (2) is not the subject of an open records request under
28 Chapter 552, Government Code. (Code Crim. Proc., Art. 57B.05.)

29 Source Law

30 Art. 57B.05. APPLICABILITY OF CHAPTER TO
31 POLITICAL SUBDIVISIONS. Nothing in this chapter
32 requires a political subdivision to use a pseudonym in
33 a report, file, or record that is not:
34 (1) intended for distribution to the
35 public; or
36 (2) the subject of an open records request
37 under Chapter 552, Government Code.

38 SUBCHAPTER F. CONFIDENTIALITY OF IDENTIFYING INFORMATION OF
39 VICTIMS OF TRAFFICKING OF PERSONS

40 Revised Law

41 Art. 58.251. DEFINITION. In this subchapter, "victim"
42 means a person who is the subject of:

- 43 (1) an offense under Section 20A.02, Penal Code; or

1 (2) an offense that is part of the same criminal
2 episode, as defined by Section 3.01, Penal Code, as an offense under
3 Section 20A.02, Penal Code. (Code Crim. Proc., Art. 57D.01(4).)

4 Source Law

5 (4) "Victim" means a person who is the
6 subject of:

7 (A) an offense under Section 20A.02,
8 Penal Code; or

9 (B) an offense that is part of the
10 same criminal episode, as defined by Section 3.01,
11 Penal Code, as an offense under Section 20A.02, Penal
12 Code.

13 Revised Law

14 Art. 58.252. DESIGNATION OF PSEUDONYM; PSEUDONYM FORM. (a)
15 A victim may choose a pseudonym to be used instead of the victim's
16 name to designate the victim in all public files and records
17 concerning the offense, including police summary reports, press
18 releases, and records of judicial proceedings. A victim who elects
19 to use a pseudonym as provided by this subchapter must complete a
20 pseudonym form developed under Subsection (b) and return the form
21 to the law enforcement agency investigating the offense.

22 (b) The office of the attorney general shall develop and
23 distribute to all law enforcement agencies of the state a pseudonym
24 form to record the name, address, telephone number, and pseudonym
25 of a victim. (Code Crim. Proc., Arts. 57D.02(a), (b).)

26 Source Law

27 Art. 57D.02. CONFIDENTIALITY OF FILES AND
28 RECORDS. (a) The office of the attorney general shall
29 develop and distribute to all law enforcement agencies
30 of the state a pseudonym form to record the name,
31 address, telephone number, and pseudonym of a victim.

32 (b) A victim may choose a pseudonym to be used
33 instead of the victim's name to designate the victim in
34 all public files and records concerning the offense,
35 including police summary reports, press releases, and
36 records of judicial proceedings. A victim who elects
37 to use a pseudonym as provided by this article must
38 complete a pseudonym form developed under this article
39 and return the form to the law enforcement agency
40 investigating the offense.

41 Revisor's Note

42 (1) Article 57D.02(b), Code of Criminal
43 Procedure, refers to a victim who elects to use a
44 pseudonym as provided by "this article," meaning

1 Article 57D.02, Code of Criminal Procedure. The
2 provisions of Article 57D.02 relating to a victim who
3 elects to use a pseudonym are revised in this
4 subchapter, and the revised law is drafted
5 accordingly.

6 (2) Article 57D.02(b), Code of Criminal
7 Procedure, refers to a pseudonym form developed under
8 "this article," meaning Article 57D.02, Code of
9 Criminal Procedure. The provision of Article 57D.02
10 relating to the development of a pseudonym form is
11 Article 57D.02(a), revised in this chapter as Article
12 58.252(b), and the revised law is drafted accordingly.

13 Revised Law

14 Art. 58.253. VICTIM INFORMATION CONFIDENTIAL. (a) A
15 victim who completes a pseudonym form and returns the form to the
16 law enforcement agency investigating the offense may not be
17 required to disclose the victim's name, address, and telephone
18 number in connection with the investigation or prosecution of the
19 offense.

20 (b) A completed and returned pseudonym form is confidential
21 and may not be disclosed to any person other than a defendant in the
22 case or the defendant's attorney, except on an order of a court.
23 The court finding required by Article 58.254 is not required to
24 disclose the confidential pseudonym form to the defendant in the
25 case or to the defendant's attorney.

26 (c) If a victim completes a pseudonym form and returns the
27 form to a law enforcement agency under Article 58.252(a), the law
28 enforcement agency receiving the form shall:

29 (1) remove the victim's name and substitute the
30 pseudonym for the name on all reports, files, and records in the
31 agency's possession;

32 (2) notify the attorney representing the state of the
33 pseudonym and that the victim has elected to be designated by the
34 pseudonym; and

1 (3) maintain the form in a manner that protects the
2 confidentiality of the information contained on the form.

3 (d) An attorney representing the state who receives notice
4 that a victim has elected to be designated by a pseudonym shall
5 ensure that the victim is designated by the pseudonym in all legal
6 proceedings concerning the offense. (Code Crim. Proc.,
7 Arts. 57D.02(c), (d), (e), (f).)

8 Source Law

9 (c) A victim who completes and returns a
10 pseudonym form to the law enforcement agency
11 investigating the offense may not be required to
12 disclose the victim's name, address, and telephone
13 number in connection with the investigation or
14 prosecution of the offense.

15 (d) A completed and returned pseudonym form is
16 confidential and may not be disclosed to any person
17 other than a defendant in the case or the defendant's
18 attorney, except on an order of a court of competent
19 jurisdiction. The court finding required by
20 Subsection (g) is not required to disclose the
21 confidential pseudonym form to the defendant in the
22 case or to the defendant's attorney.

23 (e) If a victim completes and returns a
24 pseudonym form to a law enforcement agency under this
25 article, the law enforcement agency receiving the form
26 shall:

27 (1) remove the victim's name and
28 substitute the pseudonym for the name on all reports,
29 files, and records in the agency's possession;

30 (2) notify the attorney for the state of
31 the pseudonym and that the victim has elected to be
32 designated by the pseudonym; and

33 (3) maintain the form in a manner that
34 protects the confidentiality of the information
35 contained on the form.

36 (f) An attorney for the state who receives
37 notice that a victim has elected to be designated by a
38 pseudonym shall ensure that the victim is designated
39 by the pseudonym in all legal proceedings concerning
40 the offense.

41 Revisor's Note

42 Article 57D.02(e), Code of Criminal Procedure,
43 refers to a victim who completes and returns a
44 pseudonym form to a law enforcement agency under "this
45 article," meaning Article 57D.02, Code of Criminal
46 Procedure. The provision of Article 57D.02 relating
47 to a victim who completes and returns a pseudonym form
48 to a law enforcement agency is Article 57D.02(b),
49 revised in this chapter as Article 58.252(a), and the

1 revised law is drafted accordingly.

2 Revised Law

3 Art. 58.254. COURT-ORDERED DISCLOSURE OF VICTIM
4 INFORMATION. A court may order the disclosure of a victim's name,
5 address, and telephone number only if the court finds that the
6 information is essential in the trial of the defendant for the
7 offense or the identity of the victim is in issue. (Code Crim.
8 Proc., Art. 57D.02(g).)

9 Source Law

10 (g) A court of competent jurisdiction may order
11 the disclosure of a victim's name, address, and
12 telephone number only if the court finds that the
13 information is essential in the trial of the defendant
14 for the offense or the identity of the victim is in
15 issue.

16 Revised Law

17 Art. 58.255. DISCLOSURE OF CHILD VICTIM INFORMATION
18 PROHIBITED. Except as required or permitted by other law or by
19 court order, a public servant or other person who has access to or
20 obtains the name, address, telephone number, or other identifying
21 information of a victim younger than 18 years of age may not release
22 or disclose the identifying information to any person who is not
23 assisting in the investigation, prosecution, or defense of the
24 case. This article does not apply to the release or disclosure of a
25 victim's identifying information by:

26 (1) the victim; or

27 (2) the victim's parent, conservator, or guardian,
28 unless the victim's parent, conservator, or guardian allegedly
29 committed the offense described by Article 58.251. (Code Crim.
30 Proc., Art. 57D.02(h).)

31 Source Law

32 (h) Except as required or permitted by other law
33 or by court order, a public servant or other person who
34 has access to or obtains the name, address, telephone
35 number, or other identifying information of a victim
36 younger than 18 years of age may not release or
37 disclose the identifying information to any person who
38 is not assisting in the investigation, prosecution, or
39 defense of the case. This subsection does not apply to
40 the release or disclosure of a victim's identifying
41 information by:

1 (1) the victim; or
2 (2) the victim's parent, conservator, or
3 guardian, unless the victim's parent, conservator, or
4 guardian allegedly committed the offense described by
5 Article 57D.01(4).

6 Revised Law

7 Art. 58.256. OFFENSE. (a) A public servant commits an
8 offense if the public servant:

9 (1) has access to the name, address, or telephone
10 number of a victim 18 years of age or older who has chosen a
11 pseudonym under this subchapter; and

12 (2) knowingly discloses the name, address, or
13 telephone number of the victim to:

14 (A) a person who is not assisting in the
15 investigation or prosecution of the offense; or

16 (B) a person other than:

17 (i) the defendant;

18 (ii) the defendant's attorney; or

19 (iii) the person specified in the order of a
20 court.

21 (b) Unless the disclosure is required or permitted by other
22 law, a public servant or other person commits an offense if the
23 person:

24 (1) has access to or obtains the name, address, or
25 telephone number of a victim younger than 18 years of age; and

26 (2) knowingly discloses the name, address, or
27 telephone number of the victim to:

28 (A) a person who is not assisting in the
29 investigation or prosecution of the offense; or

30 (B) a person other than:

31 (i) the defendant;

32 (ii) the defendant's attorney; or

33 (iii) a person specified in an order of a
34 court.

35 (c) It is an affirmative defense to prosecution under
36 Subsection (b) that the actor is:

- 1 (1) the victim; or
2 (2) the victim's parent, conservator, or guardian,
3 unless the victim's parent, conservator, or guardian allegedly
4 committed the offense described by Article 58.251.
5 (d) An offense under this article is a Class C misdemeanor.
6 (Code Crim. Proc., Art. 57D.03.)

7 Source Law

8 Art. 57D.03. OFFENSE. (a) A public servant
9 with access to the name, address, or telephone number
10 of a victim 18 years of age or older who has chosen a
11 pseudonym under this chapter commits an offense if the
12 public servant knowingly discloses the name, address,
13 or telephone number of the victim to any person who is
14 not assisting in the investigation or prosecution of
15 the offense or to any person other than the defendant,
16 the defendant's attorney, or the person specified in
17 the order of a court of competent jurisdiction.

18 (b) Unless the disclosure is required or
19 permitted by other law, a public servant or other
20 person commits an offense if the person:

21 (1) has access to or obtains the name,
22 address, or telephone number of a victim younger than
23 18 years of age; and

24 (2) knowingly discloses the name, address,
25 or telephone number of the victim to any person who is
26 not assisting in the investigation or prosecution of
27 the offense or to any person other than the defendant,
28 the defendant's attorney, or a person specified in an
29 order of a court of competent jurisdiction.

30 (c) It is an affirmative defense to prosecution
31 under Subsection (b) that the actor is:

32 (1) the victim; or

33 (2) the victim's parent, conservator, or
34 guardian, unless the victim's parent, conservator, or
35 guardian allegedly committed the offense described by
36 Article 57D.01(4).

37 (d) An offense under this article is a Class C
38 misdemeanor.

39 SUBCHAPTER G. SEALING OF MEDICAL RECORDS OF CERTAIN CHILD VICTIMS

40 Revised Law

41 Art. 58.301. DEFINITIONS. In this subchapter:

42 (1) "Child" means a person who is younger than 18 years
43 of age.

