

New Notification Requirement for Victims in Old 3g Cases (HB 104)

House Bill 104, passed during the regular session of the 85th Texas Legislature, created Code of Criminal Procedure art. 2.023, which requires notification to a victim in an old 3g case (serious felony offenses or offenses involving a deadly weapon previously found at CCP art. 42.12, §3g; now found at CCP art. 42A.054) that his or her assailant has been charged with a new serious felony offense under art. 42A.054. **[See art. 2.023 and the list of applicable offenses below.]** This notification requires collaboration between the TDCJ Victim Services Division and prosecutor offices. To help prosecutors comply with this new legislation, TDCJ-VSD has developed a notification form that can be found here: <http://www.tdcj.texas.gov/divisions/vs/hb104.html>

Code of Criminal Procedure Art. 2.023. Notification to Texas Department of Criminal Justice

(a) This article applies only to a defendant who, in connection with a previous conviction for an offense listed in Article 42A.054(a) or for which the judgment contains an affirmative finding under Article 42A.054(c) or (d):

- (1) received a sentence that included imprisonment at a facility operated by or under contract with the Texas Department of Criminal Justice; and
- (2) was subsequently released from the imprisonment, including a release on parole, to mandatory supervision, or following discharge of the defendant's sentence.

(b) Not later than the 10th day after the date that a defendant described by Subsection (a) is indicted for an offense listed in Article 42A.054(a) or for which the judgment contains an affirmative finding under Article 42A.054(c) or (d), the attorney representing the state shall notify an officer designated by the Texas Department of Criminal Justice of the offense charged in the indictment.

Added by Acts 2017, 85th Leg., R.S., Ch. 772, §1 (HB 104), eff. September 1, 2017. The notification requirement applies to criminal cases indicted on or after Dec. 1, 2017.

CCP 42A.054(a) crimes:

- Any offense with affirmative finding of a deadly weapon [CCP art. 42A.054(c)]
- Any offense with affirmative finding of a firearm as deadly weapon [CCP art. 42A.054(d)]
- Criminal solicitation of a capital offense [PC §15.03, charged as a first-degree felony]
- Murder [PC §19.02]
- Capital Murder [PC §19.03]
- Aggravated Kidnapping [PC §20.04]
- Trafficking of Persons [PC §20A.02]
- Indecency with a child by contact [PC §21.11(a)(1)]
- Sexual Assault [PC §22.011]
- Aggravated Sexual Assault [PC §22.021]
- Serious bodily injury to a child (14 years old or younger) committed intentionally or knowingly [PC §22.04(a)(1), charged as a first-degree felony committed against a child]
- Aggravated Robbery [PC §29.03]
- Burglary of a habitation [PC §30.02, punished under (d)] with the intent to commit:
 - o Continuous Sexual Abuse of a Child [PC §21.02],
 - o Indecency with a Child [PC §21.11],
 - o Sexual Assault [PC §22.011],
 - o Aggravated Sexual Assault [PC §22.021], **OR**
 - o Prohibited Sexual Conduct [PC §25.02]
- Compelling Prostitution [PC §43.05]
- Sexual Performance by a Child [PC §43.25]
- Controlled Substance Act violations, including:
 - o Punishment increased under H&S §481.140, by using a child (younger than 18) to commit or assist in:
 - ^ Manufacture or Delivery of Substance in Penalty Groups 1, 1-A, 2, 2A, 3, or 4 [H&S §§481.112-.114],
 - ^ Delivery of Marihuana [H&S §481.120],
 - ^ Delivery of Controlled Substance or Marihuana to Child [H&S §481.122], **OR**
 - o Subsequent conviction that has punishment increased under H&S §481.134(c)-(f) (drug-free school zones)