44 (2) "Medical records" means any information used or
45 generated by health care providers, including records relating to
46 emergency room treatment, rehabilitation therapy, or counseling.

47 (Code Crim. Proc., Art. 57C.01.)

48 Source Law

49 Art. 57C.01. DEFINITIONS. In this chapter:

1 (1) "Child" means a person who is younger
2 than 18 years of age.

3 (2) "Medical records" means any
4 information used or generated by health care
5 providers, including records relating to emergency
6 room treatment, rehabilitation therapy, or
7 counseling.

8 Revised Law

9 Art. 58.302. SEALING OF MEDICAL RECORDS. (a) Except as
10 provided by Subsection (c), on a motion filed by a person described
11 by Subsection (b), the court shall seal the medical records of a
12 child who is a victim of an offense described by Section 1, Article
13 38.071.

14 (b) A motion under this article may be filed on the court's
15 own motion or by:

16 (1) the attorney representing the state;

17 (2) the defendant; or

18 (3) the parent or guardian of the victim or, if the
19 victim is no longer a child, the victim.

20 (c) The court is not required to seal the records described
21 by this article on a finding of good cause after a hearing held
22 under Subsection (d).

23 (d) The court shall grant the motion without a hearing
24 unless the motion is contested not later than the seventh day after
25 the date the motion is filed. (Code Crim. Proc., Arts. 57C.02(a),
26 (b), (c), (d).)

27 Source Law

28 Art. 57C.02. SEALING OF RECORDS. (a) Except as
29 provided by Subsection (c), on a motion filed by a
30 person described by Subsection (b), the court shall
31 seal the medical records of a child who is a victim of
32 an offense described by Section 1, Article 38.071.

33 (b) A motion under this article may be filed on
34 the court's own motion or by:

35 (1) the attorney representing the state;

36 (2) the defendant; or

37 (3) the parent or guardian of the victim
38 or, if the victim is no longer a child, the victim.

39 (c) The court is not required to seal the
40 records described by this article on a finding of good
41 cause after a hearing held under Subsection (d).

42 (d) The court shall grant the motion without a
43 hearing unless the motion is contested not later than
44 the seventh day after the date the motion is filed.

1 Revisor's Note

2 (1) Article 57C.02(b), Code of Criminal
3 Procedure, refers to the filing of a motion under "this
4 article," meaning Article 57C.02, Code of Criminal
5 Procedure. The provisions of Article 57C.02 relating
6 to a motion filed under that article are revised in
7 this chapter as Article 58.302, and the revised law is
8 drafted accordingly.

9 (2) Article 57C.02(c), Code of Criminal
10 Procedure, refers to records described by "this
11 article," meaning Article 57C.02, Code of Criminal
12 Procedure. The provisions of Article 57C.02
13 describing records are revised in this chapter as
14 Article 58.302, and the revised law is drafted
15 accordingly.

16 Revised Law

17 Art. 58.303. ACCESS TO SEALED MEDICAL RECORDS. Medical
18 records sealed under this subchapter are not open for inspection by
19 any person except:

20 (1) on further order of the court after:

21 (A) notice to a parent or guardian of the victim
22 whose information is sealed or, if the victim is no longer a child,
23 notice to the victim; and

24 (B) a finding of good cause;

25 (2) in connection with a criminal or civil proceeding
26 as otherwise provided by law; or

27 (3) on request of a parent or legal guardian of the
28 victim whose information is sealed or, if the victim is no longer a
29 child, on request of the victim. (Code Crim. Proc., Art.
30 57C.02(e).)

31 Source Law

32 (e) Medical records sealed under this chapter
33 are not open for inspection by any person except:

34 (1) on further order of the court after:

35 (A) notice to a parent or guardian of
36 the victim whose information is sealed or, if the

1 victim is no longer a child, notice to the victim; and
2 (B) a finding of good cause;
3 (2) in connection with a criminal or civil
4 proceeding as otherwise provided by law; or
5 (3) on request of a parent or legal
6 guardian of the victim whose information is being
7 sealed or, if the victim is no longer a child, on
8 request of the victim.

9 Revised Law

10 Art. 58.304. LIABILITY. Except on a showing of bad faith, a
11 clerk of the court is not liable for any failure to seal medical
12 records after the court grants a motion under this subchapter.
13 (Code Crim. Proc., Art. 57C.02(f).)

14 Source Law

15 (f) A clerk of court is not liable for any
16 failure to seal medical records after a motion under
17 this chapter is granted, except on a showing of bad
18 faith.

1 APPENDIX A

2 CONFORMING AMENDMENTS

3 SECTION 2.01. Section 101.005(d), Business & Commerce Code,
4 is amended to read as follows:

5 (d) A penalty collected under this section by the attorney
6 general or a district or county attorney shall be deposited in the
7 state treasury to the credit of the compensation to victims of crime
8 fund established under Subchapter J, Chapter 56B [~~Article 56.54~~],
9 Code of Criminal Procedure.

10 SECTION 2.02. Section 140A.110(c), Civil Practice and
11 Remedies Code, is amended to read as follows:

12 (c) The first \$10 million, after any costs of suit described
13 by Subsection (b), that is paid to the state under this chapter in a
14 fiscal year shall be dedicated to the compensation to victims of
15 crime fund described by Subchapter J, Chapter 56B [~~Article 56.54~~],
16 Code of Criminal Procedure.

17 SECTION 2.03. Section 154.023(c), Civil Practice and
18 Remedies Code, is amended to read as follows:

19 (c) Mediation includes victim-offender mediation by the
20 Texas Department of Criminal Justice described in Article 56A.602
21 [~~56.13~~], Code of Criminal Procedure.

22 SECTION 2.04. Section 154.073(g), Civil Practice and
23 Remedies Code, is amended to read as follows:

24 (g) This section applies to a victim-offender mediation by
25 the Texas Department of Criminal Justice as described in Article
26 56A.602 [~~56.13~~], Code of Criminal Procedure.

27 SECTION 2.05. Article 2.13951(e), Code of Criminal
28 Procedure, is amended to read as follows:

29 (e) A civil penalty collected under this article shall be
30 deposited to the credit of the compensation to victims of crime fund
31 established under Subchapter J [~~B~~], Chapter 56B [~~56~~].

32 SECTION 2.06. Article 2.21(f-1), Code of Criminal
33 Procedure, is amended to read as follows:

34 (f-1) Notwithstanding Section 263.156, Local Government

1 Code, or any other law, the commissioners court shall remit 50
2 percent of any proceeds of the disposal of an eligible exhibit as
3 surplus or salvage property as described by Subsection (f), less
4 the reasonable expense of keeping the exhibit before disposal and
5 the costs of that disposal, to each of the following:

6 (1) the county treasury, to be used only to defray the
7 costs incurred by the district clerk of the county for the
8 management, maintenance, or destruction of eligible exhibits in the
9 county; and

10 (2) the state treasury to the credit of the
11 compensation to victims of crime fund established under Subchapter
12 J [~~B~~], Chapter 56B [~~56~~].

13 SECTION 2.07. Article 2.31, Code of Criminal Procedure, as
14 added by Chapter 176 (S.B. 604), Acts of the 82nd Legislature,
15 Regular Session, 2011, is amended to read as follows:

16 Art. 2.31. COUNTY JAILERS. If a jailer licensed under
17 Chapter 1701, Occupations Code, has successfully completed a
18 training program provided by the sheriff, the jailer may execute
19 lawful process issued to the jailer by any magistrate or court on a
20 person confined in the jail at which the jailer is employed to the
21 same extent that a peace officer is authorized to execute process
22 under Article 2.13(b)(2), including:

- 23 (1) a warrant under Chapter 15, 17, or 18;
- 24 (2) a capias under Chapter 17 or 23;
- 25 (3) a subpoena under Chapter 20A [~~20~~] or 24; or
- 26 (4) an attachment under Chapter 20A [~~20~~] or 24.

27 SECTION 2.08. Article 2.31, Code of Criminal Procedure, as
28 added by Chapter 1341 (S.B. 1233), Acts of the 82nd Legislature,
29 Regular Session, 2011, is amended to read as follows:

30 Art. 2.31. COUNTY JAILERS. A jailer licensed under Chapter
31 1701, Occupations Code, may execute lawful process issued to the
32 jailer by any magistrate or court on a person confined in the jail
33 at which the jailer is employed to the same extent that a peace
34 officer is authorized to execute process under Article 2.13(b)(2),

1 including:

- 2 (1) a warrant under Chapter 15, 17, or 18;
- 3 (2) a capias under Chapter 17 or 23;
- 4 (3) a subpoena under Chapter 20A [~~20~~] or 24; or
- 5 (4) an attachment under Chapter 20A [~~20~~] or 24.

6 SECTION 2.09. Article 26.13(e), Code of Criminal Procedure,
7 is amended to read as follows:

8 (e) Before accepting a plea of guilty or a plea of nolo
9 contendere, the court shall, as applicable in the case:

10 (1) inquire as to whether a victim impact statement
11 has been returned to the attorney representing the state and ask for
12 a copy of the statement if one has been returned; and

13 (2) inquire as to whether the attorney representing
14 the state has given notice of the existence and terms of any plea
15 bargain agreement to the victim, guardian of a victim, or close
16 relative of a deceased victim, as those terms are defined by Article
17 56A.001 [~~56.01~~].

18 SECTION 2.10. Article 36.03(d)(1), Code of Criminal
19 Procedure, is amended to read as follows:

20 (1) "Close relative of a deceased victim" and
21 "guardian of a victim" have the meanings assigned by Article
22 56A.001 [~~56.01~~].

23 SECTION 2.11. Sections 4(c) and (d), Article 38.11, Code of
24 Criminal Procedure, are amended to read as follows:

25 (c) Notwithstanding Subsection (b), if the information,
26 document, or item was disclosed or received in violation of a grand
27 jury oath given to either a juror or a witness under Article 19A.202
28 [~~19.34~~] or 20A.256 [~~20.16~~], a journalist may be compelled to
29 testify if the person seeking the testimony, production, or
30 disclosure makes a clear and specific showing that the subpoenaing
31 party has exhausted reasonable efforts to obtain from alternative
32 sources the confidential source of any information, document, or
33 item obtained. In this context, the court has the discretion to
34 conduct an in camera hearing. The court may not order the

1 production of the confidential source until a ruling has been made
2 on the motion.

3 (d) An application for a subpoena of a journalist under
4 Article 24.03, or a subpoena of a journalist issued by an attorney
5 representing the state under Article 20A.251 [~~20.10~~] or 20A.252
6 [~~20.11~~], must be signed by the elected district attorney, elected
7 criminal district attorney, or elected county attorney, as
8 applicable. If the elected district attorney, elected criminal
9 district attorney, or elected county attorney has been disqualified
10 or recused or has resigned, the application for the subpoena or the
11 subpoena must be signed by the person succeeding the elected
12 attorney. If the elected officer is not in the jurisdiction, the
13 highest ranking assistant to the elected officer must sign the
14 subpoena.

15 SECTION 2.12. Section 11, Article 42.01, Code of Criminal
16 Procedure, is amended to read as follows:

17 Sec. 11. In addition to the information described by
18 Section 1, the judgment should reflect whether a victim impact
19 statement was returned to the attorney representing the state
20 pursuant to Article 56A.157(a) [~~56.03(e)~~].

21 SECTION 2.13. Section 1(b), Article 42.03, Code of Criminal
22 Procedure, is amended to read as follows:

23 (b) The court shall permit a victim, close relative of a
24 deceased victim, or guardian of a victim, as defined by Article
25 56A.001 [~~56.01 of this code~~], to appear in person to present to the
26 court and to the defendant a statement of the person's views about
27 the offense, the defendant, and the effect of the offense on the
28 victim. The victim, relative, or guardian may not direct questions
29 to the defendant while making the statement. The court reporter may
30 not transcribe the statement. The statement must be made:

31 (1) after punishment has been assessed and the court
32 has determined whether or not to grant community supervision in the
33 case;

34 (2) after the court has announced the terms and

1 conditions of the sentence; and

2 (3) after sentence is pronounced.

3 SECTION 2.14. Articles 42.037(a) and (i), Code of Criminal
4 Procedure, are amended to read as follows:

5 (a) In addition to any fine authorized by law, the court
6 that sentences a defendant convicted of an offense may order the
7 defendant to make restitution to any victim of the offense or to the
8 compensation to victims of crime fund established under Subchapter
9 J [~~B~~], Chapter 56B [~~56~~], to the extent that fund has paid
10 compensation to or on behalf of the victim. If the court does not
11 order restitution or orders partial restitution under this
12 subsection, the court shall state on the record the reasons for not
13 making the order or for the limited order.

14 (i) In addition to any other terms and conditions of
15 community supervision imposed under Chapter 42A, the court may
16 require a defendant to reimburse the compensation to victims of
17 crime fund created under Subchapter J [~~B~~], Chapter 56B [~~56~~], for any
18 amounts paid from that fund to or on behalf of a victim of the
19 defendant's offense. In this subsection, "victim" has the meaning
20 assigned by Article 56B.003 [~~56.32~~].

21 SECTION 2.15. Section 8(a), Article 42.09, Code of Criminal
22 Procedure, is amended to read as follows:

23 (a) A county that transfers a defendant to the Texas
24 Department of Criminal Justice under this article shall deliver to
25 an officer designated by the department:

26 (1) a copy of the judgment entered pursuant to Article
27 42.01, completed on a standardized felony judgment form described
28 by Section 4 of that article;

29 (2) a copy of any order revoking community supervision
30 and imposing sentence pursuant to Article 42A.755, including:

31 (A) any amounts owed for restitution, fines, and
32 court costs, completed on a standardized felony judgment form
33 described by Section 4, Article 42.01; and

34 (B) a copy of the client supervision plan

1 prepared for the defendant by the community supervision and
2 corrections department supervising the defendant, if such a plan
3 was prepared;

4 (3) a written report that states the nature and the
5 seriousness of each offense and that states the citation to the
6 provision or provisions of the Penal Code or other law under which
7 the defendant was convicted;

8 (4) a copy of the victim impact statement, if one has
9 been prepared in the case under Subchapter D, Chapter 56A [~~Article~~
10 ~~56.03~~];

11 (5) a statement as to whether there was a change in
12 venue in the case and, if so, the names of the county prosecuting
13 the offense and the county in which the case was tried;

14 (6) if requested, information regarding the criminal
15 history of the defendant, including the defendant's state
16 identification number if the number has been issued;

17 (7) a copy of the indictment or information for each
18 offense;

19 (8) a checklist sent by the department to the county
20 and completed by the county in a manner indicating that the
21 documents required by this subsection and Subsection (c) accompany
22 the defendant;

23 (9) if prepared, a copy of a presentence or
24 postsentence report prepared under Subchapter F, Chapter 42A;

25 (10) a copy of any detainer, issued by an agency of the
26 federal government, that is in the possession of the county and that
27 has been placed on the defendant;

28 (11) if prepared, a copy of the defendant's Texas
29 Uniform Health Status Update Form; and

30 (12) a written description of a hold or warrant,
31 issued by any other jurisdiction, that the county is aware of and
32 that has been placed on or issued for the defendant.

33 SECTION 2.16. Section 1(4), Article 42.22, Code of Criminal
34 Procedure, is amended to read as follows:

1 (4) "Victim" means:

2 (A) a "close relative of a deceased victim,"
3 "guardian of a victim," or "victim," as those terms are defined by
4 Article 56A.001 [~~56.01 of this code~~]; or

5 (B) an individual who suffers damages as a result
6 of another committing an offense under Section 38.04, Penal Code,
7 in which the defendant used a motor vehicle while the defendant was
8 in flight.

9 SECTION 2.17. Article 42A.301(b), Code of Criminal
10 Procedure, is amended to read as follows:

11 (b) Conditions of community supervision may include
12 conditions requiring the defendant to:

13 (1) commit no offense against the laws of this state or
14 of any other state or of the United States;

15 (2) avoid injurious or vicious habits;

16 (3) avoid persons or places of disreputable or harmful
17 character, including any person, other than a family member of the
18 defendant, who is an active member of a criminal street gang;

19 (4) report to the supervision officer as directed by
20 the judge or supervision officer and obey all rules and regulations
21 of the community supervision and corrections department;

22 (5) permit the supervision officer to visit the
23 defendant at the defendant's home or elsewhere;

24 (6) work faithfully at suitable employment to the
25 extent possible;

26 (7) remain within a specified place;

27 (8) pay in one or more amounts:

28 (A) the defendant's fine, if one is assessed; and

29 (B) all court costs, regardless of whether a fine
30 is assessed;

31 (9) support the defendant's dependents;

32 (10) participate, for a period specified by the judge,
33 in any community-based program, including a community service
34 project under Article 42A.304;

1 (11) if the judge determines that the defendant has
2 financial resources that enable the defendant to offset in part or
3 in whole the costs of the legal services provided to the defendant
4 in accordance with Article 1.051(c) or (d), including any expenses
5 and costs, reimburse the county in which the prosecution was
6 instituted for the costs of the legal services in an amount that the
7 judge finds the defendant is able to pay, except that the defendant
8 may not be ordered to pay an amount that exceeds:

9 (A) the actual costs, including any expenses and
10 costs, paid by the county for the legal services provided by an
11 appointed attorney; or

12 (B) if the defendant was represented by a public
13 defender's office, the actual amount, including any expenses and
14 costs, that would have otherwise been paid to an appointed attorney
15 had the county not had a public defender's office;

16 (12) if under custodial supervision in a community
17 corrections facility:

18 (A) remain under that supervision;

19 (B) obey all rules and regulations of the
20 facility; and

21 (C) pay a percentage of the defendant's income
22 to:

23 (i) the facility for room and board; and

24 (ii) the defendant's dependents for their
25 support during the period of custodial supervision;

26 (13) submit to testing for alcohol or controlled
27 substances;

28 (14) attend counseling sessions for substance abusers
29 or participate in substance abuse treatment services in a program
30 or facility approved or licensed by the Department of State Health
31 Services;

32 (15) with the consent of the victim of a misdemeanor
33 offense or of any offense under Title 7, Penal Code, participate in
34 victim-defendant mediation;

1 (16) submit to electronic monitoring;

2 (17) reimburse the compensation to victims of crime
3 fund for any amounts paid from that fund to or on behalf of a victim,
4 as defined by Article 56B.003 [~~56.32~~], of the offense or if no
5 reimbursement is required, make one payment to the compensation to
6 victims of crime fund in an amount not to exceed \$50 if the offense
7 is a misdemeanor or not to exceed \$100 if the offense is a felony;

8 (18) reimburse a law enforcement agency for the
9 analysis, storage, or disposal of raw materials, controlled
10 substances, chemical precursors, drug paraphernalia, or other
11 materials seized in connection with the offense;

12 (19) pay all or part of the reasonable and necessary
13 costs incurred by the victim for psychological counseling made
14 necessary by the offense or for counseling and education relating
15 to acquired immune deficiency syndrome or human immunodeficiency
16 virus made necessary by the offense;

17 (20) make one payment in an amount not to exceed \$50 to
18 a crime stoppers organization, as defined by Section 414.001,
19 Government Code, and as certified by the Texas Crime Stoppers
20 Council;

21 (21) submit a DNA sample to the Department of Public
22 Safety under Subchapter G, Chapter 411, Government Code, for the
23 purpose of creating a DNA record of the defendant;

24 (22) in any manner required by the judge, provide in
25 the county in which the offense was committed public notice of the
26 offense for which the defendant was placed on community
27 supervision; and

28 (23) reimburse the county in which the prosecution was
29 instituted for compensation paid to any interpreter in the case.

30 SECTION 2.18. Article 46C.003, Code of Criminal Procedure,
31 is amended to read as follows:

32 Art. 46C.003. VICTIM NOTIFICATION OF RELEASE. If the court
33 issues an order that requires the release of an acquitted person on
34 discharge or on a regimen of outpatient care, the clerk of the court

1 issuing the order, using the information provided on any victim
2 impact statement received by the court under Subchapter D, Chapter
3 56A [~~Article 56.03~~] or other information made available to the
4 court, shall notify the victim or the victim's guardian or close
5 relative of the release. Notwithstanding Article 56A.156
6 [~~56.03(f)~~], the clerk of the court may inspect a victim impact
7 statement for the purpose of notification under this article. On
8 request, a victim assistance coordinator may provide the clerk of
9 the court with information or other assistance necessary for the
10 clerk to comply with this article.

11 SECTION 2.19. Article 59.06(k)(3), Code of Criminal
12 Procedure, is amended to read as follows:

13 (3) The attorney general shall deposit the money or
14 proceeds from the sale of the property into an escrow account. The
15 money in the account is available to satisfy a judgment against the
16 person who committed the crime in favor of a victim of the crime if
17 the judgment is for damages incurred by the victim caused by the
18 commission of the crime. The attorney general shall transfer the
19 money in the account that has not been ordered paid to a victim in
20 satisfaction of a judgment to the compensation to victims of crime
21 fund on the fifth anniversary of the date the account was
22 established. In this subsection, "victim" has the meaning assigned
23 by Article 56B.003 [~~56.32~~].

24 SECTION 2.20. Article 59.13(a), Code of Criminal Procedure,
25 is amended to read as follows:

26 (a) The attorney representing the state may disclose
27 information to the primary state or federal financial institution
28 regulator, including grand jury information or otherwise
29 confidential information, relating to any action contemplated or
30 brought under this chapter that involves property consisting of a
31 depository account in a regulated financial institution or assets
32 held by a regulated financial institution as security for an
33 obligation owed to a regulated financial institution. An attorney
34 representing the state who discloses information as permitted by

1 this subsection is not subject to contempt under Subchapter E,
2 Chapter 20A, [~~Article 20.02~~] for that disclosure.

3 SECTION 2.21. Article 62.0061(d), Code of Criminal
4 Procedure, is amended to read as follows:

5 (d) A commercial social networking site that uses
6 information received under Subsection (a) in any manner not
7 described by Subsection (c)(1) or that violates a rule adopted by
8 the department under Subsection (b) is subject to a civil penalty of
9 \$1,000 for each misuse of information or rule violation. A
10 commercial social networking site that is assessed a civil penalty
11 under this article shall pay, in addition to the civil penalty, all
12 court costs, investigative costs, and attorney's fees associated
13 with the assessment of the penalty. A civil penalty assessed under
14 this subsection shall be deposited to the compensation to victims
15 of crime fund established under Subchapter J [~~B~~], Chapter 56B [~~56~~].

16 SECTION 2.22. Article 63.065(b), Code of Criminal
17 Procedure, is amended to read as follows:

18 (b) Notwithstanding Article 56B.453(a) [~~56.54(g)~~], the
19 legislature may appropriate money in the compensation to victims of
20 crime fund and the compensation to victims of crime auxiliary fund
21 to fund the University of North Texas Health Science Center at Fort
22 Worth missing persons DNA database. Legislative appropriations
23 under this subsection shall be deposited to the credit of the
24 account created under Subsection (a).

25 SECTION 2.23. Sections 96.65(a)(1), (2), and (4), Education
26 Code, are amended to read as follows:

27 (1) "Close relative of a deceased victim" has the
28 meaning assigned by Article 56A.001 [~~56.01~~], Code of Criminal
29 Procedure.

30 (2) "Guardian of a victim" has the meaning assigned by
31 Article 56A.001 [~~56.01~~], Code of Criminal Procedure.

32 (4) "Victim" has the meaning assigned by Article
33 56A.001 [~~56.01~~], Code of Criminal Procedure.

34 SECTION 2.24. Section 96.651(a)(2), Education Code, is

1 amended to read as follows:

2 (2) "Victim" has the meaning assigned by Article
3 56A.001 [~~56.01~~], Code of Criminal Procedure.

4 SECTION 2.25. Section 13.002(e), Election Code, is amended
5 to read as follows:

6 (e) A person who is certified for participation in the
7 address confidentiality program administered by the attorney
8 general under Subchapter B [~~C~~], Chapter 58 [~~56~~], Code of Criminal
9 Procedure, is not eligible for early voting by mail under Section
10 82.007 unless the person submits an application under this section
11 by personal delivery. The secretary of state may adopt rules to
12 implement this subsection.

13 SECTION 2.26. Section 13.004(c), Election Code, is amended
14 to read as follows:

15 (c) The following information furnished on a registration
16 application is confidential and does not constitute public
17 information for purposes of Chapter 552, Government Code:

18 (1) a social security number;

19 (2) a Texas driver's license number;

20 (3) a number of a personal identification card issued
21 by the Department of Public Safety;

22 (4) an indication that an applicant is interested in
23 working as an election judge;

24 (5) the residence address of the applicant, if the
25 applicant is a federal judge or state judge, as defined by Section
26 13.0021, the spouse of a federal judge or state judge, or an
27 individual to whom Section 552.1175, Government Code, applies and
28 the applicant:

29 (A) included an affidavit with the registration
30 application describing the applicant's status under this
31 subdivision, including an affidavit under Section 13.0021 if the
32 applicant is a federal judge or state judge or the spouse of a
33 federal judge or state judge;

34 (B) provided the registrar with an affidavit

1 describing the applicant's status under this subdivision,
2 including an affidavit under Section 15.0215 if the applicant is a
3 federal judge or state judge or the spouse of a federal judge or
4 state judge; or

5 (C) provided the registrar with a completed form
6 approved by the secretary of state for the purpose of notifying the
7 registrar of the applicant's status under this subdivision;

8 (6) the residence address of the applicant, if the
9 applicant, the applicant's child, or another person in the
10 applicant's household is a victim of family violence as defined by
11 Section 71.004, Family Code, who provided the registrar with:

12 (A) a copy of a protective order issued under
13 Chapter 85, Family Code, or a magistrate's order for emergency
14 protection issued under Article 17.292, Code of Criminal Procedure;
15 or

16 (B) other independent documentary evidence
17 necessary to show that the applicant, the applicant's child, or
18 another person in the applicant's household is a victim of family
19 violence;

20 (7) the residence address of the applicant, if the
21 applicant, the applicant's child, or another person in the
22 applicant's household is a victim of sexual assault or abuse,
23 stalking, or trafficking of persons who provided the registrar
24 with:

25 (A) a copy of a protective order issued under
26 Subchapter A or B, Chapter 7B [~~7A or Article 6.09~~], Code of Criminal
27 Procedure, or a magistrate's order for emergency protection issued
28 under Article 17.292, Code of Criminal Procedure; or

29 (B) other independent documentary evidence
30 necessary to show that the applicant, the applicant's child, or
31 another person in the applicant's household is a victim of sexual
32 assault or abuse, stalking, or trafficking of persons; or

33 (8) the residence address of the applicant, if the
34 applicant:

1 (A) is a participant in the address
2 confidentiality program administered by the attorney general under
3 Subchapter B [~~C~~], Chapter 58 [~~56~~], Code of Criminal Procedure; and

4 (B) provided the registrar with proof of
5 certification under Article 58.059 [~~56.84~~], Code of Criminal
6 Procedure.

7 SECTION 2.27. Section 18.0051, Election Code, is amended to
8 read as follows:

9 Sec. 18.0051. CONTENTS OF LIST: SUBSTITUTE ADDRESS. An
10 original or supplemental list of registered voters must contain a
11 voter's substitute post office box address designated by the
12 attorney general under Article 58.052(b) [~~56.82(b)~~], Code of
13 Criminal Procedure, for use by the voter in place of the voter's
14 true residential, business, or school address if the voter is
15 eligible for early voting by mail under Section 82.007 and has
16 submitted an early voting ballot application as required by Section
17 84.0021.

18 SECTION 2.28. Section 82.007, Election Code, is amended to
19 read as follows:

20 Sec. 82.007. PARTICIPATION IN ADDRESS CONFIDENTIALITY
21 PROGRAM. A qualified voter is eligible for early voting by mail if:

22 (1) the voter submitted a registration application by
23 personal delivery as required by Section 13.002(e); and

24 (2) at the time the voter's early voting ballot
25 application is submitted, the voter is certified for participation
26 in the address confidentiality program administered by the attorney
27 general under Subchapter B [~~C~~], Chapter 58 [~~56~~], Code of Criminal
28 Procedure.

29 SECTION 2.29. Section 84.0021(a), Election Code, is amended
30 to read as follows:

31 (a) An early voting ballot application submitted by a
32 qualified voter who is eligible for early voting by mail under
33 Section 82.007 must include:

34 (1) the applicant's name and address at which the

1 applicant is registered to vote;

2 (2) the substitute post office box address designated
3 by the attorney general under Article 58.052(b) [~~56.82(b)~~], Code of
4 Criminal Procedure, for use by the voter in place of the voter's
5 true residential, business, or school address; and

6 (3) an indication of each election for which the
7 applicant is applying for a ballot.

8 SECTION 2.30. Section 6.405(a), Family Code, is amended to
9 read as follows:

10 (a) The petition in a suit for dissolution of a marriage
11 must state whether, in regard to a party to the suit or a child of a
12 party to the suit:

13 (1) there is in effect:

14 (A) a protective order under Title 4;

15 (B) a protective order under Subchapter A,
16 Chapter 7B [~~7A~~], Code of Criminal Procedure; or

17 (C) an order for emergency protection under
18 Article 17.292, Code of Criminal Procedure; or

19 (2) an application for an order described by
20 Subdivision (1) is pending.

21 SECTION 2.31. Section 51.17(h), Family Code, is amended to
22 read as follows:

23 (h) Articles 58.001, 58.101, 58.102, 58.103, 58.104,
24 58.105, [~~57.01~~] and 58.106 [~~57.02~~], Code of Criminal Procedure,
25 relating to the use of a pseudonym by a victim in a criminal case,
26 apply in a proceeding held under this title.

27 SECTION 2.32. Section 57.002, Family Code, is amended to
28 read as follows:

29 Sec. 57.002. VICTIM'S RIGHTS. (a) A victim, guardian of a
30 victim, or close relative of a deceased victim is entitled to the
31 following rights within the juvenile justice system:

32 (1) the right to receive from law enforcement agencies
33 adequate protection from harm and threats of harm arising from
34 cooperation with prosecution efforts;

1 (2) the right to have the court or person appointed by
2 the court take the safety of the victim or the victim's family into
3 consideration as an element in determining whether the child should
4 be detained before the child's conduct is adjudicated;

5 (3) the right, if requested, to be informed of
6 relevant court proceedings, including appellate proceedings, and
7 to be informed in a timely manner if those court proceedings have
8 been canceled or rescheduled;

9 (4) the right to be informed, when requested, by the
10 court or a person appointed by the court concerning the procedures
11 in the juvenile justice system, including general procedures
12 relating to:

13 (A) the preliminary investigation and deferred
14 prosecution of a case; and

15 (B) the appeal of the case;

16 (5) the right to provide pertinent information to a
17 juvenile court conducting a disposition hearing concerning the
18 impact of the offense on the victim and the victim's family by
19 testimony, written statement, or any other manner before the court
20 renders its disposition;

21 (6) the right to receive information regarding
22 compensation to victims as provided by [~~Subchapter B,~~ Chapter 56B
23 ~~[56]~~, Code of Criminal Procedure, including information related to
24 the costs that may be compensated under that chapter [~~subchapter~~]
25 and the amount of compensation, eligibility for compensation, and
26 procedures for application for compensation under that chapter
27 [~~subchapter~~], the payment of medical expenses under Subchapter F,
28 Chapter 56A [~~Section 56.06~~], Code of Criminal Procedure, for a
29 victim of a sexual assault, and when requested, to referral to
30 available social service agencies that may offer additional
31 assistance;

32 (7) the right to be informed, upon request, of
33 procedures for release under supervision or transfer of the person
34 to the custody of the Texas Department of Criminal Justice for

1 parole, to participate in the release or transfer for parole
2 process, to be notified, if requested, of the person's release,
3 escape, or transfer for parole proceedings concerning the person,
4 to provide to the Texas Juvenile Justice Department for inclusion
5 in the person's file information to be considered by the department
6 before the release under supervision or transfer for parole of the
7 person, and to be notified, if requested, of the person's release or
8 transfer for parole;

9 (8) the right to be provided with a waiting area,
10 separate or secure from other witnesses, including the child
11 alleged to have committed the conduct and relatives of the child,
12 before testifying in any proceeding concerning the child, or, if a
13 separate waiting area is not available, other safeguards should be
14 taken to minimize the victim's contact with the child and the
15 child's relatives and witnesses, before and during court
16 proceedings;

17 (9) the right to prompt return of any property of the
18 victim that is held by a law enforcement agency or the attorney for
19 the state as evidence when the property is no longer required for
20 that purpose;

21 (10) the right to have the attorney for the state
22 notify the employer of the victim, if requested, of the necessity of
23 the victim's cooperation and testimony in a proceeding that may
24 necessitate the absence of the victim from work for good cause;

25 (11) the right to be present at all public court
26 proceedings related to the conduct of the child as provided by
27 Section 54.08, subject to that section; and

28 (12) any other right appropriate to the victim that a
29 victim of criminal conduct has under Subchapter B, Chapter 56A
30 [~~Article 56.02 or 56.021~~], Code of Criminal Procedure.

31 (b) In notifying a victim of the release or escape of a
32 person, the Texas Juvenile Justice Department shall use the same
33 procedure established for the notification of the release or escape
34 of an adult offender under Subchapter K, Chapter 56A [~~Article~~

1 ~~56.11~~], Code of Criminal Procedure.

2 SECTION 2.33. Section 57.003(d), Family Code, is amended to
3 read as follows:

4 (d) The victim assistance coordinator shall ensure that at a
5 minimum, a victim, guardian of a victim, or close relative of a
6 deceased victim receives:

7 (1) a written notice of the rights outlined in Section
8 57.002;

9 (2) an application for compensation under the Crime
10 Victims' Compensation Act (~~[Subchapter B,]~~ Chapter 56B ~~[56]~~, Code
11 of Criminal Procedure); and

12 (3) a victim impact statement with information
13 explaining the possible use and consideration of the victim impact
14 statement at detention, adjudication, and release proceedings
15 involving the juvenile.

16 SECTION 2.34. Section 57.0031, Family Code, is amended to
17 read as follows:

18 Sec. 57.0031. NOTIFICATION OF RIGHTS OF VICTIMS OF
19 JUVENILES. At the initial contact or at the earliest possible time
20 after the initial contact between the victim of a reported crime and
21 the juvenile probation office having the responsibility for the
22 disposition of the juvenile, the office shall provide the victim a
23 written notice:

24 (1) containing information about the availability of
25 emergency and medical services, if applicable;

26 (2) stating that the victim has the right to receive
27 information regarding compensation to victims of crime as provided
28 by the Crime Victims' Compensation Act (~~[Subchapter B,]~~ Chapter 56B
29 ~~[56]~~, Code of Criminal Procedure), including information about:

30 (A) the costs that may be compensated and the
31 amount of compensation, eligibility for compensation, and
32 procedures for application for compensation;

33 (B) the payment for a medical examination for a
34 victim of a sexual assault; and

1 (C) referral to available social service
2 agencies that may offer additional assistance;

3 (3) stating the name, address, and phone number of the
4 victim assistance coordinator for victims of juveniles;

5 (4) containing the following statement: "You may call
6 the crime victim assistance coordinator for the status of the case
7 and information about victims' rights.";

8 (5) stating the rights of victims of crime under
9 Section 57.002;

10 (6) summarizing each procedural stage in the
11 processing of a juvenile case, including preliminary
12 investigation, detention, informal adjustment of a case,
13 disposition hearings, release proceedings, restitution, and
14 appeals;

15 (7) suggesting steps the victim may take if the victim
16 is subjected to threats or intimidation;

17 (8) stating the case number and assigned court for the
18 case; and

19 (9) stating that the victim has the right to file a
20 victim impact statement and to have it considered in juvenile
21 proceedings.

22 SECTION 2.35. Section 85.025(b-3), Family Code, is amended
23 to read as follows:

24 (b-3) Subsection (b) does not apply to a protective order
25 issued under Subchapter A, Chapter 7B [~~7A~~], Code of Criminal
26 Procedure.

27 SECTION 2.36. Section 102.008(b), Family Code, is amended
28 to read as follows:

29 (b) The petition must include:

30 (1) a statement that the court in which the petition is
31 filed has continuing, exclusive jurisdiction or that no court has
32 continuing jurisdiction of the suit;

33 (2) the name and date of birth of the child, except
34 that if adoption of a child is requested, the name of the child may

1 be omitted;

2 (3) the full name of the petitioner and the
3 petitioner's relationship to the child or the fact that no
4 relationship exists;

5 (4) the names of the parents, except in a suit in which
6 adoption is requested;

7 (5) the name of the managing conservator, if any, or
8 the child's custodian, if any, appointed by order of a court of
9 another state or country;

10 (6) the names of the guardians of the person and estate
11 of the child, if any;

12 (7) the names of possessory conservators or other
13 persons, if any, having possession of or access to the child under
14 an order of the court;

15 (8) the name of an alleged father of the child or a
16 statement that the identity of the father of the child is unknown;

17 (9) a full description and statement of value of all
18 property owned or possessed by the child;

19 (10) a statement describing what action the court is
20 requested to take concerning the child and the statutory grounds on
21 which the request is made;

22 (11) a statement as to whether, in regard to a party to
23 the suit or a child of a party to the suit:

24 (A) there is in effect:

25 (i) a protective order under Title 4;

26 (ii) a protective order under Subchapter A,
27 Chapter 7B [~~7A~~], Code of Criminal Procedure; or

28 (iii) an order for emergency protection
29 under Article 17.292, Code of Criminal Procedure; or

30 (B) an application for an order described by
31 Paragraph (A) is pending; and

32 (12) any other information required by this title.

33 SECTION 2.37. Section 160.6035(a), Family Code, is amended
34 to read as follows:

1 (a) The petition in a proceeding to adjudicate parentage
2 must include a statement as to whether, in regard to a party to the
3 proceeding or a child of a party to the proceeding:

4 (1) there is in effect:

5 (A) a protective order under Title 4;

6 (B) a protective order under Subchapter A,
7 Chapter 7B [~~7A~~], Code of Criminal Procedure; or

8 (C) an order for emergency protection under
9 Article 17.292, Code of Criminal Procedure; or

10 (2) an application for an order described by
11 Subdivision (1) is pending.

12 SECTION 2.38. Section 41.310(c), Government Code, is
13 amended to read as follows:

14 (c) The counsellor, in consultation with the board of
15 directors, shall notify the foreperson [~~foreman~~] of the appropriate
16 grand jury, in the manner provided by Article 20A.051 [~~20.09~~], Code
17 of Criminal Procedure, if:

18 (1) the counsellor receives credible evidence of
19 illegal or improper conduct by Texas Juvenile Justice Department
20 officers, employees, or contractors that the counsellor reasonably
21 believes jeopardizes the health, safety, and welfare of children in
22 the custody of that department;

23 (2) the counsellor reasonably believes the conduct:

24 (A) could constitute an offense described by
25 Article 104.003(a), Code of Criminal Procedure; and

26 (B) involves the alleged physical or sexual abuse
27 of a child in the custody of a Texas Juvenile Justice Department
28 facility or an investigation related to the alleged abuse; and

29 (3) the counsellor has reason to believe that
30 information concerning the conduct has not previously been
31 presented to the appropriate grand jury.

32 SECTION 2.39. Section 53.002(g), Government Code, is
33 amended to read as follows:

34 (g) The judge of each district court in Tarrant County that

1 gives preference to criminal cases and the judge of each criminal
2 district court in Tarrant County may appoint two persons to serve as
3 bailiffs. Notwithstanding Section 53.071 or Article 19A.301
4 [~~19.36~~], Code of Criminal Procedure, the district judges of the
5 courts in Tarrant County that give preference to criminal cases and
6 the criminal district courts in Tarrant County may appoint one
7 bailiff for each grand jury.

8 SECTION 2.40. Section 61.003(a), Government Code, is
9 amended to read as follows:

10 (a) Each person who reports for jury service shall be
11 personally provided a form letter that when signed by the person
12 directs the county treasurer to donate all, or a specific amount
13 designated by the person, of the person's daily reimbursement under
14 this chapter to:

15 (1) the compensation to victims of crime fund
16 established under Subchapter J [~~B~~], Chapter 56B [~~56~~], Code of
17 Criminal Procedure;

18 (2) the child welfare, child protective services, or
19 child services board of the county appointed under Section 264.005,
20 Family Code, that serves abused and neglected children;

21 (3) any program selected by the commissioners court
22 that is operated by a public or private nonprofit organization and
23 that provides shelter and services to victims of family violence;

24 (4) any other program approved by the commissioners
25 court of the county, including a program established under Article
26 56A.205 [~~56.04(f)~~], Code of Criminal Procedure, that offers
27 psychological counseling in criminal cases involving graphic
28 evidence or testimony; or

29 (5) a veterans court program established by the
30 commissioners court as provided by Chapter 124.

31 SECTION 2.41. Section 76.016, Government Code, is amended
32 to read as follows:

33 Sec. 76.016. VICTIM NOTIFICATION. (a) A department, using
34 the name and address provided by the attorney representing the

1 state under Article 56A.454(b) [~~56.08(d)~~], Code of Criminal
2 Procedure, shall immediately notify a victim of the defendant's
3 crime or, if the victim has a guardian or is deceased, notify the
4 guardian of the victim or close relative of the deceased victim of:

5 (1) the fact that the defendant has been placed on
6 community supervision;

7 (2) the conditions of community supervision imposed on
8 the defendant by the court; and

9 (3) the date, time, and location of any hearing or
10 proceeding at which the conditions of the defendant's community
11 supervision may be modified or the defendant's placement on
12 community supervision may be revoked or terminated.

13 (b) In this section, "close relative of a deceased victim,"
14 "guardian of a victim," and "victim" have the meanings assigned by
15 Article 56A.001 [~~56.01~~], Code of Criminal Procedure.

16 SECTION 2.42. Section 402.0213(a), Government Code, is
17 amended to read as follows:

18 (a) The office of the attorney general may use
19 videoconferencing technology:

20 (1) as a substitute for personal appearances in civil
21 and criminal proceedings, as approved by the court; and

22 (2) for any proceeding, conference, or training
23 conducted by an employee of the office of the attorney general whose
24 duties include the implementation of Chapters 56A and 56B and
25 Subchapter B, Chapter 58 [~~56~~], Code of Criminal Procedure, and
26 Chapter 57, Family Code.

27 SECTION 2.43. Section 402.038(b), Government Code, is
28 amended to read as follows:

29 (b) To address matters related to border security and
30 organized crime, the transnational and organized crime division
31 shall:

32 (1) establish within the division a prosecution unit
33 to provide critical assistance to local prosecutors;

34 (2) using existing funds, establish within the

1 division a trafficking of persons unit to:

2 (A) assist local law enforcement agencies and
3 local prosecutors in investigating and prosecuting trafficking of
4 persons and related crimes; and

5 (B) work with the appropriate local and state
6 agencies to identify victims of trafficking of persons and to
7 provide the types of assistance available for those victims under
8 Chapters 56A and 56B and Subchapter B, Chapter 58 [~~56~~], Code of
9 Criminal Procedure; and

10 (3) develop initiatives to provide greater state
11 assistance, support, and coordination among state law enforcement
12 agencies, local law enforcement agencies, and local prosecutors.

13 SECTION 2.44. Section 411.209(e), Government Code, is
14 amended to read as follows:

15 (e) A civil penalty collected by the attorney general under
16 this section shall be deposited to the credit of the compensation to
17 victims of crime fund established under Subchapter J [~~B~~], Chapter
18 56B [~~56~~], Code of Criminal Procedure.

19 SECTION 2.45. Section 420.051, Government Code, is amended
20 to read as follows:

21 Sec. 420.051. ADVOCATES FOR SURVIVORS OF SEXUAL
22 ASSAULT. An individual may act as an advocate for survivors of
23 sexual assault for the purposes of Subchapter H, Chapter 56A
24 [~~Article 56.045~~], Code of Criminal Procedure, if the individual has
25 completed a sexual assault training program certified by the
26 attorney general and is an employee or volunteer of a sexual assault
27 program.

28 SECTION 2.46. Section 495.027(c), Government Code, is
29 amended to read as follows:

30 (c) The department shall transfer 50 percent of all
31 commissions paid to the department by a vendor under this section to
32 the compensation to victims of crime fund established by Subchapter
33 J [~~B~~], Chapter 56B [~~56~~], Code of Criminal Procedure, and the other
34 50 percent to the credit of the undedicated portion of the general

1 revenue fund, except that the department shall transfer the first
2 \$10 million of the commissions collected in any given year under a
3 contract awarded under this section to the compensation to victims
4 of crime fund established by Subchapter J [~~B~~], Chapter 56B [~~56~~],
5 Code of Criminal Procedure. This section does not reduce any
6 appropriation to the department.

7 SECTION 2.47. Section 501.174, Government Code, is amended
8 to read as follows:

9 Sec. 501.174. DEPARTMENT TO ADOPT POLICY. The department
10 shall adopt a policy providing for:

11 (1) a designated administrator at each correctional
12 facility to post information throughout the facility describing how
13 an inmate may confidentially contact the ombudsperson regarding a
14 sexual assault;

15 (2) an inmate to write a confidential letter to the
16 ombudsperson regarding a sexual assault;

17 (3) employees at correctional facilities, on
18 notification of the occurrence of a sexual assault, to immediately:

19 (A) contact the ombudsperson and the office of
20 the inspector general; and

21 (B) ensure that the alleged victim is safe;

22 (4) the office of the inspector general, at the time
23 the office is notified of the sexual assault, to arrange for a
24 medical examination of the alleged victim to be conducted in
25 accordance with Subchapter F, Chapter 56A [~~Article 56.06~~], Code of
26 Criminal Procedure, or, if an appropriate employee of the office of
27 the inspector general is not available at the time the office is
28 notified of the sexual assault, a qualified employee at the
29 correctional facility to conduct a medical examination of the
30 alleged victim in accordance with that subchapter [~~Article 56.06,~~
31 ~~Code of Criminal Procedure~~];

32 (5) a grievance proceeding under Section 501.008 based
33 on an alleged sexual assault to be exempt from any deadline
34 applicable to grievances initiated under that section; and

1 (6) each correctional facility to collect statistics
2 on all alleged sexual assaults against inmates confined in the
3 facility and to report the statistics to the ombudsperson.

4 SECTION 2.48. Section 508.191(c), Government Code, is
5 amended to read as follows:

6 (c) In this section, "victim" has the meaning assigned by
7 Article 56A.001 [~~56.01(3)~~], Code of Criminal Procedure.

8 SECTION 2.49. Sections 552.132(a), (c), and (d), Government
9 Code, are amended to read as follows:

10 (a) Except as provided by Subsection (d), in this section,
11 "crime victim or claimant" means a victim or claimant under
12 [~~Subchapter B,~~] Chapter 56B [~~56~~], Code of Criminal Procedure, who
13 has filed an application for compensation under that chapter
14 [~~subchapter~~].

15 (c) If the crime victim or claimant is awarded compensation
16 under Article 56B.103 or 56B.104 [~~Section 56.34~~], Code of Criminal
17 Procedure, as of the date of the award of compensation, the name of
18 the crime victim or claimant and the amount of compensation awarded
19 to that crime victim or claimant are public information and are not
20 excepted from the requirements of Section 552.021.

21 (d) An employee of a governmental body who is also a victim
22 under [~~Subchapter B,~~] Chapter 56B [~~56~~], Code of Criminal Procedure,
23 regardless of whether the employee has filed an application for
24 compensation under that chapter [~~subchapter~~], may elect whether to
25 allow public access to information held by the attorney general's
26 office or other governmental body that would identify or tend to
27 identify the victim, including a photograph or other visual
28 representation of the victim. An election under this subsection
29 must be made in writing on a form developed by the governmental
30 body, be signed by the employee, and be filed with the governmental
31 body before the third anniversary of the latest to occur of one of
32 the following:

- 33 (1) the date the crime was committed;
34 (2) the date employment begins; or

1 (3) the date the governmental body develops the form
2 and provides it to employees.

3 SECTION 2.50. Sections 552.1325(a)(1) and (2), Government
4 Code, are amended to read as follows:

5 (1) "Crime victim" means a person who is a victim as
6 defined by Article 56B.003 [~~56.32~~], Code of Criminal Procedure.

7 (2) "Victim impact statement" means a victim impact
8 statement under Subchapter D, Chapter 56A [~~Article 56.03~~], Code of
9 Criminal Procedure.

10 SECTION 2.51. Section 752.056(d), Government Code, is
11 amended to read as follows:

12 (d) A civil penalty collected under this section shall be
13 deposited to the credit of the compensation to victims of crime fund
14 established under Subchapter J [~~B~~], Chapter 56B [~~56~~], Code of
15 Criminal Procedure.

16 SECTION 2.52. Section 2009.053(a), Government Code, is
17 amended to read as follows:

18 (a) A governmental body may appoint a governmental officer
19 or employee or a private individual to serve as an impartial third
20 party in an alternative dispute resolution procedure. The
21 governmental body's appointment of the impartial third party is
22 subject to the approval of the parties, except:

23 (1) that when a State Office of Administrative
24 Hearings administrative law judge has issued an order referring a
25 case involving a state agency to an alternative dispute resolution
26 procedure under Section 2003.042(a)(5), the administrative law
27 judge may appoint the impartial third party for the parties if they
28 cannot agree on an impartial third party within a reasonable
29 period; or

30 (2) for a victim-offender mediation by the Texas
31 Department of Criminal Justice as described in Article 56A.602
32 [~~56.13~~], Code of Criminal Procedure.

33 SECTION 2.53. Section 181.059, Health and Safety Code, is
34 amended to read as follows:

1 Sec. 181.059. CRIME VICTIM COMPENSATION. This chapter does
2 not apply to any person or entity in connection with providing,
3 administering, supporting, or coordinating any of the benefits
4 regarding compensation to victims of crime as provided by
5 [~~Subchapter B,~~] Chapter 56B [~~56~~], Code of Criminal Procedure.

6 SECTION 2.54. Section 323.004(b), Health and Safety Code,
7 is amended to read as follows:

8 (b) A health care facility providing care to a sexual
9 assault survivor shall provide the survivor with:

10 (1) subject to Subsection (b-1), a forensic medical
11 examination in accordance with Subchapter B, Chapter 420,
12 Government Code, if the examination has been requested by a law
13 enforcement agency under Subchapter F, Chapter 56A [~~Article 56.06~~],
14 Code of Criminal Procedure, or is conducted under Subchapter G,
15 Chapter 56A [~~Article 56.065~~], Code of Criminal Procedure;

16 (2) a private area, if available, to wait or speak with
17 the appropriate medical, legal, or sexual assault crisis center
18 staff or volunteer until a physician, nurse, or physician assistant
19 is able to treat the survivor;

20 (3) access to a sexual assault program advocate, if
21 available, as provided by Subchapter H, Chapter 56A [~~Article~~
22 ~~56.045~~], Code of Criminal Procedure;

23 (4) the information form required by Section 323.005;

24 (5) a private treatment room, if available;

25 (6) if indicated by the history of contact, access to
26 appropriate prophylaxis for exposure to sexually transmitted
27 infections; and

28 (7) the name and telephone number of the nearest
29 sexual assault crisis center.

30 SECTION 2.55. Section 323.005(a), Health and Safety Code,
31 is amended to read as follows:

32 (a) The department shall develop a standard information
33 form for sexual assault survivors that must include:

34 (1) a detailed explanation of the forensic medical

1 examination required to be provided by law, including a statement
2 that photographs may be taken of the genitalia;

3 (2) information regarding treatment of sexually
4 transmitted infections and pregnancy, including:

5 (A) generally accepted medical procedures;

6 (B) appropriate medications; and

7 (C) any contraindications of the medications
8 prescribed for treating sexually transmitted infections and
9 preventing pregnancy;

10 (3) information regarding drug-facilitated sexual
11 assault, including the necessity for an immediate urine test for
12 sexual assault survivors who may have been involuntarily drugged;

13 (4) information regarding crime victims compensation,
14 including:

15 (A) a statement that:

16 (i) a law enforcement agency will pay for
17 the forensic portion of an examination requested by the agency
18 under Subchapter F, Chapter 56A [~~Article 56.06~~], Code of Criminal
19 Procedure, and for the evidence collection kit; or

20 (ii) the Department of Public Safety will
21 pay the appropriate fees for the forensic portion of an examination
22 conducted under Subchapter G, Chapter 56A [~~Article 56.065~~], Code of
23 Criminal Procedure, and for the evidence collection kit; and

24 (B) reimbursement information for the medical
25 portion of the examination;

26 (5) an explanation that consent for the forensic
27 medical examination may be withdrawn at any time during the
28 examination;

29 (6) the name and telephone number of sexual assault
30 crisis centers statewide; and

31 (7) information regarding postexposure prophylaxis
32 for HIV infection.

33 SECTION 2.56. Section 241.007(e), Human Resources Code, is
34 amended to read as follows:

1 (e) The chief inspector general of the office of inspector
2 general, at the direction of the board of directors of the special
3 prosecution unit, shall notify the foreperson [~~foreman~~] of the
4 appropriate grand jury, in the manner provided by Article 20A.051
5 [~~20.09~~], Code of Criminal Procedure, if:

6 (1) the chief inspector general receives credible
7 evidence of illegal or improper conduct by department officers,
8 employees, or contractors that the inspector general reasonably
9 believes jeopardizes the health, safety, and welfare of children in
10 the custody of the department;

11 (2) the chief inspector general reasonably believes
12 the conduct:

13 (A) could constitute an offense under Article
14 104.003(a), Code of Criminal Procedure; and

15 (B) involves the alleged physical or sexual abuse
16 of a child in the custody of a department facility or an
17 investigation related to the alleged abuse; and

18 (3) the chief inspector general has reason to believe
19 that information concerning the conduct has not previously been
20 presented to the appropriate grand jury.

21 SECTION 2.57. Section 1701.253(b), Occupations Code, is
22 amended to read as follows:

23 (b) In establishing requirements under this section, the
24 commission shall require courses and programs to provide training
25 in:

26 (1) the investigation and documentation of cases that
27 involve:

28 (A) child abuse or neglect;

29 (B) family violence; and

30 (C) sexual assault;

31 (2) issues concerning sex offender characteristics;
32 and

33 (3) crime victims' rights under Chapter 56A [~~56~~], Code
34 of Criminal Procedure, and Chapter 57, Family Code, and the duty of

1 law enforcement agencies to ensure that a victim is afforded those
2 rights.

3 SECTION 2.58. Section 25.07(a), Penal Code, is amended to
4 read as follows:

5 (a) A person commits an offense if, in violation of a
6 condition of bond set in a family violence, sexual assault or abuse,
7 stalking, or trafficking case and related to the safety of a victim
8 or the safety of the community, an order issued under Subchapter A,
9 Chapter 7B [~~7A~~], Code of Criminal Procedure, an order issued under
10 Article 17.292, Code of Criminal Procedure, an order issued under
11 Section 6.504, Family Code, Chapter 83, Family Code, if the
12 temporary ex parte order has been served on the person, Chapter 85,
13 Family Code, or Subchapter F, Chapter 261, Family Code, or an order
14 issued by another jurisdiction as provided by Chapter 88, Family
15 Code, the person knowingly or intentionally:

16 (1) commits family violence or an act in furtherance
17 of an offense under Section 20A.02, 22.011, 22.021, or 42.072;

18 (2) communicates:

19 (A) directly with a protected individual or a
20 member of the family or household in a threatening or harassing
21 manner;

22 (B) a threat through any person to a protected
23 individual or a member of the family or household; or

24 (C) in any manner with the protected individual
25 or a member of the family or household except through the person's
26 attorney or a person appointed by the court, if the violation is of
27 an order described by this subsection and the order prohibits any
28 communication with a protected individual or a member of the family
29 or household;

30 (3) goes to or near any of the following places as
31 specifically described in the order or condition of bond:

32 (A) the residence or place of employment or
33 business of a protected individual or a member of the family or
34 household; or

1 (B) any child care facility, residence, or school
2 where a child protected by the order or condition of bond normally
3 resides or attends;

4 (4) possesses a firearm;

5 (5) harms, threatens, or interferes with the care,
6 custody, or control of a pet, companion animal, or assistance
7 animal that is possessed by a person protected by the order or
8 condition of bond; or

9 (6) removes, attempts to remove, or otherwise tampers
10 with the normal functioning of a global positioning monitoring
11 system.

12 SECTION 2.59. Section 25.071(a), Penal Code, is amended to
13 read as follows:

14 (a) A person commits an offense if, in violation of an order
15 issued under Subchapter C, Chapter 7B [~~Article 6.08~~], Code of
16 Criminal Procedure, the person knowingly or intentionally:

17 (1) commits an offense under Title 5 or Section 28.02,
18 28.03, or 28.08 and commits the offense because of bias or prejudice
19 as described by Article 42.014, Code of Criminal Procedure;

20 (2) communicates:

21 (A) directly with a protected individual in a
22 threatening or harassing manner;

23 (B) a threat through any person to a protected
24 individual; or

25 (C) in any manner with the protected individual,
26 if the order prohibits any communication with a protected
27 individual; or

28 (3) goes to or near the residence or place of
29 employment or business of a protected individual.

30 SECTION 2.60. Section 46.04(c), Penal Code, is amended to
31 read as follows:

32 (c) A person, other than a peace officer, as defined by
33 Section 1.07, actively engaged in employment as a sworn, full-time
34 paid employee of a state agency or political subdivision, who is

1 subject to an order issued under Section 6.504 or Chapter 85, Family
2 Code, under Article 17.292 or Subchapter A, Chapter 7B [~~7A~~], Code of
3 Criminal Procedure, or by another jurisdiction as provided by
4 Chapter 88, Family Code, commits an offense if the person possesses
5 a firearm after receiving notice of the order and before expiration
6 of the order.

7 SECTION 2.61. Section 77.051(a), Property Code, is amended
8 to read as follows:

9 (a) Notwithstanding the confidentiality provisions of
10 Subchapters C, D, E, and F, Chapter 58 [~~Chapters 57, 57A, 57B, and~~
11 ~~57D~~], Code of Criminal Procedure, each holder who on March 1 holds
12 an unclaimed restitution payment that is presumed abandoned under
13 Section 76.013 or 508.322, Government Code, shall file a property
14 report with the comptroller on or before the following July 1. The
15 comptroller may prescribe the form to be used for the report
16 required by this section and may require the report to be filed
17 electronically.

18 SECTION 2.62. Section 77.252(a), Property Code, is amended
19 to read as follows:

20 (a) Except as provided by Subsection (b) and Chapter 56B
21 [~~56~~], Code of Criminal Procedure, money in the compensation to
22 victims of crime auxiliary fund may only be used to pay claims as
23 provided by this chapter and is not available for any other
24 purpose. Section 403.095, Government Code, does not apply to the
25 fund.

26 SECTION 2.63. Sections 92.0161(c) and (c-1), Property Code,
27 are amended to read as follows:

28 (c) If the tenant is a victim or a parent or guardian of a
29 victim of sexual assault under Section 22.011, Penal Code,
30 aggravated sexual assault under Section 22.021, Penal Code,
31 indecency with a child under Section 21.11, Penal Code, sexual
32 performance by a child under Section 43.25, Penal Code, continuous
33 sexual abuse of a child under Section 21.02, Penal Code, or an
34 attempt to commit any of the foregoing offenses under Section

1 15.01, Penal Code, that takes place during the preceding six-month
2 period on the premises or at any dwelling on the premises, the
3 tenant shall provide to the landlord or the landlord's agent a copy
4 of:

5 (1) documentation of the assault or abuse, or
6 attempted assault or abuse, of the victim from a licensed health
7 care services provider who examined the victim;

8 (2) documentation of the assault or abuse, or
9 attempted assault or abuse, of the victim from a licensed mental
10 health services provider who examined or evaluated the victim;

11 (3) documentation of the assault or abuse, or
12 attempted assault or abuse, of the victim from an individual
13 authorized under Chapter 420, Government Code, who provided
14 services to the victim; or

15 (4) documentation of a protective order issued under
16 Subchapter A, Chapter 7B [~~7A~~], Code of Criminal Procedure, except
17 for a temporary ex parte order.

18 (c-1) If the tenant is a victim or a parent or guardian of a
19 victim of stalking under Section 42.072, Penal Code, that takes
20 place during the preceding six-month period on the premises or at
21 any dwelling on the premises, the tenant shall provide to the
22 landlord or the landlord's agent a copy of:

23 (1) documentation of a protective order issued under
24 Subchapter A or B, Chapter 7B [~~7A or Article 6.09~~], Code of Criminal
25 Procedure, except for a temporary ex parte order; or

26 (2) documentation of the stalking from a provider of
27 services described by Subsection (c)(1), (2), or (3) and:

28 (A) a law enforcement incident report or, if a
29 law enforcement incident report is unavailable, another record
30 maintained in the ordinary course of business by a law enforcement
31 agency; and

32 (B) if the report or record described by
33 Paragraph (A) identifies the victim by means of a pseudonym, as
34 defined by Article 58.001 [~~57A.01~~], Code of Criminal Procedure, a

1 copy of a pseudonym form completed and returned under Article
2 58.152(a) [~~57A.02~~] of that code.

3 SECTION 2.64. Section 11.43(j), Tax Code, is amended to
4 read as follows:

5 (j) In addition to the items required by Subsection (f), an
6 application for a residence homestead exemption prescribed by the
7 comptroller and authorized by Section 11.13 must:

8 (1) list each owner of the residence homestead and the
9 interest of each owner;

10 (2) state that the applicant does not claim an
11 exemption under that section on another residence homestead in this
12 state or claim a residence homestead exemption on a residence
13 homestead outside this state;

14 (3) state that each fact contained in the application
15 is true;

16 (4) include a copy of the applicant's driver's license
17 or state-issued personal identification certificate unless the
18 applicant:

19 (A) is a resident of a facility that provides
20 services related to health, infirmity, or aging; or

21 (B) is certified for participation in the address
22 confidentiality program administered by the attorney general under
23 Subchapter B [~~C~~], Chapter 58 [~~56~~], Code of Criminal Procedure;

24 (5) state that the applicant has read and understands
25 the notice of the penalties required by Subsection (f); and

26 (6) be signed by the applicant.

27 SECTION 2.65. Section 25.025(a), Tax Code, as amended by
28 Chapters 34 (S.B. 1576), 41 (S.B. 256), 193 (S.B. 510), 1006 (H.B.
29 1278), and 1145 (H.B. 457), Acts of the 85th Legislature, Regular
30 Session, 2017, is reenacted and amended to read as follows:

31 (a) This section applies only to:

32 (1) a current or former peace officer as defined by
33 Article 2.12, Code of Criminal Procedure, and the spouse or
34 surviving spouse of the peace officer;

1 (2) the adult child of a current peace officer as
2 defined by Article 2.12, Code of Criminal Procedure;

3 (3) a county jailer as defined by Section 1701.001,
4 Occupations Code;

5 (4) an employee of the Texas Department of Criminal
6 Justice;

7 (5) a commissioned security officer as defined by
8 Section 1702.002, Occupations Code;

9 (6) an individual who shows that the individual, the
10 individual's child, or another person in the individual's household
11 is a victim of family violence as defined by Section 71.004, Family
12 Code, by providing:

13 (A) a copy of a protective order issued under
14 Chapter 85, Family Code, or a magistrate's order for emergency
15 protection issued under Article 17.292, Code of Criminal Procedure;
16 or

17 (B) other independent documentary evidence
18 necessary to show that the individual, the individual's child, or
19 another person in the individual's household is a victim of family
20 violence;

21 (7) [~~(6)~~] an individual who shows that the individual,
22 the individual's child, or another person in the individual's
23 household is a victim of sexual assault or abuse, stalking, or
24 trafficking of persons by providing:

25 (A) a copy of a protective order issued under
26 Subchapter A or B, Chapter 7B [~~7A or Article 6.09~~], Code of Criminal
27 Procedure, or a magistrate's order for emergency protection issued
28 under Article 17.292, Code of Criminal Procedure; or

29 (B) other independent documentary evidence
30 necessary to show that the individual, the individual's child, or
31 another person in the individual's household is a victim of sexual
32 assault or abuse, stalking, or trafficking of persons;

33 (8) [~~(7)~~] a participant in the address
34 confidentiality program administered by the attorney general under

1 Subchapter B [~~C~~], Chapter 58 [~~56~~], Code of Criminal Procedure, who
2 provides proof of certification under Article 58.059 [~~56.84~~], Code
3 of Criminal Procedure;

4 (9) [~~(8)~~] a federal judge, a state judge, or the
5 spouse of a federal judge or state judge;

6 (10) a current or former district attorney, criminal
7 district attorney, or county or municipal attorney whose
8 jurisdiction includes any criminal law or child protective services
9 matters;

10 (11) [~~(9)~~] a current or former employee of a district
11 attorney, criminal district attorney, or county or municipal
12 attorney whose jurisdiction includes any criminal law or child
13 protective services matters;

14 (12) [~~(10)~~] an officer or employee of a community
15 supervision and corrections department established under Chapter
16 76, Government Code, who performs a duty described by Section
17 76.004(b) of that code;

18 (13) [~~(11)~~] a criminal investigator of the United
19 States as described by Article 2.122(a), Code of Criminal
20 Procedure;

21 (14) [~~(12)~~] a police officer or inspector of the
22 United States Federal Protective Service;

23 (15) [~~(13)~~] a current or former United States attorney
24 or assistant United States attorney and the spouse and child of the
25 attorney;

26 (16) [~~(14)~~] a current or former employee of the office
27 of the attorney general who is or was assigned to a division of that
28 office the duties of which involve law enforcement;

29 (17) [~~(15)~~] a medical examiner or person who performs
30 forensic analysis or testing who is employed by this state or one or
31 more political subdivisions of this state;

32 (18) [~~(16)~~] a current or former member of the United
33 States armed forces who has served in an area that the president of
34 the United States by executive order designates for purposes of 26

1 U.S.C. Section 112 as an area in which armed forces of the United
2 States are or have engaged in combat;

3 (19) [~~(17)~~] a current or former employee of the Texas
4 Juvenile Justice Department or of the predecessors in function of
5 the department;

6 (20) [~~(18)~~] a current or former juvenile probation or
7 supervision officer certified by the Texas Juvenile Justice
8 Department, or the predecessors in function of the department,
9 under Title 12, Human Resources Code;

10 (21) [~~(19)~~] a current or former employee of a juvenile
11 justice program or facility, as those terms are defined by Section
12 261.405, Family Code; [~~and~~]

13 (22) [~~(18)~~] a current or former employee of the Texas
14 Civil Commitment Office or the predecessor in function of the
15 office or a division of the office; and

16 (23) [~~(18)~~] a current or former employee of a federal
17 judge or state judge.

18 REPEALER

19 SECTION 3.01. The following provisions of the Code of
20 Criminal Procedure are repealed:

21 (1) Articles 6.08 and 6.09; and

22 (2) Chapters 7A, 19, 20, 54, 56, 57, 57A, 57B, 57C, and
23 57D.

24 GENERAL MATTERS

25 SECTION 4.01. This Act is enacted under Section 43, Article
26 III, Texas Constitution. This Act is intended as a codification
27 only, and no substantive change in the law is intended by this Act.

28 SECTION 4.02. (a) Chapter 311, Government Code (Code
29 Construction Act), applies to the construction of each provision in
30 the Code of Criminal Procedure that is enacted under Section 43,
31 Article III, Texas Constitution (authorizing the continuing
32 statutory revision program), in the same manner as to a code enacted
33 under the continuing statutory revision program, except as
34 otherwise expressly provided by the Code of Criminal Procedure.

1 (b) A reference in a law to a statute or a part of a statute
2 in the Code of Criminal Procedure enacted under Section 43, Article
3 III, Texas Constitution (authorizing the continuing statutory
4 revision program), is considered to be a reference to the part of
5 that code that revises that statute or part of that statute.

6 SECTION 4.03. This Act takes effect January 1, 2021.

1 APPENDIX B

2 CHAPTER 311. CODE CONSTRUCTION ACT

3 (current as of end of 86th Legislature, Regular Session, 2019)

4 SUBCHAPTER A. GENERAL PROVISIONS

5 Sec. 311.001. SHORT TITLE. This chapter may be cited as the
6 Code Construction Act.

7 Sec. 311.002. APPLICATION. This chapter applies to:

8 (1) each code enacted by the 60th or a subsequent
9 legislature as part of the state's continuing statutory revision
10 program;

11 (2) each amendment, repeal, revision, and reenactment
12 of a code or code provision by the 60th or a subsequent legislature;

13 (3) each repeal of a statute by a code; and

14 (4) each rule adopted under a code.

15 Sec. 311.003. RULES NOT EXCLUSIVE. The rules provided in
16 this chapter are not exclusive but are meant to describe and clarify
17 common situations in order to guide the preparation and
18 construction of codes.

19 Sec. 311.004. CITATION OF CODES. A code may be cited by its
20 name preceded by the specific part concerned. Examples of
21 citations are:

22 (1) Title 1, Business & Commerce Code;

23 (2) Chapter 5, Business & Commerce Code;

24 (3) Section 9.304, Business & Commerce Code;

25 (4) Section 15.06(a), Business & Commerce Code; and

26 (5) Section 17.18(b)(1)(B)(ii), Business & Commerce
27 Code.

28 Sec. 311.005. GENERAL DEFINITIONS. The following
29 definitions apply unless the statute or context in which the word or
30 phrase is used requires a different definition:

31 (1) "Oath" includes affirmation.

32 (2) "Person" includes corporation, organization,
33 government or governmental subdivision or agency, business trust,
34 estate, trust, partnership, association, and any other legal

1 entity.

2 (3) "Population" means the population shown by the
3 most recent federal decennial census.

4 (4) "Property" means real and personal property.

5 (5) "Rule" includes regulation.

6 (6) "Signed" includes any symbol executed or adopted
7 by a person with present intention to authenticate a writing.

8 (7) "State," when referring to a part of the United
9 States, includes any state, district, commonwealth, territory, and
10 insular possession of the United States and any area subject to the
11 legislative authority of the United States of America.

12 (8) "Swear" includes affirm.

13 (9) "United States" includes a department, bureau, or
14 other agency of the United States of America.

15 (10) "Week" means seven consecutive days.

16 (11) "Written" includes any representation of words,
17 letters, symbols, or figures.

18 (12) "Year" means 12 consecutive months.

19 (13) "Includes" and "including" are terms of
20 enlargement and not of limitation or exclusive enumeration, and use
21 of the terms does not create a presumption that components not
22 expressed are excluded.

23 Sec. 311.006. INTERNAL REFERENCES. In a code:

24 (1) a reference to a title, chapter, or section
25 without further identification is a reference to a title, chapter,
26 or section of the code; and

27 (2) a reference to a subtitle, subchapter, subsection,
28 subdivision, paragraph, or other numbered or lettered unit without
29 further identification is a reference to a unit of the next larger
30 unit of the code in which the reference appears.

31 SUBCHAPTER B. CONSTRUCTION OF WORDS AND PHRASES

32 Sec. 311.011. COMMON AND TECHNICAL USAGE OF WORDS. (a)
33 Words and phrases shall be read in context and construed according
34 to the rules of grammar and common usage.

1 (b) Words and phrases that have acquired a technical or
2 particular meaning, whether by legislative definition or
3 otherwise, shall be construed accordingly.

4 Sec. 311.012. TENSE, NUMBER, AND GENDER. (a) Words in the
5 present tense include the future tense.

6 (b) The singular includes the plural and the plural includes
7 the singular.

8 (c) Words of one gender include the other genders.

9 Sec. 311.013. AUTHORITY AND QUORUM OF PUBLIC BODY. (a) A
10 grant of authority to three or more persons as a public body confers
11 the authority on a majority of the number of members fixed by
12 statute.

13 (b) A quorum of a public body is a majority of the number of
14 members fixed by statute.

15 Sec. 311.014. COMPUTATION OF TIME. (a) In computing a
16 period of days, the first day is excluded and the last day is
17 included.

18 (b) If the last day of any period is a Saturday, Sunday, or
19 legal holiday, the period is extended to include the next day that
20 is not a Saturday, Sunday, or legal holiday.

21 (c) If a number of months is to be computed by counting the
22 months from a particular day, the period ends on the same numerical
23 day in the concluding month as the day of the month from which the
24 computation is begun, unless there are not that many days in the
25 concluding month, in which case the period ends on the last day of
26 that month.

27 Sec. 311.015. REFERENCE TO A SERIES. If a statute refers to
28 a series of numbers or letters, the first and last numbers or
29 letters are included.

30 Sec. 311.016. "MAY," "SHALL," "MUST," ETC. The following
31 constructions apply unless the context in which the word or phrase
32 appears necessarily requires a different construction or unless a
33 different construction is expressly provided by statute:

34 (1) "May" creates discretionary authority or grants

1 permission or a power.

2 (2) "Shall" imposes a duty.

3 (3) "Must" creates or recognizes a condition
4 precedent.

5 (4) "Is entitled to" creates or recognizes a right.

6 (5) "May not" imposes a prohibition and is synonymous
7 with "shall not."

8 (6) "Is not entitled to" negates a right.

9 (7) "Is not required to" negates a duty or condition
10 precedent.

11 SUBCHAPTER C. CONSTRUCTION OF STATUTES

12 Sec. 311.021. INTENTION IN ENACTMENT OF STATUTES. In
13 enacting a statute, it is presumed that:

14 (1) compliance with the constitutions of this state
15 and the United States is intended;

16 (2) the entire statute is intended to be effective;

17 (3) a just and reasonable result is intended;

18 (4) a result feasible of execution is intended; and

19 (5) public interest is favored over any private
20 interest.

21 Sec. 311.022. PROSPECTIVE OPERATION OF STATUTES. A statute
22 is presumed to be prospective in its operation unless expressly
23 made retrospective.

24 Sec. 311.023. STATUTE CONSTRUCTION AIDS. In construing a
25 statute, whether or not the statute is considered ambiguous on its
26 face, a court may consider among other matters the:

27 (1) object sought to be attained;

28 (2) circumstances under which the statute was enacted;

29 (3) legislative history;

30 (4) common law or former statutory provisions,
31 including laws on the same or similar subjects;

32 (5) consequences of a particular construction;

33 (6) administrative construction of the statute; and

34 (7) title (caption), preamble, and emergency

1 provision.

2 Sec. 311.024. HEADINGS. The heading of a title, subtitle,
3 chapter, subchapter, or section does not limit or expand the
4 meaning of a statute.

5 Sec. 311.025. IRRECONCILABLE STATUTES AND AMENDMENTS. (a)
6 Except as provided by Section 311.031(d), if statutes enacted at
7 the same or different sessions of the legislature are
8 irreconcilable, the statute latest in date of enactment prevails.

9 (b) Except as provided by Section 311.031(d), if amendments
10 to the same statute are enacted at the same session of the
11 legislature, one amendment without reference to another, the
12 amendments shall be harmonized, if possible, so that effect may be
13 given to each. If the amendments are irreconcilable, the latest in
14 date of enactment prevails.

15 (c) In determining whether amendments are irreconcilable,
16 text that is reenacted because of the requirement of Article III,
17 Section 36, of the Texas Constitution is not considered to be
18 irreconcilable with additions or omissions in the same text made by
19 another amendment. Unless clearly indicated to the contrary, an
20 amendment that reenacts text in compliance with that constitutional
21 requirement does not indicate legislative intent that the reenacted
22 text prevail over changes in the same text made by another
23 amendment, regardless of the relative dates of enactment.

24 (d) In this section, the date of enactment is the date on
25 which the last legislative vote is taken on the bill enacting the
26 statute.

27 (e) If the journals or other legislative records fail to
28 disclose which of two or more bills in conflict is latest in date of
29 enactment, the date of enactment of the respective bills is
30 considered to be, in order of priority:

31 (1) the date on which the last presiding officer
32 signed the bill;

33 (2) the date on which the governor signed the bill; or

34 (3) the date on which the bill became law by operation

1 of law.

2 Sec. 311.026. SPECIAL OR LOCAL PROVISION PREVAILS OVER
3 GENERAL. (a) If a general provision conflicts with a special or
4 local provision, the provisions shall be construed, if possible, so
5 that effect is given to both.

6 (b) If the conflict between the general provision and the
7 special or local provision is irreconcilable, the special or local
8 provision prevails as an exception to the general provision, unless
9 the general provision is the later enactment and the manifest
10 intent is that the general provision prevail.

11 Sec. 311.027. STATUTORY REFERENCES. Unless expressly
12 provided otherwise, a reference to any portion of a statute or rule
13 applies to all reenactments, revisions, or amendments of the
14 statute or rule.

15 Sec. 311.028. UNIFORM CONSTRUCTION OF UNIFORM ACTS. A
16 uniform act included in a code shall be construed to effect its
17 general purpose to make uniform the law of those states that enact
18 it.

19 Sec. 311.029. ENROLLED BILL CONTROLS. If the language of
20 the enrolled bill version of a statute conflicts with the language
21 of any subsequent printing or reprinting of the statute, the
22 language of the enrolled bill version controls.

23 Sec. 311.030. REPEAL OF REPEALING STATUTE. The repeal of a
24 repealing statute does not revive the statute originally repealed
25 nor impair the effect of any saving provision in it.

26 Sec. 311.031. SAVING PROVISIONS. (a) Except as provided by
27 Subsection (b), the reenactment, revision, amendment, or repeal of
28 a statute does not affect:

29 (1) the prior operation of the statute or any prior
30 action taken under it;

31 (2) any validation, cure, right, privilege,
32 obligation, or liability previously acquired, accrued, accorded,
33 or incurred under it;

34 (3) any violation of the statute or any penalty,

1 forfeiture, or punishment incurred under the statute before its
2 amendment or repeal; or

3 (4) any investigation, proceeding, or remedy
4 concerning any privilege, obligation, liability, penalty,
5 forfeiture, or punishment; and the investigation, proceeding, or
6 remedy may be instituted, continued, or enforced, and the penalty,
7 forfeiture, or punishment imposed, as if the statute had not been
8 repealed or amended.

9 (b) If the penalty, forfeiture, or punishment for any
10 offense is reduced by a reenactment, revision, or amendment of a
11 statute, the penalty, forfeiture, or punishment, if not already
12 imposed, shall be imposed according to the statute as amended.

13 (c) The repeal of a statute by a code does not affect an
14 amendment, revision, or reenactment of the statute by the same
15 legislature that enacted the code. The amendment, revision, or
16 reenactment is preserved and given effect as part of the code
17 provision that revised the statute so amended, revised, or
18 reenacted.

19 (d) If any provision of a code conflicts with a statute
20 enacted by the same legislature that enacted the code, the statute
21 controls.

22 Sec. 311.032. SEVERABILITY OF STATUTES. (a) If any statute
23 contains a provision for severability, that provision prevails in
24 interpreting that statute.

25 (b) If any statute contains a provision for
26 nonseverability, that provision prevails in interpreting that
27 statute.

28 (c) In a statute that does not contain a provision for
29 severability or nonseverability, if any provision of the statute or
30 its application to any person or circumstance is held invalid, the
31 invalidity does not affect other provisions or applications of the
32 statute that can be given effect without the invalid provision or
33 application, and to this end the provisions of the statute are
34 severable.

1 Sec. 311.034. WAIVER OF SOVEREIGN IMMUNITY. In order to
2 preserve the legislature's interest in managing state fiscal
3 matters through the appropriations process, a statute shall not be
4 construed as a waiver of sovereign immunity unless the waiver is
5 effected by clear and unambiguous language. In a statute, the use
6 of "person," as defined by Section 311.005 to include governmental
7 entities, does not indicate legislative intent to waive sovereign
8 immunity unless the context of the statute indicates no other
9 reasonable construction. Statutory prerequisites to a suit,
10 including the provision of notice, are jurisdictional requirements
11 in all suits against a governmental entity.

12 Sec. 311.035. CONSTRUCTION OF STATUTE OR RULE INVOLVING
13 CRIMINAL OFFENSE OR PENALTY. (a) In this section, "actor" and
14 "element of offense" have the meanings assigned by Section 1.07,
15 Penal Code.

16 (b) Except as provided by Subsection (c), a statute or rule
17 that creates or defines a criminal offense or penalty shall be
18 construed in favor of the actor if any part of the statute or rule is
19 ambiguous on its face or as applied to the case, including:

20 (1) an element of offense; or

21 (2) the penalty to be imposed.

22 (c) Subsection (b) does not apply to a criminal offense or
23 penalty under the Penal Code or under the Texas Controlled
24 Substances Act.

25 (d) The ambiguity of a part of a statute or rule to which
26 this section applies is a matter of law to be resolved by the judge.

APPENDIX C

DISPOSITION TABLE

CODE OF CRIMINAL PROCEDURE

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8	(c)	7B.103
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14	Art. 7A.01	7B.001
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37	(part)	19A.252
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60	Art. 20.012	20A.201

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